



**DEPARTMENT OF CHILDREN  
AND FAMILIES**

Eloise Anderson  
Secretary

**DEPARTMENT OF PUBLIC  
INSTRUCTION**

Tony Evers  
Superintendent



October 12, 2016

Dear Colleague:

We are writing to provide you with information regarding implementation of the federal Every Student Succeeds Act<sup>1</sup> (ESSA), passed by Congress in December of 2015. This act amended the Elementary and Secondary Education Act of 1965<sup>2</sup>. The ESSA, in conjunction with the Fostering Connections Act of 2008<sup>3</sup> and the Uninterrupted Scholars Act of 2013<sup>4</sup>, requires certain actions of state and local educational and child welfare agencies and tribal child welfare agencies. These actions are designed to increase collaboration among those agencies to support successful educational experiences for children in out-of-home care.

The federal definition of "foster care" is the same as the Wisconsin definition of "out-of-home care." In both cases, it includes children who are placed in family foster homes, treatment foster homes, group homes, residential care centers, shelter care facilities, in the home of a relative who is not the child's parent, or in the home of a nonrelative. This includes only those situations in which a county or tribal child welfare agency has placement and care responsibility for the child.

These requirements, in most cases, build upon and strengthen previous requirements contained in the acts noted above and to which you have already provided assurances. Most of these new requirements are parallel to how school districts currently address homeless students under the McKinney-Vento Homeless Assistance Act<sup>5</sup>. We suggest that school districts and child welfare agencies consider adapting those current practices (e.g., arrangement for transportation) for students in out-of-home care.

Recent preliminary guidance issued jointly by the U.S. Departments of Education (USDE) and Health and Human Services, entitled "Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care"<sup>6</sup>, addresses the mandated requirements of ESSA and the best practice recommendations developed by those federal departments. The mandated requirements of ESSA must be implemented in each state by December 10, 2016.

<sup>1</sup> [http://edworkforce.house.gov/uploadedfiles/every\\_student\\_succeeds\\_act\\_conference\\_report.pdf](http://edworkforce.house.gov/uploadedfiles/every_student_succeeds_act_conference_report.pdf)

<sup>2</sup> <http://legcounsel.house.gov/Comps/Elementary%20And%20Secondary%20Education%20Act%20of%201965.pdf>

<sup>3</sup> <https://www.gpo.gov/fdsys/pkg/PLW-110publ351/pdf/PLAW-110publ351.pdf>

<sup>4</sup> <https://www.congress.gov/112/plaws/publ278/PLW-112publ278.pdf>

<sup>5</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg116.html>

<sup>6</sup> <http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

These requirements are very important for this vulnerable population as children in out-of-home care experience significant barriers to success in the school setting:

- 44 percent of Wisconsin children in-care attended more than one school in a single year;\*
- Only 57 percent of Wisconsin children in-care will graduate high school (compared to 88 percent for all children);\*
- During the 2013-14 school year, the average attendance rate for Wisconsin children in out-of-home care was 86 percent while for all children it was 94 percent (this discrepancy is equivalent to approximately three weeks of school during the school year);\*
- Nationally, 56 percent to 75 percent of children in out-of-home care will change schools when they first enter out-of-home care;\*\*
- Nationally, approximately one-third (34 percent) of 17-18 year olds in-care have experienced five or more school changes;\*\*
- Students lose four to six months of academic progress with each school change;\*\*
- Nationally, children in out-of-home care are two times as likely as other students to have an out-of-school suspension and three times as likely to be expelled;\*\*
- Nationally, children in out-of-home care are two-and-a-half to three-and-a-half times more likely to receive special education services;\*\*
- Nationally, 84 percent of children in out-of-home care want to go to college, but only 20 percent of them who graduate from high school will attend college, and only two percent to nine percent will attain a bachelor's degree.<sup>7\*\*</sup>

\* = Wisconsin data; \*\* = National data

Over the next few months, the Departments of Public Instruction (DPI) and Children and Families (DCF) will be developing – after consultation with representatives of school districts, county child welfare agencies, and tribes – further guidance related to both the mandated requirements and the best practice recommendations. The successful implementation of ESSA, and the resultant improved educational experiences of children in out-of-home care, will be dependent upon and the result of the collaborative efforts occurring at the local level.

We are anticipating that we will be receiving finalized regulations from the federal departments, but we cannot wait for the issuance of that guidance if we are to successfully implement the required aspects of the law by December 10, 2016.

