

Educational Stability for NC Children in Foster Care: An Overview of the ESSA and the ED/HHS Joint Guidance



North Carolina
Department of Public Instruction (DPI)

North Carolina Department of Health and
Human Services

SERVE Center at UNCG

Meet Your Presenters

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TODAY'S AGENDA

1. Provide an overview of the Every Student Succeeds Act of 2015
2. Provide an overview of the HHS/ED joint guidance on ensuring educational stability for children in foster care
3. Highlight next steps for collaboration and implementation
4. Reminder – Q/A incorporated into slides for the recorded webinar.

CHILDREN IN FOSTER CARE

EDUCATIONAL OUTCOMES

- Children in foster care are often a vulnerable and highly mobile student population
- Children in foster care typically make more unscheduled school changes than their peers in a given school year
- Compared to their peers, students in foster care experience:
 - ▶ **LOWER** high school graduation rates
 - ▶ **LOWER** scores on academic assessments
 - ▶ **HIGHER** rates of grade retention, chronic absenteeism, suspensions, and expulsions

Legislative Framework



EVERY STUDENT SUCCEEDS ACT (ESSA) OF 2015

- Reauthorizes and amends the Elementary and Secondary Education Act of 1965 (ESEA)
- Requires States to report on achievement and graduation rates for children in foster care
- Includes new foster care provisions that complement requirements in the Fostering Connections Act
 - ▶ Emphasizes shared agency responsibility/ decision-making
 - ▶ **All education stability provisions must be implemented by December 10, 2016**

ESSA TIMELINE

- Dec. 2015 ESSA signed into law
- Mar. 2016 U.S. Dept. of Education (ED) issues Notice of Proposed Rulemaking (NPRM)
- June 2016 ED and the U.S. Dept. of Health and Human Services issue Non-Regulatory Guidance on Foster Care
- July 2016 ED issues Non-Regulatory Guidance for the Homeless Education
- Oct. 1, 2016 ESSA McKinney-Vento amendments go into effect
- Nov. 28, 2016 ED issues ESSA Regulations
- Dec. 5, 2016 ED issues Dear Colleague Letter
- Dec. 10, 2016 Foster Care provisions in effect

STATE PLANS FOR STATE EDUCATION AGENCIES (SEAs)

ESSA requires SEAs to:

- Collaborate with the state CWA to ensure educational stability for foster children
- Appoint a point of contact for CWAs; this person can not be the State Coordinator for Homeless Education

LOCAL PLANS FOR LOCAL EDUCATION AGENCIES (LEAs)

- Must collaborate with state or local CWAs to
 - ▶ Appoint an LEA point of contact for child welfare agencies if the local child welfare agency notifies the LEA that it has appointed a point of contact for LEAs
 - ▶ Develop and implement written procedures to address providing school of origin transportation
 - in a prompt and cost effective manner
 - for the duration of the time the child is in foster care

MCKINNEY-VENTO UPDATE

- “Awaiting foster care placement” will be removed from the McKinney-Vento Homeless Assistance Act’s definition of homeless children and youth
 - ▶ Effective 12/10/16
- After the effective date, youth “awaiting foster care placement” must be served under ESSA

ED’s Guidance on the ESSA Amendments to McKinney-Vento

<http://www2.ed.gov/policy/elsec/leg/essa/160240ehcyguidance072716.pdf>



Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care

Department of Education and Department of Health & Human Services Joint guidance
<http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

JOINT GUIDANCE: AN OVERVIEW

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BEST INTEREST DETERMINATIONS

ESSA REQUIREMENTS

SEAs must provide assurances that:

- Children in foster care enroll or remain in the school of origin unless there is a determination that it is not in child's best interest
- Best interest determination is based on all factors, including:
 - ▶ Appropriateness of the current educational setting
 - ▶ Proximity of school of origin to child's new residential placement

BEST INTEREST DETERMINATIONS

GUIDANCE PROVISIONS

- Defines school of origin as the school where the child was enrolled prior to the initial CW placement
 - ▶ If the CW placement changes, the school of origin is the school where the child was enrolled prior to the placement change
- Provides children the right to remain in the school of origin for the duration of their time in foster care, if it is in their best interest
- Encourages states to continue to prioritize educational stability once child exits foster care
- Requires SEAs and State CWAs to establish uniform guidelines for local agencies

