

# Every Student Succeeds Act of 2015



## Foster Youth and Juvenile Justice Provisions – Legislative Language

On December 10, 2015, the President signed into law the Every Student Succeeds Act (ESSA), the conference bill reauthorizing the Elementary and Secondary Education Act (ESEA). This bill broadly maintains annual testing while scaling back the federal role in education, providing states greater control over accountability and school improvement. The law also aims to create transparency regarding achievement gaps among disadvantaged subgroups of students, including foster youth.

### **Summary: Foster Youth Provisions**

ESSA includes several provisions to improve school stability and success for students in foster care, including: ensuring that students may remain in their school of origin unless it is in their best interest to change schools; ensuring that when a change in school placement is necessary, students are immediately enrolled even if they lack the records typically required for enrollment; requiring the enrolling school to contact the prior school to obtain the student’s records; requiring state education agencies to designate a point of contact for child welfare agencies; requiring local education agencies to collaborate with the state or local child welfare agency to designate a point of contact if the child welfare agency has given notice it will designate a point of contact; requiring local education agencies to collaborate with child welfare agencies regarding students’ transportation needs; and requiring states to provide disaggregated data on foster youth.

### **Summary: Juvenile Justice Provisions**

ESSA also includes several provisions aimed at better supporting students involved in the juvenile justice system, including: requiring state and local education agencies to coordinate with correctional facilities to support educational transitions both in and out of correctional facilities; requiring opportunities for youth to transfer credits earned during placement; requiring agencies to involve families and communities to improve educational outcomes for students; and focus on attainment of traditional high school diplomas.

### **Key Legislative Language**

*Key: ~~Strikethroughs~~ indicate portions of the ESEA that have been removed by ESSA. Red text indicates new language introduced by ESSA to ESEA.*

## **TITLE I – IMPROVING BASIC PROGRAMS OPERATED BY STATE AND LOCAL EDUCATIONAL AGENCIES**

### **PART A – IMPROVING BASIC PROGRAMS OPERATED BY STATE AND LOCAL EDUCATIONAL AGENCIES**

#### **Sec. 1005. State Plans.**



- (g)(1)(E) Each State must describe how the State will ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act to ensure the educational stability of children in foster care, including assurances that:
  - (g)(1)(E)(i) any such child enrolls or remains in such child’s school of origin, unless a determination is made that it is not in such child’s best interest to attend the school of origin, which decision shall be based on all factors relating to the child’s best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;
  - (g)(1)(E)(ii) when a determination is made that it is not in such child’s best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment;
  - (g)(1)(E)(iii) the enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records; and
  - (g)(1)(E)(iv) the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this sub-paragraph, and such point of contact shall not be the State’s Coordinator for Education of Homeless Children and Youths under the McKinney-Vento Homeless Assistance Act.
- (h)(1)(C) Each State must publicly disseminate an annual State report card. It must contain:
  - (h)(1)(C)(ii) Information on the student achievement of students in foster care.
  - (h)(1)(C)(iii)(II) High school graduation rates for students in foster care, including four-year adjusted cohort graduation rates and, at the State’s discretion, extended-year adjusted cohort graduation rates.

**Sec. 1006. Local Educational Agency Plans.**

- (c)(5) Each local educational agency plan will describe how the agency will collaborate with the State or local child welfare agency to:
  - (c)(5)(A) designate a point of contact if the corresponding child welfare agency notifies the local education agency that the agency has designated an employee to serve as a point of contact for the local educational agency
  - (c)(5)(B) within one year of enactment of the Every Student Succeeds Act, develop and implement clear written procedures 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 the time in foster care, which procedures shall:
    - (c)(5)(B)(i) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with the Social Security Act
    - (c)(5)(B)(ii) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if:



- (c)(5)(B)(ii)(I) the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;
- (c)(5)(B)(ii)(II) the local educational agency agrees to pay for the cost of such transportation; or
- (c)(5)(B)(ii)(III) the local educational agency and the local child welfare agency agree to share the cost of such transportation.

PART D – PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

Sec. 1410. Purpose and Program Authorization.

- (a) PURPOSE.—It is the purpose of this part—
  - (1) to improve educational services for children and youth in local, **tribal**, and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic ~~content~~ standards and ~~challenging State student academic achievement standards~~ that all children in the State are expected to meet; ‘
  - (2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and
  - (3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education, **and the involvement of their family and communities.**
- (b) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part and from amounts appropriated under section 1002(d), the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

Sec. 1414. State Plan and State Agency Applications.

- STATE PLAN.— (1) IN GENERAL.—Each State educational agency that desires to receive a grant under this subpart shall submit, for approval by the Secretary, a plan—
  - (A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;
  - (B) for assisting in the transition of children and youth **between** correctional facilities **and** locally operated programs; and
  - (C) that is integrated with other programs under this Act or other Acts, as appropriate.
- (2) CONTENTS.—Each such State plan shall—
  - (A) describe the program ~~goals, objectives, and performance measures~~ **and outcomes** established by the State that will be used to assess the effectiveness of the program in improving the academic, vocational, and technical skills of children in the program;



- (B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State; ~~and~~
- (C) describe how the State will place a priority for such children to attain a regular high school diploma, to the extent feasible;
- (D) contain an assurance that the State educational agency will— “(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection; and
- (E) provide assurances that the State educational agency has established:
  - (i) procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program that best meets the needs of the student, including the transfer of credits that such student earns during placement;
  - (ii) opportunities for such students to participate in credit-bearing coursework while in secondary school, postsecondary education, or career and technical education programming.
- (c) STATE AGENCY APPLICATIONS.—Any state agency that desires to receive funds to carry out a program under this subpart shall submit an application to the State educational agency that –
  - (1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served under this subpart and, to the extent practicable, provide for such assessment upon entry into a correctional facility;
  - (9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to and after their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program in order to facilitate the transition of such children and youth between the correctional facility and the local educational agency or alternative education program;
  - (17) provides an assurance that certified or licensed teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;
  - (20) The State agency will, to the extent feasible:
    - (A) note when a youth has come into contact with both the child welfare and juvenile justice systems

Sec. 1415. Use of Funds.