## **ASSURANCES**

Each Local Educational Agency (LEA) shall provide assurances that the LEA will, as appropriate, work with the county or tribal child welfare agency in meeting the following requirements. A complete assurances document will be released to LEAs through the DPI WISEgrants portal in November 2016 to allow for digital signature of the assurances by LEAs by December 1, 2016.

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<sup>7</sup> National Working Group on Foster Care and Education, "Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care," Research Highlights on Education and Foster Care, January 2014.

#### *Collaboration Requirements*

- Collaborate with county and tribal child welfare agencies to implement educational stability provisions. (ESEA § 1112(c)(5))
- Collaborate with child welfare agencies to ensure that transportation for students is provided, arranged, and funded. (ESEA § 1112(c)(5)(B)) (Final regulations from the USDE are pending. Once published, those requirements will be made available and this document will be updated.)
- Designate a point of contact for child welfare agencies if the applicable child welfare agency notifies the LEA, in writing, that the child welfare agency has designated a point of contact. (ESEA § 1112(c)(5)(A))
- Assist the child welfare agency in determining whether it is in a child's best interest to remain in his or her school of origin, and consider all factors relating to a child's best interest, including the appropriateness of the current educational setting and the proximity of the student's placement. (ESEA § 1111(g)(1)(E)(i)) (Note: The child welfare agency must also make best interest determinations for purposes related to case dispositions and placements. In addition, under Wis. Stats 48.01(2), such a best interest determination for an Indian child requires additional considerations. Educational decisions should also be taken into consideration by the child welfare agency in determining the best interest of a child.)

#### *Enrollment Requirements*

- Maintain each student in his or her school of origin for the duration of the out-of-home care placement, unless it is determined that remaining in the school of origin is not in the student's best interest. (ESEA § 1111(g)(1)(E)(i))
- To the extent feasible and appropriate, maintain a student in his or her school of origin while the best interest determination is being made. (ESEA § 1111(g)(1)(E)(i))
- Immediately enroll the student in the new school if it is determined that remaining in the school of origin is not in the student's best interest, even if the student is unable to produce records normally required for enrollment. (ESEA § 1111(g)(1)(E)(ii)-(iii))
- When receiving a new student, immediately contact the school of origin to obtain relevant academic and other records and, if the school of origin, immediately transfer those records. (ESEA § 1111(g)(1)(E)(iii))

#### *Additional Requirements*

- If the LEA offers a preschool program, meet Title I requirements for children in out-of-home care who are in preschool. (ESEA § 1111(g)(1)(E))
- Provide that all English learner students in out-of-home care can participate meaningfully and equally in educational programs. (42 USC § 2000d to d-7; 34 CFR part 100; EEOA 20 USC § 1703(±))
- Identify and assess all potential English learners, and provide all English learner students with a language assistance program that is educationally sound and proven successful. (42 USC § 2000d to d-7; 34 CFR part 100; EEOA 20 USC § 1703(±))

- Provide all required special educational and related services and supports to the student in the least restrictive placement where a student's unique needs, as described in the child's Individual Education Plan (IEP) or Section 504 plan, can be met. (34 CFR part 300.115)

**POINT OF CONTACT**

In order to enhance collaboration at the community level, DPI and the DCF are asking school districts and county and tribal child welfare agencies to identify a foster care point of contact (FCPOC). The role of these FCPOCs is to accomplish the following:

- develop a process for making best interest determinations;
- facilitate the transfer of records and immediate enrollment;
- facilitate data sharing between agencies;
- develop and coordinate local transportation procedures;
- ensure that these children are enrolled in and regularly attending school; and
- provide professional development and training between agencies.

A hyperlink to a Google survey will be included in the foster care assurances in the WISEgrants portal for the purpose of identifying the FCPOC. Both DPI and DCF will maintain a listing of all FCPOC designees.

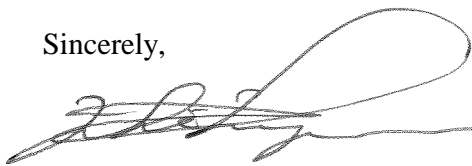
The DCF will be notifying county and tribal child welfare agencies regarding the requirements of ESSA which must be met by the child welfare agency.

We want to thank you for your assistance and cooperation in increasing and modifying your collaborative efforts with other agencies to ensure that this very vulnerable population of children is provided with the best opportunities for success while in school and subsequent to graduation.

Should you have any questions regarding these assurances, please contact:

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Sincerely,



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