

# Federal Update: New Joint Guidance to Support Students in Foster Care

December 2024



## INTRODUCTION:

On November 15, 2024 the U.S. Department of Education and the U.S. Department of Health and Human Services released new Non-Regulatory Guidance: Ensuring Educational Stability and Success for Students in Foster Care. This guidance updates previous joint guidance from 2016 and provides critical new information about how federal laws support students in foster care, including the Every Student Succeeds Act (ESSA) and the Fostering Connections to Success Increasing Adoptions Act (Fostering Connections). This guidance:

- Prioritizes and strengthens continued quality implementation of school stability provisions 9 years after ESSA;
- Expands on what is needed for school stability and success by adding new focus on academic success;
- Addresses intersectional identities by focusing on special student populations who are also in foster care; and
- Emphasizes new key considerations of funding and data collection that are critical to student success.

## Highlights of the New Joint Guidance

### COLLABORATION & POINTS OF CONTACT

Building on the ESSA requirements for the state education agency (SEA) to have a point of contact (POC) and local education agency (LEA) to have a POC if the child welfare agency also has a POC, the new guidance outlines the potential roles and responsibilities of those POCs. The new guidance adds that POCs should "have sufficient capacity and the necessary resources to meaningfully oversee implementation of the Title I educational stability provisions." (B-2 & B-4)

Speaking to the importance of collaboration, the new guidance encourages agencies to "view interagency collaboration as an essential component of their programs, and staff at both agencies should have the time and capacity required to meaningfully engage in the collaboration." (C-2 & C-5)

### BEST INTEREST DETERMINATIONS

The new guidance provides many clarifications and details about implementing the educational stability provisions of Title I Part A of ESEA. Highlights include:

- Trial reunification with parents qualify for Title I education stability protections (A-1)
- If a child in foster care has never been enrolled in a school before, they do not have a school of origin and should be immediately enrolled in school (D-2)
- School of origin is the public school a student is enrolled in when they entered foster care or changed foster care placements (D-1)
- School of origin includes feeder schools (D-5)

Additionally, the new guidance encourages best interest determinations to be completed within 3 business days. (E-3)

### TRANSPORTATION

ESSA explicitly says the cost of transportation cannot be a best interest determination factor. The new guidance builds on this by stating the "administrative burden for educational agencies or child welfare agencies should not be considered when completing a BID process." (E-6) Additionally, the new guidance clarifies that transportation to a school of origin should be provided "without undue delay - e.g. within 3 business days of the completion of the BID process." (F-3) This transportation should include "transportation for needed academic supports" including tutoring, summer school, and enrichment programs. (F-10)

Finally, the new guidance encourages school districts to adopt policies that allow students who exit foster care to remain at their school of origin, with transportation, for the remainder of the school year. (D-4 & F-15)

### IMMEDIATE ENROLLMENT

The new guidance clarifies that "immediate" means as soon as practicable and uses 3 business days as an example. (G-2) The new guidance also defines enrollment by stating "a student is not fully enrolled if a student is not attending school or fully participating in classes, extracurricular activities, and out-of-school summer opportunities." (G-2)

To facilitate immediate enrollment, the guidance encourages the enrolling school to reach out to the school of origin to request education records and suggests the school of origin should provide the requested records within 3 business days. (G-4)

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## DISPUTE RESOLUTION

The new guidance expands on how disputes should be addressed when agencies have collaborated but are unable to reach agreement. The guidance strongly encourages states to come up with procedures to govern how to resolve disputes. These procedures "should cover all manner of disputes that might arise in the implementation of the...school stability provisions" including decision around school placement, school of origin transportation, and school enrollment. The procedures also should address disputes between education and child welfare agencies, disputes between LEAs, and cross state disputes between SEAs.

## ENSURING ACADEMIC SUCCESS

A brand new guidance section about ensuring academic success for students in foster care encourages school districts to look critically at their policies to remove barriers for student in foster care for attendance (I), discipline (J), and credit accrual and graduation (K). The section includes resources and programs that schools and child welfare agencies can adopt to ensure academic success for students in foster care.

The guidance emphasizes a disciplinary removal from school should be used only as a last resort and prior to taking disciplinary action schools should consider issues related to a student's involved in the child welfare system. (J-1)

Also included is a detailed list of programs to assist transition-aged youth including: Perkins V, GEAR UP, TRIO, on-campus supports, independent living, Chafee ETV, extended foster care, and tuition assistance programs. (K-7 & K-8)

## SPECIAL POPULATIONS

The new guidance features a new section focusing on special student populations and how to assist schools in creating opportunities to fully meet each student's needs. The section includes information about cross-program opportunities to support student in foster care including students with a disability (L), English Learners (M), experiencing homelessness (N), involved in the juvenile justice system (O), American Indian or Alaska Native (P), or pre-school aged (Q).

## FUNDING

This new guidance includes for the first time descriptions of possible funding opportunities to provide services for students in foster care. The section outlines how to use both child welfare and education federal funding streams including:

- Title I, Part A of the ESEA (R)
- Title IV, Part A of the ESEA (S)
- 21st Century Community Learning Centers Program (T)
- Full-Service Community Schools Program of the ESEA (U)
- Title IV-E of the SSA (V)

The guidance cautions some of these funding streams are only available for certain eligible students, not all students in foster care.

## DATA COLLECTION & REPORTING


The new guidance encourages agencies to use data to drive program implementation and expands on how to use data (W) and details federal reporting requirements (X).


Additionally, the new guidance encourages routine data sharing between educational agencies and child welfare agencies. (Y-1) The guidance suggests considering the following when creating a data sharing structure: formal agreement, directionality, frequency, data elements, use, and access by third parties. (Y-4) The guidance suggests the types of data that could be shared. (Y-5 & Y-6)

*Throughout this resource the letters and numbers cited reference the corresponding questions answered in the guidance. We encourage you to read fully the new guidance using this [link](#).*

For additional information about how to support students in foster care please visit our website and connect with us online.

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