

COMING SOON

# INTRODUCTION TO THE EVERY STUDENT SUCCEEDS ACT (ESSA)



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**POSTCARD:** Provided by Foster Care Alumni of America - "Family. Coming soon."



## CHAPTER 8

### Introduction to the Every Student Succeeds Act (ESSA)

#### THE EVERY STUDENT SUCCEEDS ACT (ESSA) DESCRIBED

The Every Student Succeeds Act (ESSA) is the most recent reauthorization of the Elementary and Secondary Education Act. ESSA became law in December 2015,<sup>99</sup> and many of the changes related to students in foster care became effective December 10, 2016.

ESSA made substantial changes to the education system, including giving more flexibility to states to measure accountability and student performance. As a part of its reforms, ESSA placed a new emphasis on the unique educational needs of students in foster care and the shared responsibility of the state educational agency (SEA), local educational agencies (LEAs), and child welfare organizations to collaborate on promoting educational stability.

ESSA's foster care education requirements mirror many of the provisions from federal child welfare law, the Fostering Connections to Success and Increasing Adoptions Act, and the Texas Education Code, while introducing new requirements for both state and local educational agencies. This chapter provides a high-level overview of the ESSA provisions that impact students in foster care.

#### ESSA, FOSTERING CONNECTIONS AND TEXAS LAW

The chart below clarifies how ESSA law aligns to, complements, and differs from the Fostering Connections Act and the Texas Education Code.

EDUCATIONAL RIGHT FOR STUDENTS IN FOSTER CARE	ESSA	FOSTERING CONNECTIONS ACT	TEXAS LAW
Right to remain enrolled in same school upon entering foster care	✓	✓	✓
Right to remain enrolled in same school while in foster care	✓	✓	✓
Right to remain enrolled in the same school after exiting foster care			✓
Right to remain enrolled in the same school until completing the highest grade offered at the school			✓
When it is not in the child's best interest to remain enrolled in the same school, immediate enrollment in a new school	✓	✓	✓ (3 days under Texas law, but 2 days under DFPS policy and contract)
Enrollment in a school, even if the child is unable to produce records normally required	✓		✓
Prompt records transfer when school move occurs	✓	✓	✓ (10 working days)

EDUCATIONAL RIGHT FOR STUDENTS IN FOSTER CARE	ESSA	FOSTERING CONNECTIONS ACT	TEXAS LAW
Designated points of contact for cross-agency collaboration to support school stability for students *Child Welfare Agency (CWA)	✓ (If the CWA notifies the LEA in writing, then the LEA will notify the CWA of their POC).		✓ (LEA Foster Care Liaisons already identified in AskTED)
Clear, written school transportation procedures	✓		
Assurance that each foster care placement will consider current educational setting and the proximity to the school in which the child is enrolled		✓	
State educational agencies (SEAs) to calculate graduation and dropout rates and include students in foster care on the Federal State Report Card submitted to USDE	✓		✓ (Texas law requires students in foster care to be captured in PEIMS, which is necessary to fulfill ESSA data reporting requirements.)

## ESSA IMPACTS FOR STUDENTS IN FOSTER CARE

ESSA added requirements for TEA and LEAs to help ensure school stability for students in foster care.

### EDUCATIONAL STABILITY PROVISIONS IN ESSA - BASIC OVERVIEW

<b>SCHOOL OF ORIGIN</b>	The school in which the student was enrolled upon entry into foster care or any subsequent placement change.
<b>EDUCATION BEST INTEREST DETERMINATION</b>	The decision-making process that determines what school setting is best for the child. ESSA requires educators and child welfare systems to work together and collaboratively determine which school setting is in the child's best interest, whenever possible.
<b>STREAMLINED TRANSITIONS</b>	The process for ensuring a student seamlessly transitions from one school to another, in the event of a school move ( <i>see Chapter 11: The School Experience, on page 117</i> ).
<b>DESIGNATED POINTS OF CONTACT (POC)</b>	A person who has been appointed by TEA, the LEA, or DFPS to coordinate the educational needs of students in foster care.
<b>TRANSPORTATION</b>	LEAs and DFPS must work together to ensure that a child promptly receives transportation to their school of origin when a determination is made that remaining in the school is in the child's best interest.
<b>DISPUTE RESOLUTION</b>	A process between education and child welfare systems to resolve disputes concerning education best interest decisions or transportation planning for a student in foster care to continue attending the school of origin.
<b>DATA COLLECTION AND REPORTING</b>	ESSA requires disaggregated data on students in foster care, including academic achievement, dropout, and graduation information. <sup>100</sup> Previous reauthorizations, including No Child Left Behind, did not require this information to be collected, disaggregated, and reported by TEA.