- (a)(2)(A) Such programs and projects may include...
  - (i) the acquisition of equipment
  - (ii) pay-for-success initiatives
  - (iii) providing targeted services for youth who have come in contact with both the child welfare system and juvenile justice system.



Sec. 1416. Institution-Wide Projects.

- A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that:
  - (4) describes the instructional program, **specialized instructional support pupil services**, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1), **and how relevant and appropriate academic records and plans regarding the continuation of educational services for such children or youth are shared jointly between the State agency operating the institution or program and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the State agency.**

Sec. 1418. Transition Services.

- (a) TRANSITION SERVICES.—Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this subpart for any fiscal year to support—
  - (1) projects that facilitate the transition of children and youth **between State-operated institutions, to schools served by local educational agencies or institutions in the State operated by the Secretary of the Interior, and schools served by local educational agencies or schools operated or funded by the Bureau of Indian Education...**

Sec. 1423. Local Education Agency Applications.

- Each local educational agency desiring assistance under this subpart shall submit an application to the State educational agency that shall include:
  - (4) a description of the program operated by participating schools ~~for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;~~ **to facilitate the successful transition of children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth.**
  - (7) as appropriate, a description of any partnerships **with institutions of higher education or local businesses to develop training, curriculum-based youth entrepreneurship education, facilitate postsecondary and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming,** and mentoring services for participating students;



- (8) as appropriate, a description of how the program will involve parents **and family members** in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities...

Sec. 1424. Uses of Funds.

- **IN GENERAL.** -- Funds provided to local educational agencies under this subpart may be used, as appropriate, for—
  - (5) programs providing mentoring and peer mediation;
  - (6) programs for at-risk Indian children and youth, including such children and youth in correctional facilities in the area served by the local educational agency that are operated by the Secretary of the Interior or Indian tribes; and
  - (7) pay for success initiatives.

Sec. 1425. Program Requirements for Correctional Facilities Receiving Funds Under This Section.

- Each correctional facility entering into an agreement with a local educational agency to provide services to children and youth shall:
  - (12) upon the child's or youth's entry into the correctional facility, work with the child's or youth's family members and the local educational agency that most recently provided services to the child or youth (if applicable) to ensure that the relevant and appropriate academic records and plans regarding the continuation of educational services for such child or youth are shared jointly between the correctional facility and local educational agency in order to facilitate the transition of such children and youth between the local educational agency and the correctional facility; and
  - (13) consult with the local educational agency for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility, to coordinate educational services so as to minimize disruption to the child's or youth's achievement.

Sec. 1426. Accountability.

- The State educational agency may—
  - (1) reduce or terminate funding for projects under this subpart if a local educational agency does not show progress in ~~reducing dropout rates for male students and for female students over a 3-year period~~ **the number of children and youth attaining a regular high school diploma or its recognized equivalent...**

Sec. 1432. Definitions.

- (2) AT-RISK.—The term ‘at-risk’, when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, **dependency adjudication, or delinquency adjudication**, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system **or child welfare system** in the past, is at least 1 year behind the expected grade level for the age of the individual, ~~has limited English proficiency~~, **is an English language learner**, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.



## TITLE IV – 21ST CENTURY SCHOOLS

### PART C – EXPANDING OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS

#### Sec. 4301. Grants to Support High-Quality Charter Schools.

- (f)(1)(A)(viii)(I) A State entity desiring to receive a grant under this section shall submit an application...[which] shall include the following: ...A description of the State entity’s objectives in running a quality charter school program under this section and how the objectives of the program will be carried out, including...a description of how the State entity will...work with charter schools on...recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for educationally disadvantaged students (who include foster youth and unaccompanied homeless youth).

### PART E – FAMILY ENGAGEMENT IN EDUCATION PROGRAMS

#### Sec. 4501. Applications.

- (b) Each application submitted [for a grant under this section] shall include, at a minimum:
  - (b)(4) a description of the applicant’s demonstrated experience in providing training, information, and support to State educational agencies, local educational agencies, schools, educators, parents, and organizations on family engagement in education policies and practices that are effective for parents (including low-income parents) and families, parents of English learners, minorities, students with disabilities, homeless children and youth, children and youth in foster care, and migrant students, including evaluation results, reporting, or other data exhibiting such demonstrated experience.
  - (b)(6)(B) An assurance that the applicant will...use not less than 65 percent of the funds received under this part in each fiscal year to serve local educational agencies, schools, and community-based organizations that serve high concentrations of disadvantaged students, including students who are English learners, minorities, students with disabilities, homeless children and youth, children and youth in foster care, and migrant students.

## TITLE IX – EDUCATION FOR THE HOMELESS AND OTHER LAWS

### PART A – HOMELESS CHILDREN AND YOUTHS

#### Sec. 9105. Definitions.

- (a)(1)(B) Section 725 of the McKinney-Vento Homeless Assistance Act...is amended in paragraph (2)(B)(i) by striking “or are awaiting foster care placement.”
- (b)(2) In the case of a covered State, the amendment shall take effect two years after ESSA is enacted.
- (c) “Covered State” means a State that has a statutory law that defines or describes the phrase “awaiting foster care placement.”

