

U.S. Departments of Education and Health and Human Services Release Joint Guidance on Foster Youth

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On June 23, 2016, the U.S. Departments of Education (ED) and Health and Human Services (HHS) issued a joint guidance addressing LEA support for children in foster care under the provisions of the newly enacted Every Student Succeeds Act (ESSA). The stated purpose of this non-regulatory guidance is to "assist state and local partners in understanding and implementing the new law, and to inform state and local collaboration between educational and child welfare agencies across the nation for the well-being of children in foster care."

The guidance reaffirms the shared commitment of ED and HHS to educational stability requirements and underscores that LEAs must permit foster children to stay in their original schools, if that is in their best interest, following a move to a new foster home.

While not imposing legal requirements beyond those in place under current law and regulations, the guidance is intended to "provide clarity" through a detailed frequently asked questions and answers document addressing:

- The importance of the new educational stability requirements;
- The statutory requirement that a child in foster care remains in his or her original school, if it's in his or her best interest;
- Procedures for jointly determining with the child welfare agency which school is in a child's best interest to attend;
- Procedures for resolving disputes that may arise over the best interest determination and school placement;
- Transportation procedures developed jointly to maintain children in foster care in their original schools;
- The transfer of relevant records;
- Foster care points of contact for states, districts and child welfare agencies
- Protecting student data and privacy; and
- Best practices and suggestions for interagency collaboration on these issues

You can access the full text of the guidance here: [Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care](#)

Of particular note, the guidance does not offer any additional clarity regarding responsibility for costs associated with transporting students to their original school if they move outside the LEA's attendance zone. However, ED has issued proposed regulations in connection with implementation of ESSA which, if adopted, would require LEAs to pay

for transportation in the event of any impasse in efforts to share transportation costs among responsible agencies.

Additional guidance is to be issued to assist with other aspects of implementation of ESSA, which will take full effect during the 2017-18 school year.

The proposed ESSA regulations were published on May 31, 2016, and public comment must be received on or before August 1, 2016. If you are interested in reviewing comments submitted on the proposed ESSA regulations or providing additional input, you can access the electronic docket here:

<https://www.regulations.gov/docket?D=ED-2016-OESE-0032>

If you have any additional questions regarding this guidance or the proposed ESSA regulations, or if we can provide any assistance as you review your existing policies and procedures, please do not hesitate to contact us.