## ESSA FOSTER CARE TOPICS AND COMMON QUESTIONS



### SCHOOL OF ORIGIN

#### WHAT IS SCHOOL OF ORIGIN?

- ✓ When a student is removed from a parent or legal guardian and placed into foster care, the school that the student attended prior to entering care is considered the school of origin.
- ✓ If a student moves while in foster care, the school of origin becomes the school the student attended before the residential placement change.
- ✓ A student in foster care enrolled (or at the time of placement in foster care) in public school may remain enrolled in their school of origin, even when moved outside the school of origin's attendance zone.



In addition to state and federal foster care resources, listed on page 94 this section takes a deeper dive into guidance and common questions, since the state and federal guidance was originally released.



### EDUCATION BEST INTEREST DETERMINATION

#### HOW ARE BEST INTEREST DECISIONS MADE?

- ✓ ESSA requires collaboration between the LEA and DFPS in the best interest decision-making process.
- ✓ Remaining in the “school of origin” is always considered the best interest of the student, unless a determination is made that it is not in their best interest.<sup>101</sup>
- ✓ LEA Foster Care Liaisons play an important role in collecting information from the school and communicating information to the student’s caseworker and education decision-maker to support education best interest decisions.
- ✓ Some factors related to the determination include the appropriateness of the current educational setting and the proximity of the residential placement to the school of origin.
- ✓ DFPS must consult with the LEA foster care liaison and appropriate school personnel to gather information from educators who are knowledgeable about the student and can provide feedback on how changing schools would impact the student’s academic, social, and emotional well-being.

#### WHO HAS THE FINAL SAY IN THE EDUCATION BEST INTEREST DETERMINATION?

- ✓ The child welfare professionals and the court overseeing the child welfare case are ultimately responsible for the best interest determination on whether the student will remain in their school of origin.
- ✓ DFPS makes final decisions about school placement based on a holistic view of the student’s overall safety, permanency, and well-being.



### STREAMLINED TRANSITIONS

#### WHAT HAPPENS WHEN IT IS NOT IN THE STUDENT’S BEST INTEREST TO REMAIN IN THEIR SCHOOL OF ORIGIN?

- ✓ When a determination is made that it is not in the student’s best interest to remain in the school of origin, the student must be immediately enrolled in a new school, even if DFPS is unable to procure records normally required for enrollment.<sup>102</sup>

- ✓ When a student will not remain in their school of origin, the receiving school must immediately enroll the student and request records promptly.<sup>103</sup>
- ✓ The receiving school must immediately contact the school last attended by the student to obtain academic and other relevant records.<sup>104</sup>
- ✓ LEAs are mandated to enroll students in foster care immediately, regardless of whether the student has all records needed for enrollment.<sup>105</sup>
- ✓ LEA Foster Care Liaisons and ESSA Child Welfare POCs are responsible to support streamlined transitions for students in foster care.



