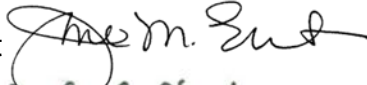
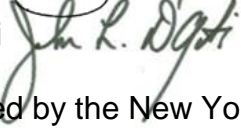





TO: P-12 Committee
Higher Education Committee

FROM: Jhone M. Ebert 
John L. D'Agati 

SUBJECT: Guidance issued by the New York State Education Department and the New York State Office of Children and Family Services on Ensuring Educational Stability for Children in Foster Care

DATE: December 1, 2016

AUTHORIZATION(S): 

SUMMARY

Issue for Discussion

The purpose of this item is to update the Board of Regents regarding the requirements for ensuring educational stability for students in foster care in accordance with requirements enumerated in the Every Student Succeeds Act (ESSA) and guidance issued by the U.S. Department of Education and the U.S. Department of Health and Human Services on June 23, 2016.

Reason(s) for Consideration

The guidance builds upon existing statutes to ensure educational stability of youth in foster care, specifically The Fostering Connections Act, The Uninterrupted Scholars Act, and the foster care provisions of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended by ESSA.

Proposed Handling

This item will come before the Joint P-12 Education and Higher Education Committees for discussion at the December 2016 Regents meeting.

Background Information

The changes to Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as a result of the enactment of the federal Every Student Succeeds Act (ESSA) in December 2015, requires that school districts and local departments of social services begin implementing the new requirements related to students in foster care by December 10, 2016.

On June 23, 2016, the U.S. Department of Education and the U.S. Department of Health and Human Services released the guidance document "[Non-regulatory Guidance: Ensuring Educational Stability for Children in Foster Care.](#)" The primary focus of the document is to provide guidance to State Educational Agencies (SEAs), Local Educational Agencies (LEAs), and state and local Child Welfare Agencies (CWAs) to collaborate, both formally and informally, and jointly take responsibility for their role in ensuring the educational stability of students in foster care. The Guidance states that, when considering the best educational placement for a student in foster care, SEAs, LEAs, and CWAs should take into account student-centered factors such as: student and parental preferences; placement of siblings; school climate and safety; history of transfers and impact of such; length of commute; and need for other services under IDEA, Section 504, or English language learners (ELLs). The federal Guidance also encourages collaboration at the State and local levels to utilize federal funds available to cover necessary costs associated with ensuring educational stability of foster care youth (e.g. Title I for LEAs, and Title IV-E for CWAs).

In addition, the federal guidance provides specific roles and responsibilities for SEAs, LEAs, and CWAs to fulfill that are summarized below:

State Educational Agencies (SEAs)

For New York State, the SEA is the New York State Education Department (NYSED). By December 10, 2016, SEAs are required to meet the Title I educational stability requirements which include, but are not limited to, those listed below:

1. The SEA is required to designate a Point of Contact for CWAs. This person may not be the State Coordinator for the McKinney-Vento Homeless Assistance Act. The contact information of the point of contact is to be made publicly available. The Point of Contact for the Department is Karen Hollowood from the Office of Student Support Services. Duties of the POC include the following:
 - Facilitating data sharing with CWAs consistent with the Family Educational Rights and Privacy Act (FERPA);
 - Monitoring LEAs to ensure compliance with Title I requirements; and
 - Providing professional development and technical assistance to LEAs Point of Contact and other school personnel.

2. The SEA is required to collaborate with the State CWA to develop guidelines for consistent, uniform practice throughout the State. In New York State, the State CWA is the New York State Office of Children and Family Services (OCFS). Guidelines should include how to arrange for transportation and funding; a dispute resolution process which must allow students to continue in their current school placement pending resolution; roles and responsibilities of the SEA Point of Contact; and policies that prioritize educational stability for students exiting foster care.
3. The SEA is required to conduct regular monitoring/oversight to guarantee appropriate implementation of requirements at the local level, including transportation procedures.
4. Finally, the SEA is required to remove “children awaiting foster care placement” from the definition of homeless children and youth for the purposes of the Education of Homeless Children and Youths Program by December 10, 2016.

Local Educational Agencies

LEAs, which are local school districts and charter schools in New York State, must implement the Title I educational stability requirements for students in foster care and ensure the following:

1. Children or youth in foster care are enrolled or remain in their school of origin, unless a determination is made that it is not in their best interest.
2. When a determination is made that it is not in the child’s best interest to remain in the school of origin, the child will be immediately enrolled in a new school even if the child is unable to produce records normally required for enrollment.
3. The enrolling school must immediately contact the school last attended by a youth in foster care to obtain relevant academic and other records.

