Ensuring Educational Stability and Success for Students in Foster Care

Non-Regulatory Guidance

November 2024

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This guidance supersedes the 2016 non-regulatory guidance *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care*.

The U.S. Department of Education (ED) and the U.S. Department of Health and Human Services (HHS) have determined that this guidance is significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). See https://www.Federalregister.gov/documents/2007/01/25/E7-1066/final-bulletin-for-agencygood-guidance-practices. Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended to provide clarity to the public regarding existing requirements under the law or agency policies.

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Introduction

Students in foster care represent one of the nation's most vulnerable student groups. In addition to the social-emotional challenges and trauma that students in foster care experience, studies find that students in foster care are much more likely than their peers to struggle academically and fall behind in school.[1] Students in foster care at age 17 are also less likely to graduate from high school, with only 71 percent graduating by age 21[2] compared to 88 percent among all youth ages 18 to 24.[3] These adverse academic outcomes are often connected to the unique experiences of students in foster care – most notably the high rates of residential and school instability that these students experience while navigating the child welfare system. For example, studies have shown that school changes may be associated with delays in academic progress, leaving highly mobile students potentially more likely to fall behind their less-mobile peers academically.[4] Students experiencing this type of instability, including many students in foster care, are thus more likely to face a variety of academic challenges.[5]

With nearly three-quarters of children in foster care enrolled in elementary and secondary schools, educational agencies and their counterparts in child welfare agencies are uniquely positioned to support students in foster care and to ensure that involvement in the child welfare system does not limit students' educational opportunities and academic outcomes, a role underscored by Federal law. In December 2015, Congress passed the Every Student Succeeds Act (ESSA), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), and, for the first time, included specific requirements addressing the unique needs of students in foster care. These provisions, under Title I, Part A (Title I) of the ESEA, emphasize the importance of collaboration and joint decision making between educational agencies and child welfare agencies to ensure that students in foster care have access to a well-rounded education and the opportunity to achieve at the same level as their peers. These provisions require educational stability for students in foster care by keeping students entering the foster care system—or changing foster placements—enrolled in their school of origin, unless it is determined to be in their best interest to change schools.

These provisions also ensure that, if it is not in their best interest to remain in their schools of origin, students in foster care are enrolled in their new schools without delay.[6] Promoting greater stability for students in foster care is essential so that they can continue their education without disruption, maintain important relationships with peers and adults, and have the opportunity to graduate from high school and achieve college- and career-readiness.

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[1] Clemens, E.V., Klopfenstein, K., Lalonde, T.L. & Tis, M. (2018). The effects of placement and school stability on academic growth trajectories of students in foster care. Children and Youth Services Review, Elsevier, 87(C), pages 86-94. https://eric.ed.gov/?id=ED593232.

[2] National Youth in Transition Database. Data Brief #8, Highlights from the NYTD Survey: Outcomes reported by young people at ages 17, 19, and 21 (Cohort 3) (March 2023). Administration on Children, Youth and Families, HHS.

[3] National Center for Education Statistics (2024). Percentage of persons 18 to 24 years old and 25 years old and over, by educational attainment, race/ethnicity, and selected racial/ethnic subgroups: 2012 and 2022 - table 104.40. Retrieved from https://nces.ed.gov/programs/digest/d23/tables/dt23_104.40.asp?current=yes.

[4] E.g., Cutuli, J.J., Desjardins, C.D., Herbers, J.E., Long, J.D., Heistad, D., Chan, C.-K., Hinz, E. & Masten, A.S. (2013). Academic Achievement Trajectories of Homeless and Highly Mobile Students: Resilience in the Context of Chronic and Acute Risk. Child Dev, 84: 841-857. https://eric.ed.gov/?id=EJ1010501.

[5] E.g., McGuire, A., Gabrielli, J., Hambrick, E., Abel, M.R., Guler, J., & Jackson, Y. (2021). Academic functioning of youth in foster care: The influence of unique sources of social support. Children and Youth Services Review, Volume 121, ISSN 0190-7409, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7939138/

[6] For additional information about BIDs and school placement decisions, see Sections D through G.