**LAW:** Texas law requires DFPS to ensure a student returns to school within three days of assuming conservatorship of the student unless the student has a temporary and remediable physical or mental condition that makes the student's immediate attendance in school unfeasible.<sup>106</sup>

*For additional information on enrollment, withdrawals, and transitions, see Chapter 6. For additional information on new school transition requirements, see Chapter 11 page 119.*



## DESIGNATED POINTS OF CONTACT

### WHO ARE POINTS OF CONTACT AT THE STATE AND LOCAL LEVELS OF THE EDUCATION AND CHILD WELFARE AGENCIES?

#### TEA Points of Contact

- ✓ TEA has a designated ESSA Foster Care Point of Contact (POC) to support ESSA Foster Care requirements. This POC is separate from the McKinney-Vento POC.<sup>107</sup> For more information, visit TEA's [Foster Care and Student Success website](#).
- ✓ The DFPS Education Specialist in DFPS State Office serves as the state POC and coordinates with the TEA Foster Care POC as well as DFPS regional education specialists.

#### LEA and DFPS Local Points of Contact

- ✓ ESSA requires LEAs to designate an **ESSA Child Welfare POC** to coordinate with the local child welfare agency (DFPS).<sup>108</sup>
- ✓ The State of Texas requires each LEA to designate a **Foster Care Liaison** (see Chapter 5, on page 54).<sup>109</sup> While LEAs have a choice for who they designate for these two roles, in many instances the ESSA Child Welfare POC also serves as the LEA Foster Care Liaison.
- ✓ ESSA requires LEAs to collaborate with the DFPS Child Welfare POC. DFPS has designated Regional Education Specialists to serve as the ESSA Child Welfare POCs. This role provides support and facilitates collaborative planning between the child welfare agency (DFPS) and the LEA.
- ✓ Beginning in the fall of SY2021-22, DFPS will notify every school district electronically/in writing of the ESSA Child Welfare POC. In return, LEAs are required to notify the DFPS Regional Education Specialist of the LEA ESSA Foster Care POC. If the LEA does not receive communication from DFPS, they should assume the DFPS Regional Education Specialist is the ESSA Child Welfare POC.
- ✓ LEAs have flexibility regarding local procedures and determining staff responsibilities.
- ✓ Contact information for DFPS Regional Education Specialists by [DFPS Region](#) and by [county](#) is located on the DFPS website. Note that child welfare regions are different from Education Service Center regions.



**Note:** Child welfare regions are different from Education Service Center regions. For more information on Foster Care Liaisons, please see Chapter 5.



## TRANSPORTATION

### WHO IS RESPONSIBLE FOR COORDINATING AND FUNDING TRANSPORTATION OF STUDENTS IN FOSTER CARE TO THEIR SCHOOL OF ORIGIN?

- ✓ Under ESSA, LEAs and DFPS are responsible to coordinate and promptly ensure that students receive transportation to their school of origin, when needed.
- ✓ LEAs receiving Title I funds are required to develop and implement clear written procedures in coordination with DFPS, when determining how transportation to the child's school of origin will be provided, arranged, and funded.
- ✓ The procedures must ensure that transportation will be provided promptly and in a cost-effective manner.
  - » If there are additional costs for transporting a student to the school of origin, the LEA must provide the transportation if:
    - DFPS agrees to reimburse the LEA for the additional transportation cost,
    - the LEA agrees to pay for the additional transportation cost, or
    - the LEA and DFPS agree to share the additional transportation cost.<sup>110</sup>
- ✓ LEAs should review their transportation plans and procedures annually with DFPS.
- ✓ In some instances, LEAs may coordinate with other LEAs across neighboring school and district attendance zones.



**TIP:** Creative solutions, such as rideshare options, the use of public transportation, bus passes, and carpooling may be necessary to promote cost sharing and maintain school stability.



Transportation is a shared responsibility between the LEA and DFPS. However, DFPS staff cannot enter into contracts with LEAs for transportation costs. DFPS may share in the cost of transportation by utilizing DFPS staff, residential contract providers, and other members of the student's child welfare team.

If a student receives special education services, transportation may be written into the student's Individual Education Plan (IEP).

Transportation is the school's responsibility. A schools' willingness to assist with transportation can alleviate barriers and help students remain in their school, receive appropriate credits, and stay on track for graduation.

**Note:** Funds reserved for comparable services for children and youth who are homeless may not be used for transportation of students in DFPS managing conservatorship, unless the student is also McKinney-Vento eligible.