Additionally, under ESSA (§1112 [c][5][A] and [B]), a school district receiving Title I funds must provide assurances that it will collaborate with the CWA to:

1. Develop and implement clear written procedures for 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. These procedures must ensure the following:
 - a. children and youth in foster care who need transportation to the school of origin promptly receive it in a cost-effective manner; and
 - b. if there are additional costs incurred in providing transportation to the school of origin, school districts will provide transportation if:
 - i. The Local Department of Social Services (LDSS) agrees to reimburse the school district;
 - ii. The school district agrees to pay the costs; or
 - iii. The school district and the LDSS agree to share the costs.

2. Designate a district Foster Care Point of Contact to work collaboratively with representatives from the LDSS. The federal law requires school districts to designate a Foster Care Point of Contact if the CWA notifies the school district, in writing, that it has designated a Point of Contact for the CWA.

School districts and charter schools were notified by memorandum dated November 21, 2016 of their obligations and requirement that they file assurances regarding their compliance with these new requirements. These assurances must be filed using the NYSED Application Business Portal by December 9, 2016.

Child Welfare Agencies

The federal Guidance refers to local and State CWAs. In New York State, the local CWA is the Local Department of Social Services and, as referenced above, the State CWA is OCFS. CWAs do not have new requirements under the Title I educational stability provisions, but CWAs are encouraged to revisit how they are coordinating with SEAs and LEAs to meet their plans required under the Fostering Connections Act and Title IV-E of the Social Security Act.

NYSED and OCFS issued a joint memo to the field that provides an overview of the new federal guidance and clarifies roles and responsibilities for statewide guidance to LEAs and LDSSs, including Voluntary Authorized Agencies and Charter School Leaders. The joint guidance memo can be found at: <http://www.p12.nysed.gov/sss/>. This joint guidance memo provides important information on the federal changes to Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) of December 2015, and reminds LEAs to submit to NYSED the required Assurances.

Other Strategies to Improve Educational Outcomes for Students

Foster Youth College Success Initiative

The Office of Higher Education administers the Foster Youth College Success Initiative. The 2015-16 State budget appropriated \$1.5 million for the Foster Youth College Success Initiative. The law provides for awards to public institutions, including institutions of the State University of New York (SUNY), and The City University of New York (CUNY), and requires the Commissioner to enter into contracts with degree-granting institutions currently funded by the Arthur O. Eve Higher Education Opportunity Program (HEOP) for the purpose of providing additional services and expenses to expand opportunities for foster youth attending college.

The 2016-17 State budget appropriated \$3 million for this same initiative. There are currently 500 foster youth participating in the initiative receiving additional financial support, counseling, tutoring, and other services to assist them in completing their college education.

Westchester County Collaborative

As the federal Guidance suggests, many states have found that, once an LEA is aware of the needs of children in care, performance in K-12 education improves. By developing liaisons in both child welfare and education, both systems become well versed in the policies, procedures, and practices of the other system and create common understandings of the needs of youth in care. Moreover, the liaisons serve as a point of contact and ongoing dialogue between child welfare and education.

As such, OCFS has engaged a number of LDSSs to develop and implement educational liaisons in both child welfare and LEAs. The goal of the liaisons is to increase awareness of the educational and emotional needs of youth in care but most importantly, when in the child's best interest, to keep youth in their school of origin once they come into care. Reducing the number of school moves a child experiences can lead to improved outcomes. However, if it is determined it is in a child's best interest to change schools, the liaisons help with the speedy transfer of records to facilitate a seamless school transition.

Additionally, county educational collaborations have been developed and comprised of family courts, schools, and child welfare agencies. Having this collaborative trifecta at the local and state level has been instrumental in New York's ability to move the education agenda. It is imperative that the systems work together to support educational progression, and the involvement of birth and foster parents is also critical as they are educational champions for their children.

The Department has coordinated a Panel Presentation to discuss the above-mentioned strategies that are currently underway in localities aimed at ensuring educational stability for foster care youth. The Panel members are as follows:

- Lisa Gharthey Ogundimu, *Assistant Commissioner, NYSOCFS*
- John Befus, Deputy Commissioner, Westchester County Department of Social Services
- Dr. Noreen Urso, Assistant Superintendent, Pupil Personnel Services, Eastchester Union Free School District
- Pat White, Education Coordinator, Westchester County Department of Community Mental Health

Next Steps

NYSED will continue to collaborate with OCFS, LEAs and LDSSs to:

- Ensure educational stability for youth in foster care;
- Address any barriers that may occur at the local level; and
- Discuss specific strategies to pay for costs associated with educating youth in foster care (e.g., transportation), which has been and continues to be one of the biggest challenges.