



December 9, 2016

Barbara Murchison  
California Department of Education  
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Dear Ms. Murchison,

I write to urge the California Department of Education (CDE) to account for the needs of children and youth in the foster care and juvenile justice systems (“system-involved youth”) as it develops plans for implementing the *Every Student Succeeds Act* (ESSA), and to ensure that CDE is aware of the upcoming December 10, 2016 timeline for implementation of the foster youth educational stability provisions.

ESSA contains key requirements regarding the educational stability of students in foster care. *See* ESEA §§ 111(g)(1)(E), 1112(c)(5)(B).<sup>1</sup> State Education Agencies (SEAs) must ensure that a child in foster care will enroll or remain in his or her school of origin, unless a determination is made that it is not in the child’s best interest to attend that school; if a determination is made that it is not in the child’s best interest to remain in the school of origin, the child will immediately be enrolled in a new school, even if the child is unable to produce records normally required for enrollment; and a new (enrolling) school must immediately designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of educational stability provisions. *See* ESEA § 111(g)(1)(E). In addition, at the local level, LEAs receiving Title I funds must collaborate with the state or local child welfare agency to develop and implement clear written procedures regarding how transportation to the school of origin will be provided, arranged, and funded for the duration of time in foster care, and designate a point of contact if the corresponding child welfare agency notifies the LEA that it has done so. *See* ESEA § 1112(c)(5)(B).

Recently-released final federal regulations make clear that SEAs have a crucial role to play in ensuring that these transportation procedures are developed and implemented, and should reflect this in their state plan assurances: “To ensure that children in foster care promptly receive transportation, as necessary, to and from their schools of origin when in their best interest under section 1112(c)(5)(B) of the Act, the SEA must ensure that an LEA receiving funds under title I, part A of the Act will collaborate with State and local child welfare agencies to develop and implement clear written procedures that describe: (A) How the requirements of section 1112(c)(5)(B) of the Act will be met in the event of a dispute over which agency or agencies will pay any additional costs incurred in providing transportation; and (B) Which agency or agencies will initially pay the additional costs so that transportation is provided promptly during the pendency of the dispute.” *See* 34 C.F.R. §299.13(c)(1)(ii) and Attachment B.

Per the U.S. Department of Education “Dear Colleague Letter” issued in December 2016, the Department has placed a condition on each SEA’s fiscal year 2016 Title I grant award requiring states to implement the foster youth educational stability requirements of ESSA by December 10, 2016. *See Attachments A and B*. The Department has encouraged SEAs to work with LEAs to support effective implementation of these requirements, and provided guidance on how SEAs can support the development of transportation procedures. For example, the Department has encouraged SEAs to develop a transportation procedures template or model agreement to ensure uniformity across school districts; collaborate with state child welfare agencies to provide guidelines regarding transportation procedures; develop a transportation procedures checklist to use during Title I, Part A monitoring

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<sup>1</sup> Citations refer to the Elementary and Secondary Education Act (ESEA) as amended by ESSA.



of LEAs; and work with state child welfare agencies to establish uniform, statewide dispute resolution procedures around transportation. *See Attachment B.*

As we approach the December 10, 2016 deadline, we encourage CDE to do everything it can to ensure that California effectively implements these requirements, including issuing state-level guidance to LEAs on transportation and other topics. For an example of the type of guidance that may be helpful to LEAs, please see these resources developed by the Ohio Department of Education: <http://education.ohio.gov/Topics/School-Improvement/Foster-Care>.

In addition, ESSA places increased emphasis on the importance of providing a quality education for youth entering, in, and transitioning out of the juvenile justice system. We encourage CDE to work closely alongside LEAs and correctional facilities to determine any necessary changes to the state's Title I, Part D programs. When writing its next draft of the State Plan, CDE should consult the Department's final regulations, which outline Title I, Part D program-specific information that must be included in the consolidated State Plan. *See 34 C.F.R. § 299.19(b)(3) and Department of Education State Template for the Consolidated State Plan, available at [www2.ed.gov/policy/elsec/.../essa/essa-consolidated-state-plan-final.docx](http://www2.ed.gov/policy/elsec/.../essa/essa-consolidated-state-plan-final.docx).*

In implementing ESSA, California has an opportunity to build upon the work it has already done over the last several years to increase opportunities and supports for system-involved youth. Please contact us if we can be of assistance in this process. Together, we can and must support the educational futures of foster youth and youth in the juvenile justice system.

Sincerely,

Minsun Park Meeker, Director of FosterEd: California  
National Center for Youth Law

