

# Foster Care & Education

Q&A

## HOW WILL THE *EVERY STUDENT SUCCEEDS ACT* (ESSA) SUPPORT STUDENTS IN FOSTER CARE?

### **Q: What is the *Every Student Succeeds Act* (ESSA)?**

On December 10, 2015, President Obama signed into law the *Every Student Succeeds Act* (ESSA), reauthorizing the *Elementary and Secondary Education Act* (ESEA). Originally enacted in 1965 and last reauthorized as the No Child Left Behind Act in 2002, ESEA's mission is "to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education." ESSA is the first major overhaul of federal education law in over a decade. For the first time, the ESEA now contains key protections for students in foster care to promote school stability and success, and required collaboration with child welfare partners.

### **Q: Why are protections for students in foster care included in the ESSA?**

Children in foster care are some of the country's most educationally disadvantaged students. [Studies show](#) students in foster care experience: school suspensions and expulsions at higher rates than their peers not in foster care, lower standardized test scores in reading and math, high levels of grade retention and drop-out, and far lower high school and college graduation rates.

### **Q: What are the specific protections for students in foster care contained in the ESSA?**

#### **REMAIN IN THE SAME SCHOOL WHEN IN THE CHILD'S BEST INTEREST**

Children in foster care frequently change schools – when they first enter foster care, when they move from one foster care living arrangement to another, or when they

return home. [Research shows](#) that children who change schools frequently make less academic progress than their peers and fall farther behind with each school change – leading to low test scores, negative academic outcomes, and high drop-out rates. Additionally, instability makes it difficult for children to develop supportive relationships with teachers or peers.

Under the new law, state education agencies must assure that students in foster care remain in their school of origin, unless it is not in their best interest. Federal child welfare law already requires child welfare agencies to collaborate with education agencies to ensure school stability when it is in the child's best interest; this law creates reciprocal obligations on education agencies.

#### **IMMEDIATE ENROLLMENT IN SCHOOL AND TRANSFER OF SCHOOL RECORDS**

Children in foster care frequently face delays in school enrollment or are placed in the wrong classes or schools, often due to missing, incomplete, or delayed school records and documentation.

Under the ESSA, children in foster care can enroll immediately in a new school when a school change is necessary, even if the child cannot produce normally required enrollment documents and school records. Additionally, enrolling schools must immediately contact the school last attended by the child to obtain relevant education records.

#### **SCHOOL TRANSPORTATION WHEN NECESSARY**

For some students in foster care, transportation is needed to allow them to remain in the same school. 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.

### **POINT OF CONTACT DESIGNATED WITHIN STATE EDUCATIONAL AGENCY**

Under the new law, every state education agency must designate a point of contact for child welfare agencies. To ensure that the point person has the capacity and resources needed, the individual must be someone other than the state's McKinney-Vento Act Coordinator.

Having a point person focused on foster care in every state's education agency is vital to effective implementation of the new law. The point person should facilitate efficient communication and collaboration with the state child welfare agency, oversee the rights and protections for students in foster care under the law, identify best practices, and ensure effective implementation at the local educational agency level and with public charter schools.

### **LOCAL EDUCATIONAL AGENCY (LEA) POINT OF CONTACT**

When the child welfare agency 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 now 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.

Points of contact in the local educational agency can help ensure: streamlined communication and collaboration with the child welfare agency and the child welfare point of contact; smooth implementation of the provisions of this new law; and, if a school change is warranted, smooth transitions of children by connecting them with their new school communities.

### **REMOVAL OF "AWAITING FOSTER CARE PLACEMENT" FROM THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT**

Because of the addition of these key protections for students in foster care and in recognition of the need for additional resources for students who are homeless, this law removes "awaiting foster care placement" from the definition of "homeless" for purposes of the McKinney-Vento Act one year after enactment. (For Delaware and Nevada, which define "awaiting foster care placement" in statute, this provision will not go into effect for two years.)

### **REQUIRED DATA COLLECTION AND REPORTING**

For the first time, state educational agencies will be required to report annually on student achievement and graduation rates for students in foster care. To implement this requirement, education agencies and child welfare agencies will need to work together to ensure effective, appropriate, and confidential data and information sharing between systems.

Reporting student data by subpopulations can help school districts and states identify trends and use limited resources where they are needed most. Disaggregating student data is also critical to raise public awareness about the educational needs of youth in foster care, increasing support for needed policy and practice changes.

### **CHARTER SCHOOLS**

States receiving charter school grants under Title IV Part C of the new law must work with charter schools on recruitment and enrollment practices to promote inclusion of all students. This includes eliminating any barriers to enrollment for youth in foster care.

### **Q: Where can I learn more about the ESSA and how to implement it in my own jurisdiction?**

ESSA marks an important step forward in supporting school stability and success for students in foster care. To ensure smooth implementation of the law, state and local child welfare and education agencies will need to work together. The Legal Center for Foster Care and Education looks forward to working to support successful implementation of these important provisions. To stay up-to-date with the latest news and receive updates and materials follow us on Twitter @FosterEdSuccess. Please email questions to [ccleducation@americanbar.org](mailto:ccleducation@americanbar.org).