BEST INTEREST DETERMINATIONS

GUIDANCE PROVISIONS

- LEAs and local CWAs should develop a joint process for making best interest determinations, including where and when best interest determination will occur
 - ▶ CWA should schedule best interest determination (BID) meeting
 - Should consider multiple student-centered factors
 - Must *not* consider transportation costs
 - Should consult child, if appropriate, and adults who have meaningful relationships with child

BEST INTEREST DETERMINATIONS

GUIDANCE PROVISIONS

- If parties cannot agree on best interest, CWA makes final decision
- SEAs and LEAs should coordinate with CWAs to develop a dispute resolution process to address disagreements
- To the extent feasible and appropriate, while awaiting best interest dispute resolution a child must remain in the school of origin to maintain school stability
 - ▶ CWA provides transportation until best interest dispute is resolved

TRANSPORTATION PROCEDURES

ESSA REQUIREMENTS for LEAs

Must collaborate with State or local CWAs to:

- Develop and implement written procedures to provide, arrange, and fund school of origin transportation for the duration of time in foster care
 - ▶ Even if LEA doesn't transport other students, it must ensure school of origin transportation for children in foster care
 - ▶ Child must remain in school of origin while any disputes regarding transportation costs are being resolved

TRANSPORTATION PROCEDURES

ESSA REQUIREMENTS for LEAs

- Ensure that, if there are additional costs in providing school of origin transportation, LEAs will transport if:
 - ▶ The local CWA agrees to reimburse the LEA;
 - ▶ The LEA agrees to pay the cost; or
 - ▶ The LEA and local CWA agree to share the cost.
- “Additional costs” are the difference between what an LEA would spend on transporting child to assigned school vs transporting to school of origin

TRANSPORTATION REQUIREMENTS

GUIDANCE PROVISIONS

- Transportation must be provided in a “cost-effective” manner
 - ▶ Should explore low/no cost options such as
 - Pre-existing bus stops or public transportation
 - Foster parents provide transportation
 - Eligibility for transportation by other programs (e.g., IDEA)

TRANSPORTATION PROCEDURES

GUIDANCE PROVISIONS

- Should maximize all federal funding sources to ensure costs are not unduly burdensome on one agency
 - ▶ Explore Title IV-E funding for eligible students in CW custody
 - ▶ May utilize Title I funding for educational services
 - Funds reserved for comparable services for homeless children and youth may not be used for transportation

IMMEDIATE ENROLLMENT

ESSA REQUIREMENTS

- If it's not in the child's best interest to stay in the school of origin, he/she must be immediately enrolled in the new school, even if unable to produce records normally required for enrollment
 - ▶ Must be attending classes and receiving appropriate services
 - ▶ Enrolling school shall immediately contact last school attended to obtain records
- SEAs and LEAs should review policies to remove barriers to immediate enrollment

POINT OF CONTACT (POC)

ESSA REQUIREMENTS

- SEAs must designate a POC for CWAs
 - ▶ POC cannot be the McKinney-Vento State Coordinator for homeless youth
- LEAs must designate a POC for the corresponding CWA, if the CWA notifies the LEA, in writing, that it has designated a POC
 - ▶ DHHS requested all local CWAs to designate a POC
 - ▶ DPI instructed all LEAs to designate a POC – the current list can be found at:
<http://center.serve.org/hepnc/fostercare.php>

LEA POINT OF CONTACT (POC)

GUIDANCE PROVISIONS

- Should be designated as soon as possible - even if local CWAs haven't notified LEAs in writing
- Should have the sufficient capacity and resources to guide the implementation of the ESSA provisions
- Responsibilities include:
 - ▶ Ensuring children in foster care are immediately enrolled in and regularly attending school
 - ▶ Coordinating with local CWAs to develop a process for implementing Title I provisions
 - ▶ Developing and coordinating local transportation procedures
 - ▶ Providing training to school staff on Title I provisions and needs of children in foster care

WHAT NEEDS TO HAPPEN NOW?

- Help raise the visibility of the ESSA foster care provisions
- Encourage the quick identification of POCs
- At state level
 - ▶ Develop guidance for local jurisdictions on processes needed to support implementation
- At local level
 - ▶ Develop written procedures for maintaining children in their school of origin when in their best interest



Questions?

SERVE HELPLINE INFORMATION

For additional questions, please contact us at:

- ncfoster@serve.org
- Toll free: 1.800.352.6001