**TIP:** LEAs should partner with caseworkers and caregivers to coordinate transportation and develop creative solutions that keep students at their school of origin. LEA Foster Care Liaisons may serve a pivotal role as points of contact to help facilitate and bridge communication between DFPS and appropriate school personnel.

### IF THE STUDENT LEAVES FOSTER CARE, IS THE LEA STILL REQUIRED TO PROVIDE TRANSPORTATION SUPPORTS UNDER ESSA?

No. ESSA requires transportation provisions for the duration of the time the student is in foster care.<sup>111</sup>

However, LEAs are strongly encouraged to continue prioritizing educational stability after the student exits foster care and make every effort to continue transportation through the end of the school year (when it has been determined that the student will remain in the school of origin.)



For more information on school stability and the importance of transportation, see the Legal Center on Foster Care and Education, "[Implementing ESSA's Transportation Procedures: How Local Education Agencies Can Work with Child Welfare to Ensure School Stability.](#)"



## DISPUTE RESOLUTION

### HOW ARE ESSA FOSTER CARE TRANSPORTATION DISPUTES RESOLVED?

- ✓ LEAs should partner with DFPS to anticipate and resolve transportation challenges to the greatest extent possible.
- ✓ If school staff and the caseworker cannot resolve the issue, the dispute should be sent to the LEA foster care liaison, the DFPS regional education specialist, and the DFPS Program Administrator.
- ✓ If the issue remains unresolved, the TEA Foster Care POC and DFPS education specialist at state office must reach a resolution, in consultation with each respective agency's leadership.



## DATA COLLECTION AND REPORTING

### WHAT EDUCATION DATA DOES ESSA MANDATE TO COLLECT AND REPORT FOR STUDENTS IN FOSTER CARE?

- ✓ ESSA requires LEAs to report disaggregated student and school performance information for students in foster care.<sup>112</sup>
- ✓ LEAs must properly identify and code students in foster care in PEIMS to support ESSA data requirements (see *Chapter 7: Identifying Students & Maintaining Confidentiality*, on page 79).
- ✓ TEA must include students in foster care in the annual state report card, including school performance measures, graduation and dropout rates, disciplinary measures, and other information.<sup>113</sup>
- ✓ LEAs are encouraged to review and analyze their data locally to identify student needs, plan services and interventions, and monitor and track progress of students in foster care.

For more information see [Every Student Succeeds Act State and Local Report Cards Non-Regulatory Guidance](#).<sup>114</sup>



Photo credit: Richardson ISD





## RESOURCES: Guidance ESSA Foster Care Implementation

### **Texas Guidance:**

State resources to support schools and DFPS with implementing ESSA:

TEA and DFPS [ESSA Foster Care Preliminary Implementation Q&A \(2017\)](#) (an extensive list of questions and answers related to educational stability laws under ESSA).

[TASB Exhibit A – Best Interest Decision Making](#)

[TASB Exhibit B – Transportation Coordination Planning](#)

Guidance provided by the state should be considered in conjunction with information provided by U.S. Departments of Education and Health and Human Services to assist local educational agencies and child welfare organizations in implementing the ESSA provisions.

### **National Guidance:**

The U.S. Departments of Education and Health and Human Services issued joint guidance on June 23, 2016 to support states and communities with implementing the foster care provisions in ESSA, including the following:

[Dear Colleague Letter on Foster Care Guidance](#)

[Dear Colleague Letter on Foster Care Timelines](#)

[Non-Regulatory Guidance, Ensuring Education Stability for Children in Foster Care](#)

The School Superintendents Association (AASA) and National Association for the Education of Homeless Children and Youth (NAEHCY) developed "[Considerations for Local Educational Agencies in Developing Transportation Procedures for Students in Foster Care Under the Every Student Succeeds Act of 2015.](#)"

The American Bar Association [Legal Center for Foster Care and Education resources](#)

The [Every Student Succeeds Act Implementation Toolkit](#), published by the Legal Center in January 2017, contains a series of adaptable tools and resources for states and counties to support the school stability and success of students in foster care.