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

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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
- 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

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