

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 the Every Student Succeeds Act (ESSA), amending the Elementary and Secondary Education Act. For the first time, ESSA embeds in federal education law provisions that promote school stability and success for youth in care and collaboration between education and child welfare agencies to achieve these goals.

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 that 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. Additionally, school instability makes it difficult for children to develop supportive relationships with teachers or peers.

Under the ESSA, state education agencies must include in their state plans the steps that the agencies will take to ensure—in collaboration with the state child welfare agencies—school stability for youth in care including assurances that children enroll or remain in their “school of origin” unless a determination is made that it not in their best interest. That determination must be based on all factors relating to

the child's best interest 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. 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, state plans must now include the steps the state will take to ensure that when a school change is warranted, children in foster care can enroll immediately in a new school 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 academic and other 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 collaborate, and the education agencies must include in their local plans, assurances that they have developed and implemented clear written procedures governing how transportation to ensure school stability will be provided, arranged, and funded for the duration of the children's time in foster care in a cost effective manner and in accordance with the provisions of child welfare law that permit the use of certain Title IV-E funds for school stability transportation.

Point of Contact Designated Within State Educational Agency

Under the new law, every state education agency must include in its state plan the steps it will take to ensure collaboration with the state child welfare agency, including designating an employee to serve as a point

of contact for child welfare agencies and to oversee implementation of the foster care provisions of the ESSA. The point person should also identify best practices and ensure effective implementation at the local educational agency level and with public charter schools. The point person must be someone other than the state's McKinney-Vento Act Coordinator.

Local Educational Agency (LEA) Point of Contact

LEAs (typically a school district, but it could also be a charter school or other LEA) must include in their local plans assurances that they will collaborate with local child welfare agencies and that, when a child welfare agency notifies the LEA that it has a point of contact for the education of children in foster care, the LEA must designate a similar point of contact.

LEA and child welfare "points of contact" can streamline interagency communication, help implement the new law, and, if a school change is warranted, help connect students with their new school communities.

Removal of "Awaiting Foster Care Placement" from McKinney-Vento Homeless Assistance Act

Because of these new ESSA 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 by December 10, 2016. (For certain states that define or describe "awaiting foster care placement" in their state statutes, this provision will go into effect by December 10, 2017.)

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 and child welfare agencies will need to work together to ensure effective, appropriate, and confidential data and information sharing between systems.

Charter Schools

Any state entity (including a state educational agency, a state charter school board, a governor of a state, or a charter school support organization) 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.