

Louisiana Believes

Foster Care Provisions in Every Student Succeeds Act (ESSA)

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Previous Policies and Legislation

Federal Legislation

Federal and state policy makers have long recognized that the success and well being of foster youth requires ongoing collaboration and partnership between education and child welfare agencies.

- » Fostering Connections to Success and Increasing Adoptions Act in 2008 (Fostering Connections Act), required collaboration between child welfare and education agencies to keep children in foster care in their school of origin when in the best interest of the child and to ease the transfer to a new school should that be necessary;
- » Joint Dear Colleague Letter issued by Health and Human Services and the U.S. Department of Education in May 2014;
- » 2013 Uninterrupted Scholars Act, which permitted inter-agency disclosure of educational records of students in foster care.

Louisiana Policies

Louisiana's lawmakers and its education and child welfare agencies have created policies to help ensure the educational stability of children in foster care.

- » In 2006 the legislature passed House Current Resolution (HCR) 228 that addressed several important issues regarding foster care students, including maintaining current and accurate health and educational records, timely transfer of student records, resolution of transportation and delivery issues, and most appropriate educational placement of foster care children;
- » In response to HCR 228, in 2009, the Department of Education and the Department of Social Services issued its joint *Plan to Improve Educational Outcomes for Students in Foster Care*
- » Policies regarding school placement and transportation of foster care students were issued in Revised Statute 17:238 and in *BESE Bulletin 741, Chapter 11 Student Services, Section 1109: Assignment and Transfer of Students*. Together, they outline the requirements for local education agencies (LEAs) regarding school placement and transportation of children in foster care.

Current policies regarding transportation

» Revised Statute 17:238 states: “If the foster care placement is outside the jurisdictional boundaries of the public school in which the child is enrolled, the governing authority of such school shall be responsible for providing free transportation for the child to and from a designated location which is within that school district and is located nearest to the child's residence and is determined to be appropriate by such governing authority and the Department of Children and Family Services. The Department of Children and Family Services shall be responsible for providing the child's transportation between that location and the child's residence.”

» *Bulletin 741, Chapter 11 Student Services, Section 1109: Assignment and Transfer of Students* requires that if the foster care placement is outside the jurisdictional boundaries of the public school in which the student is enrolled, the LEA shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence and is determined to be appropriate by the LEA and the Department of Social Services and that the Department of Social Services shall be responsible for providing the child's transportation between that location and the child's residence.

Foster Care Provisions Under ESSA

Purpose

The Title I, Part A (Title I) foster care provisions in ESSA reinforce and complement the landmark Fostering Connection Act efforts to ensure educational stability for foster youth by emphasizing that it is the shared responsibility of education and child welfare agencies in promoting the well-being of children in foster care.

Definition

Like ESEA, ESSA defines a child in foster care as follows:

» *“Foster Care” means 24-hour substitute care for all children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility.*

» *Includes placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.*

» *A child in foster care regardless of whether the foster care facility is licensed and payments are made by the State, Tribal, or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made. (45 C.F.R. § 1355.20(a)).*

Major Provisions for Local Educational Agencies (LEA)

REMOVAL OF “AWAITING FOSTER CARE PLACEMENT FORM THE MCKINNEY-VENTO ACT:

Effective December 10, 2016, “awaiting foster care placement” was removed from the definition of “homeless children and youths” for purposes of the Education for Homeless Children and Youths (EHCY) program. Now a SEA and LEA must meet the Title I requirements for children in foster care, including those awaiting foster care placement.

Point of Contact

LEAs were required to designate a foster care point of contact by December 10, 2016 to ensure school stability and support educational success of children in foster care.

Responsibilities include:

- » Coordinating with local child welfare agency (CWA) to develop a process for implementing ESSA provisions;
- » Leading development of best interest determination process; and
- » Facilitating the transfer of records and immediate enrollment and data sharing with CWAs.

The POC can also serve as the homeless liaison. However, it is essential that the designated point of contact have sufficient capacity and necessary resources to fulfill his or her duties.

School of Origin

- Unless it is determined to be in the best interest of the child to change schools, children entering the foster care system or changing placement should remain in his/her school of origin. The school of origin is the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of the placement change.
- Determination should be made as quickly as possible in order to prevent educational discontinuity for the child. To the extent possible and appropriate, the LEA must ensure that child remains in his or her school of origin while the determination is being made.;
- Relevant agencies should make every effort to reach agreement regarding the school placement. However, if there is disagreement regarding placement, the CWA should be considered final decision maker. To the extent possible and appropriate, the LEA must ensure that child remains in his or her school of origin while disputes are being resolved.
- Transportation costs should not be considered when determining a child's best interest.

Immediate Enrollment and Records Transfer

Children in foster care who change schools frequently may not have the documentation required to enroll in a new school. In addition, failure of schools to promptly transfer records to the new school can lead to further delays in enrollment. These delays can negatively impact attendance and lead to other adverse consequences, such as being incorrectly enrolled in classes and not receiving the necessary academic services.

Immediate Enrollment and Records Transfer Continued

- DSFS uses standardized form letter to inform receiving principal regarding transfer of foster child. LEA POC will also receive copy of letter;
- When a determination is made that remaining in the school of origin is not in a child's best interest, LEAs must ensure that a child in foster care is immediately enrolled in his or her new school even if the student does not have the required documentation;
- Child may be enrolled in receiving school by foster parent or case worker;
- The enrolling school must then contact the student's prior school for relevant records. (ESEA section 1111(g)(1)(E)(ii)-(iii));
- In accordance with LA R.S. 112, upon the request of any authorized person on behalf of any public or nonpublic school within and outside Louisiana, a school must provide for the transfer of the education records (including special education records) of any student who was previously enrolled at the school. Records must be transferred no later than 10 business days from the date of written request;
- LEAs should review and revise policies and practices to remove any barriers to immediate enrollment and records transfer for children in foster care.

Transportation

An LEA receiving Title I funds must collaborate with the State or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in their schools of origin, when in their best interest, will be provided, arranged, and funded for the duration of the child's time in foster care (the transportation procedures) (ESEA section 1112(c)(5)(B)). These procedures must ensure that

Children in foster care needing transportation to their schools of origin will promptly receive that transportation in a cost effective manner and in accordance with section 475(4)(A) of the Social Security Act; and if there are additional costs incurred in providing transportation to the school of origin, the LEA will provide such transportation if

- (1) the local child welfare agency agrees to reimburse the LEA for the cost of such transportation;
- (2) the LEA agrees to pay for the cost; or
- (3) the LEA and local child welfare agency agree to share the cost. (ESEA 1112(c)(5)(B)). LEAs and child welfare agencies must develop plans for providing cost-effective transportation when needed to allow students to remain in the same school.

Resources

1. Non-Regulatory Guidance: Ensuring Educational stability for Children in Foster Care.

<https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

2. <http://www2.ed.gov/y/elsec/leg/essa/index.html>

Contacts

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