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June 23, 2016

Dear Chief State School Officers and Child Welfare Directors:

Students in foster care often experience unplanned school changes and the process of changing schools, together with delays in enrollment and transfer of school records, can have an enormously disruptive impact on the academic progress of children in foster care. Studies have shown that children in foster care face a greater risk of adverse educational outcomes compared to their peers not in foster care, including an increased likelihood of grade retention and gaps in academic achievement, high school graduation rates, and postsecondary enrollment.¹ Recognizing these challenges, with the enactment of the Every Student Succeeds Act (ESSA), Title I, Part A (Title I) of the Elementary and Secondary Education Act of 1965 (ESEA) now includes vital new protections to support these students in achieving educational stability and success in school. As State and local educational agencies (SEAs and LEAs) begin planning for implementation of these protections in collaboration with State and local child welfare agencies, the U.S. Departments of Education (ED) and Health and Human Services (HHS) would like to provide important information regarding the new requirements.

The new foster care provisions under Title I of the ESEA (hereinafter all references to the ESEA are to the ESEA as amended by the ESSA) are intended to minimize disruptions for children in foster care by requiring SEAs and LEAs to collaborate with child welfare agencies to ensure educational stability for children in foster care. These provisions build upon the existing educational stability provisions and the emphasis on cross-agency collaboration in the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act).

At the State level, section 1111(g)(1)(E) of the ESEA requires an SEA to collaborate with the State agency responsible for administering State plans under the Fostering Connections Act to ensure the educational stability of children in foster care. Among other things, this includes assurances that (1) a child in foster care will remain in the child's school of origin, unless a determination is made that it is not in the child's best interest to remain in that school, and (2) if 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 if the child is unable to produce records normally required for enrollment. These requirements will help ensure that children in foster care experience minimal disruption to their education during moves and placement changes.

¹ See, for example, Harden, B.J. (2004). "Safety and stability for foster children: A developmental perspective". *The future of children*, 14(1): 31-47; National Youth in Transition Database. Unpublished analyses (April 2016). Administration on Children, Youth and Families, HHS; and Frerer, K., Sosenko, L.D., Pellegrin, N., Manchik, V., & Horowitz, J. (2013). Foster youth stability: A study of California foster youths' school and residential changes in relation to education outcomes. Retrieved from <http://www.iebcnow.org/IEBCPublicFiles/iebc.public/67/67e52ff2-4b46-4afa-8133-ba223aa80c33.pdf>.

At the local level, section 1112(c)(5) of the ESEA requires an LEA that receives Title I funds to assure in its local plan that it will develop and implement clear written procedures, in collaboration with the State or local child welfare agency, governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of a child's time in foster care. Additionally, an LEA must assure that it will designate a point of contact regarding children in foster care if the corresponding child welfare agency notifies the LEA in writing that it has designated a point of contact.

Regarding the timeline for implementing these new requirements, the Consolidated Appropriations Act, 2016, generally requires an SEA or LEA to continue to operate its Title I program in the 2016–2017 school year in accordance with the requirements of the ESEA as in effect prior to enactment of the ESSA. However, section 1112(c)(5)(B) of the ESEA specifically requires that an LEA begin implementing the requirements regarding transportation to maintain children in foster care in their school of origin no later than one year after the date of enactment of the ESSA (December 10, 2015). Thus, each LEA that receives Title I funds must develop and implement, in collaboration with the State or local child welfare agency, procedures to provide, arrange, and fund transportation to maintain children in foster care in their schools of origin by December 10, 2016.

In order to facilitate the transition to the ESSA, given the close connection between the requirements in section 1112(c)(5)(B) and in sections 1112(c)(5)(A) and 1111(g)(1)(E), ED will be exercising its orderly transition authority under section 4(b) of the ESSA to implement these provisions so that they take effect simultaneously with the requirements in section 1112(c)(5)(B) on December 10, 2016. Accordingly, ED intends to place a condition on each SEA's fiscal year (FY) 2016 Title I grant award that requires each State to ensure that the requirements under sections 1111(g)(1)(E) and 1112(c)(5)(B) are implemented no later than December 10, 2016. In addition, to ensure that LEAs carry out their responsibilities regarding the transportation of children in foster care, ED will also include a condition on each State's FY 2016 Title I grant award that requires each SEA to ensure that, by December 10, 2016, an LEA receiving Title I funds will 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 time in foster care, consistent with section 1112(c)(5)(B) of the ESEA.

In further regard to children in foster care, please note that the ESSA also amended section 725 of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), removing children "awaiting foster care placement" from the definition of "homeless children and youths" for purposes of the Education for Homeless Children and Youths (EHCY) program. This change takes effect for covered States—*i.e.*, those that have defined the term "awaiting foster care placement" in statute or regulations—on December 10, 2017; the change takes effect for non-covered States on December 10, 2016. Thus, children who are awaiting foster care placement must be served under the McKinney-Vento Act until at least December 10, 2016. After this date, an SEA and LEA must meet the Title I requirements for children in foster care, including those awaiting foster care placement, regardless of whether the State is a covered or non-covered State.

Today, ED and HHS released more detailed joint guidance on the specific Title I requirements regarding educational stability for children in foster care, which provides further clarification and highlights promising practices in these areas. We expect and encourage educational and child welfare agencies to engage in meaningful collaboration to address the shared responsibility for ensuring educational stability and school success for students in foster care. Given the ambitious timeline for implementing these requirements and the urgency of ensuring educational stability for children in foster care, we urge SEAs, LEAs, and child welfare agencies to review this guidance and to begin collaborating and planning for the implementation of the requirements immediately.

Thank you for your work every day to improve educational outcomes for children in foster care.

Sincerely,

Ann Whalen
Delegated the authority to perform the functions
and duties of Assistant Secretary for Elementary
and Secondary Education
U.S. Department of Education

Mark H. Greenberg
Acting Assistant Secretary
for Children and Families
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