



***EVERY STUDENT SUCCEEDS  
ACT (ESSA) & STUDENTS IN  
FOSTER CARE***

Legal Center for Foster Care and  
Education  
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# Every Student Succeeds Act

- Enacted December 10, 2015
- Reauthorized the Elementary and Secondary Education Act (ESEA) (Originally enacted in 1965 and last reauthorized as the No Child Left Behind Act in 2002)
- For the first time, it contains key protections for students in foster care to promote school stability and success, and required collaboration with child welfare partners.

# Why Are These Protections Needed?

- Children in foster care are some of the country's most educationally disadvantaged students.
- Compared to other students, they experience:
  - Higher rates of school suspensions and expulsions;
  - lower standardized test scores in reading and math;
  - high levels of grade retention and drop-out;
  - far lower high school and college graduation rates.

# Key Themes for Implementation

- This law, paired with the 2008 Fostering Connections to Success and Increasing Adoptions Act, envisions *dual-agency* responsibility for supporting educational success for students in foster care.
- There are short timelines for implementation, so advocacy from child welfare and education communities is needed immediately.
- This law presents an important step forward, but state and local implementation are essential to ensure adequate protections for students in foster care.

# Overview of the Foster Care Provisions

## SCHOOL STABILITY PROTECTIONS

- REMAIN IN THE SAME SCHOOL WHEN IN THE CHILD'S BEST INTEREST
- IMMEDIATE ENROLLMENT IN SCHOOL AND TRANSFER OF SCHOOL RECORDS
- SCHOOL TRANSPORTATION WHEN NECESSARY

# Overview of the Foster Care Provisions

## STAFF & COLLABORATION

- POINT OF CONTACT DESIGNATED WITHIN STATE EDUCATIONAL AGENCY
- LOCAL EDUCATIONAL AGENCY (LEA) POINT OF CONTACT
- REMOVAL OF “AWAITING FOSTER CARE PLACEMENT” FROM THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

# Overview of the Foster Care Provisions

## DATA & ACCOUNTABILITY

- REQUIRED DATA COLLECTION AND REPORTING

## OTHER

- CHARTER SCHOOLS

# State Title I Plan Requirements

- State Title I Plans must describe the steps the State Education Agency (SEA) will take to ensure collaboration with the State child welfare agency to ensure the educational stability of children or youth in foster care.
- Federal child welfare law already requires child welfare agencies to collaborate with education agencies to ensure school stability; this law creates reciprocal obligations on education agencies.

# State Title I Plan Requirements

The plan must include assurances that:

- Foster youth are enrolled or remain in their school of origin, unless a determination is made that it is not in their best interest.
- The determination will be based on best interest factors, including consideration of the appropriateness of the current educational setting, and the proximity to the school in which the child is enrolled at the time of placement

# State Title I Plan Requirements

- When a determination is made that it is not in the child's best interest to remain in the school of origin, the child will be immediately enrolled in a new school, even without normally required records.
- The enrolling school must contact the previous school to obtain academic and other records.

# State Title I Plan Requirements

- The SEA will designate a point of contact for child welfare agencies, who will oversee implementation of the SEA responsibilities.
  - The SEA point of contact may not be the same person as the State Coordinator for homeless children and youth under the McKinney-Vento Act.

# Local Title I Plan Requirements

- By December 10, 2016, Local Title I plans must contain an assurance that Local Education Agencies (LEAs) receiving Title I funds will collaborate with the state or local child welfare agency to:
  - develop and implement clear written procedures for how transportation to maintain foster youth in their schools of origin, when in their best interest, will be provided, arranged and funded for the duration of the time in foster care.
  - Ensure that children in foster care needing transportation to the school of origin promptly receive transportation.

# Local Title I Plan Requirements

These procedures must:

- Ensure that foster youth who need transportation to the school of origin promptly receive it in a cost-effective manner, and in accordance with the child welfare agency's authority to use child welfare funding available under section 475(4)(A) of Title IV-E of the Social Security Act to provide transportation.
- Ensure that if there are additional costs incurred in providing transportation to the school of origin, LEAs will provide it if:
  - They are reimbursed by the child welfare agency;
  - The LEA agrees to pay the costs; or
  - The LEA and the child welfare agency agree to share the costs.

# Local Title I Plan Requirements

- Designate a point of contact for the local child welfare agency, if the local child welfare agency notifies the LEA, in writing, that it has designated a point of contact for the LEA.

# McKinney-Vento Program

- In every state except Delaware and Nevada, one year after enactment (December 10, 2016), the phrase “awaiting foster care placement” will be deleted from the definition of homelessness in the McKinney-Vento Homeless Assistance Act. In Delaware and Nevada, the phrase will be deleted in two years (December 10, 2017).

# McKinney-Vento Program

- **REMEMBER:** Even with the change in law to eliminate “awaiting foster care placement,” some students in foster care may still be eligible
  - Children in foster care living in “emergency or transitional shelters.”
  - Children in foster care who are “unaccompanied homeless youth” (e.g., youth who have run away from child welfare placements).

# Data and Reporting

- State report cards must include disaggregated information on the graduation rates and academic achievement of children and youth in foster care.

# Charter Schools

- States receiving charter school grants under Title IV Part C of the Every Student Succeeds Act must work with charter schools on recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for foster youth and unaccompanied homeless youth.



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