

PURPOSE

In December 2015, President Obama signed into law the Every Student Succeeds Act (ESSA), which reauthorizes the Elementary and Secondary Education Act (ESEA). The purpose of this document is to advise local education agencies of the key provisions regarding children in foster care under ESSA.

BACKGROUND

Children and youth in foster care potentially face a variety of academic difficulties not experienced by children not in foster care. Research has shown that these children are much more likely than their peers to struggle academically and fall behind in school. One of the major challenges they face is potentially higher levels of residential and school instability. The unplanned school changes sometimes experienced by children and youth in foster care can lead to delayed academic progress, increasing the likelihood of them falling behind academically than their less mobile peers.

Federal and state policy makers have long recognized that the success and well being of foster youth requires ongoing collaboration and partnership between education and child welfare agencies. This was demonstrated through passage of the Fostering Connections to Success and Increasing Adoptions Act in 2008 (Fostering Connections Act), which required a collaboration between child welfare and education agencies to keep children in foster care in their school of origin when in the best interest of the child and to ease the transfer to a new school should that be necessary. This relationship was strengthened and clarified through a joint Dear Colleague Letter (<http://www2.ed.gov/about/inits/ed/foster-care/fostering-connections-letter.doc>) issued by Health and Human Services and the U.S. Department of Education in May 2014 and with the passage of the 2013 Uninterrupted Scholars Act, which permitted inter-agency disclosure of educational records of students in foster care.

LOUISIANA POLICIES

Louisiana's lawmakers and its education and child welfare agencies have created policies to help ensure the educational stability of children in foster care. In 2006 the legislature passed House Current Resolution (HCR) 228 that addressed several important issues regarding foster care students in schools, including maintaining current and accurate health and educational records, timely transfer of student records, resolution of transportation and delivery issues, and most appropriate educational placement of foster care children. In response to HCR 228, in 2009, the Department of Education and the Department of Social Services issued its joint *Plan to Improve Educational Outcomes for Students in Foster Care* that outlined the departments' joint strategies to address these and other issues.

In addition, policies regarding school placement and transportation of foster care students were issued in Revised Statute 17:238 and in *BESE Bulletin 741, Chapter 11 Student Services, Section 1109: Assignment and Transfer of Students* (<http://bese.louisiana.gov/>). Together, these policies outline the requirements for local education agencies (LEAs) regarding school placement and transportation of children in foster care.

These state policies, in connection with the successful history of collaboration between the state and local education agencies collaboration with child welfare agencies, lay a strong foundation upon which to implement the foster care provisions outlined in ESSA.

FOSTER CARE PROVISIONS UNDER ESSA

The Title I, Part A (Title I) foster care provisions in ESSA reinforce and complement the landmark Fostering Connection Act efforts to ensure educational stability for foster youth by emphasizing that it is the shared responsibility of education and child welfare agencies in promoting the well-being of children in foster care. The next page outlines the major provisions under ESSA.

DEFINITION

Like ESEA, ESSA defines a child in foster care as follows:

- *“Foster Care” means 24-hour substitute care for all children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility.*
- *Includes placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.*
- *A child in foster care regardless of whether the foster care facility is licensed and payments are made by the State, Tribal, or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made. (45 C.F.R. § 1355.20(a)).*

KEY PROVISIONS AND TIMELINES

- A. REMOVAL OF “AWAITING FOSTER CARE PLACEMENT FORM THE MCKINNEY-VENTO ACT:** Effective December 10, 2016, “awaiting foster care placement” will be removed from the definition of “homeless children and youths” for purposes of the Education for Homeless Children and Youths (EHCY) program. Thus, starting December 10, 2016, an SEA and LEA must meet the Title I requirements for children in foster care, including those awaiting foster care placement.
- B. DATA COLLECTION AND REPORTING:** For the first time, the LDOE will be required to report annually on student achievement and graduation rates for students in foster care. The LDOE is currently working with DCFS to implement this requirement.
- C. LEA POINT OF CONTACT:** When the child welfare agency (CWA) notifies the local education agency (typically a school district, but it could also be a charter school or other LEA) that it has a point of contact for the education of children in foster care, the LEA is required to designate a similar point of contact. This exemplifies the type of collaboration needed to support implementation of the law: both child welfare agencies and local education agencies need to designate staff to ensure school stability and support the educational success of children in care.