To that end, ED and HHS have frequently collaborated to assist agencies in improving and aligning their policies and programs to better serve students in foster care. In June 2016, following the reauthorization of the ESEA, ED and HHS released joint non-regulatory guidance (2016 guidance) on the implementation of the Title I educational stability provisions. This guidance was developed to guide State educational agencies (SEAs), local educational agencies (LEAs), and child welfare agencies in their collaborative efforts to fully implement the Title I educational stability provisions. Since the 2016 guidance was released, ED and HHS have continued to partner to assist grantees in implementing the Title I educational stability provisions. For example, the 2016 guidance release was followed by a five-part webinar series providing further detail on implementation of the educational stability provisions, and the agencies have continued to collaborate to host webinars about the Title I educational stability provisions. In summer 2020, ED hosted a virtual convening for State foster care points of contact (SEA POCs) to provide technical assistance on issues relating to interagency collaboration, data sharing, and transportation, and this effort was replicated on a larger scale during an in-person convening of points of contact (POCs) from both SEAs and State child welfare agencies in spring 2024. In 2023, ED and HHS issued a Dear Colleague Letter (DCL) and Information Memorandum, respectively, to remind chief State school officers and State child welfare agencies of their obligations to support the educational stability of students in foster care under the ESEA and Title IV, Part E of the Social Security Act (Title IV-E of the SSA). And in 2024, ED hosted POCs from both SEAs and State child welfare agencies to provide technical assistance on issues relating to interagency collaboration, data sharing, and transportation for students in foster care.

Between 2016, when this guidance was first published, and 2024, ED and HHS have developed additional understanding of the unique needs of students in foster care and SEA, LEA, and child welfare agency efforts to improve academic outcomes for these students. With this heightened understanding, ED and HHS have developed this updated non-regulatory guidance to further support the SEAs, LEAs, and child welfare agencies working directly with students in foster care. While the 2016 guidance addressed the basic implementation of the Title I educational stability provisions, this updated guidance answers frequently asked questions from SEA POCs regarding a wide array of implementation topics. It therefore builds on the 2016 guidance and does not alter that policy; rather, it provides guidance on how to strengthen State and local implementation by identifying areas where the foster care stability provisions overlap and intersect with other program requirements to improve support for students in foster care. This updated guidance also strives to address the intersectional identities of students in foster care and identify opportunities for supporting these students through other ED and HHS programs. It is our hope that this guidance provides clarity into not only how educational and child welfare agencies should fully implement the Title I educational stability provisions, but also how these agencies can better serve students in foster care as multifaceted-individuals with varied needs.

Students in foster care deserve the same academic opportunities as their peers who are not in foster care. Working together, educational and child welfare agencies can ensure that involvement in the child welfare system does not deprive students of the opportunity to reach their full academic potential. ED and HHS remain committed to supporting practitioners in the implementation of the Title I educational stability provisions and helping students in foster care achieve success in the classroom and beyond.

Reading This Non-Regulatory Guidance

This non-regulatory guidance is intended to support the implementation of the Title I educational stability provisions for students in foster care.[7] In implementing these provisions, SEAs, LEAs, and child welfare agencies also must ensure compliance with other applicable laws, including but not limited to Title VI of

[7] For additional information about the Title I educational stability requirements, see Sections A through H.

the Civil Rights Act of 1964, the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title IV-E of the SSA. While this guidance document provides some information on these and other applicable laws and Federal programs, it is not intended to provide a complete examination of applicable Federal requirements. To ensure compliance with Federal requirements other than those in the Title I educational stability provisions, we encourage the reader to refer to the relevant statutory and regulatory requirements and to non-regulatory guidance for the applicable Federal laws and programs mentioned in this guidance document.

Collaboration between educational agencies and child welfare agencies is essential to full implementation of the Title I educational stability provisions for students in foster care. This document uses the terms "educational agency" and "child welfare agency" as follows:

- "Educational agency" encompasses both SEAs and LEAs; and
- "Child welfare agency" encompass all Title IV-E agencies, including all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Tribes with approved Title IV-E plans.

Title I Educational Stability Provisions

The educational stability provisions in Title I of the ESEA are designed to mitigate educational discontinuity for students in foster care. This section explains which students are protected by the Title I educational stability provisions, the specific requirements in the educational stability provisions, and how educational and child welfare agencies[8] should collaborate to implement these provisions.

A. Applicability of Provisions

A-1. To which students do the Title I educational stability provisions apply?