Responsibilities include:

1. Coordinating with local CWAs to develop a process for implementing ESSA provisions;
2. Leading development of best interest determination process; and
3. Facilitating the transfer of records and immediate enrollment and data sharing with CWAs.

LEAs should designate their foster care point of contact by December 10, 2016 even if the child welfare agency has not yet notified them in writing of the corresponding point of contact. Unlike the SEA point of contact, the local contact can also serve as the homeless liaison. However, it is essential that the designated point of contact have sufficient capacity and necessary resources to fulfill his or her duties.

- D. SEA POINT OF CONTACT:** Under the new law, every state education agency must designate a point of contact for child welfare agencies.

Melanie Mayeux will serve as the LDOE’s point of contact. She can be reached via email at melanie.mayeux@la.gov.

- E. EDUCATIONAL STABILITY PLAN:** Under the Title I educational stability provisions, the LDOE, in coordination with DCHS, must ensure that its LEAs implement all of the educational stability requirements for children in foster care, including the following:

A child in foster care should remain in his or her school of origin, unless it is determined that remaining in the school of origin is not in that child's best interest:

- a. If it is not in the child's best interest to stay in his or her school of origin, the child should be enrolled in the new school even if unable to produce records normally required for enrollment:
- b. That the new (enrolling) school immediately contacts the school of origin to obtain relevant academic and other records. (ESEA section 1111(g)(1)(E)(i)-(iii))

This is consistent with current policy. Revised Statute 17:238 requires that the governing authority of each public elementary and secondary school shall establish a policy to ensure that a child who is in foster care pursuant to placement through the Department of Children and Family Services shall be allowed to remain enrolled in the public school in which the child was enrolled at the time he entered foster care for the duration of the child's stay in the custody of the state or until he completes the highest grade offered at the school if the Department of Children and Family Services determines that remaining in that school is in the best interest of the child.

Bulletin 741, Chapter 11 Student Services, Section 1109: Assignment and Transfer of Students also states that LEAs shall ensure that a student who is in foster care pursuant to placement through the Department of Social Services shall be allowed to remain enrolled in the public school in which the student was enrolled at the time he or she entered foster care if the Department of Social Services determines that remaining in such school is in the best interest of the student.

- F. TRANSPORTATION:** By December 10, 2016, local education and child welfare agencies must develop plans for providing cost-effective transportation when needed to allow students to remain in the same school.

This requirement for a collaborative effort to provide transportation is consistent with current state policy. Revised Statute 17:238 states: "If the foster care placement is outside the jurisdictional boundaries of the public school in which the child is enrolled, the governing authority of such school shall be responsible for providing free transportation for the child to and from a designated location which is within that school district and is located nearest to the child's residence and is determined to be appropriate by such governing authority and the Department of Children and Family Services. The Department of Children and Family Services shall be responsible for providing the child's transportation between that location and the child's residence."

In addition, *Bulletin 741, Chapter 11 Student Services, Section 1109: Assignment and Transfer of Students* requires that if the foster care placement is outside the jurisdictional boundaries of the public school in which the student is enrolled, the LEA shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence and is determined to be appropriate by the LEA and the Department of Social Services and that the Department of Social Services shall be responsible for providing the child's transportation between that location and the child's residence.

ADDITIONAL RESOURCES

1. Non-Regulatory Guidance: Ensuring Educational stability for Children in Foster Care. <https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>
2. <http://www2.ed.gov/y/elsec/leg/essa/index.html>