The Title I educational stability provisions in ESEA section 1111(g)(1)(E) apply to all children[9] in foster care enrolled in schools in an SEA. Additional requirements in ESEA section 1112(c)(5) apply to children in foster care attending schools in LEAs receiving Title I subgrants. Consistent with Title IV-E of the SSA, "foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. (45 C.F.R. § 1355.20(a)). Under this definition, "foster care" includes, but is not limited to, placements in:

- Foster family homes;
- Foster homes of relatives (also known as "formal kinship care");
- Group homes;
- Emergency shelters;
- Residential facilities;
- Childcare institutions; and
- Preadoptive homes.

For the purposes of the Title I educational stability provisions, this definition of "foster care" also includes children who are placed in trial reunifications with their parents while the child welfare agency retains placement and care responsibility. SEAs and LEAs are encouraged to work closely with State and local child welfare agencies to identify students in foster care.

A-2. Are Title IV-E agencies required to assure that children in foster care are enrolled in school?

Yes. Each Title IV-E agency must assure that each child receiving a Title IV-E foster care maintenance payment who has reached the age of compulsory school attendance is a full-time elementary or secondary student under the law of the State unless the child is incapable of attending school full time due to a medical condition. (SSA section 471(a)(30)).

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[8] This document uses the term "State child welfare agency" to encompass all Title IV-E agencies, which includes all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Tribes with approved Title IV-E plans. For more information, see HHS's website on Title IV-E Foster Care: https://www.acf.hhs.gov/cb/grant-funding/title-iv-e-foster-care.

[9] Under Title I, the term "children" includes children through age 21 who are entitled to a free public education through grade 12. (34 C.F.R. § 200.103(a)(1)).

A-3. Do the Title I educational stability provisions apply to school-aged children not currently enrolled in school?

Yes. If a child in foster care has reached the compulsory age of school attendance in their State and is not currently enrolled in school, the appropriate LEA and local child welfare agency must enroll the child in school, and the Title I educational stability provisions would govern the child's enrollment.

A-4. Do the Title I educational stability provisions apply to students who are living with relative caregivers?

It depends. As indicated in Question A-1, the Title I educational stability provisions apply to children who are legally under the placement and care authority of a child welfare agency. As such, the provisions do not apply to children who are informally living with relatives. The provisions do apply to formal kinship care placements, in which a child welfare agency that has placement and care responsibility for a child formally places the child with a relative caregiver. SEAs and LEAs are encouraged to work closely with State and local child welfare agencies to identify whether any students in their schools are in foster care, including students in formal kinship care placements.

The State Kinship Care Contacts assist children and kinship caregivers with accessing additional benefits and services.

A-5. When do the Title I educational stability provisions apply?

The Title I educational stability provisions apply when (i) a student enters foster care or (ii) a student already in foster care experiences a change in foster care placement. (See ESEA section 1111(g)(1)(E)).

A-6. Do the Title I educational stability provisions apply only to students enrolled in LEAs that receive Title I subgrants?

No. An SEA, in coordination with State child welfare agencies, must ensure that its LEAs implement the Title I educational stability provisions in ESEA section 1111(g)(1)(E), regardless of whether an LEA receives a Title I subgrant. These provisions include requirements related to school placement and SEA POCs.

Under ESEA section 1112(c)(5), additional provisions apply only to LEAs receiving Title I subgrants. These provisions include requirements related to school of origin transportation and LEA POCs.

A-7. How do the Title I educational stability provisions impact the requirements pertaining to educational stability under Title IV-E?

Title IV-E contains requirements for child welfare agencies, while Title I contains requirements for educational agencies. While the Title I educational stability provisions do not create any new requirements for child welfare agencies, they offer an opportunity for better coordination between educational and child welfare agencies to satisfy the Title IV-E requirement to create effective educational stability plans for students in foster care. Child welfare agencies are encouraged to routinely assess how they are coordinating with SEAs and LEAs to meet their obligations under Title IV-E.

B. State and Local Points of Contact

B-1. What is an SEA point of contact (POC)?

Each SEA must designate an SEA POC to oversee the implementation of the State responsibilities under the Title I educational stability provisions. The SEA POC may not be the same person as the State Coordinator for the Education of Homeless Children and Youths program under section 722(d)(3) of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act). (ESEA section 1111(g)(1)(E)(iv)). Both Title I and Title IV-E require coordination between educational and child welfare agencies, so designating POCs in each agency will help facilitate a successful, sustainable collaboration.

B-2. What are examples of the roles and responsibilities of the SEA POC?

The SEA POC must oversee implementation of the Title I educational stability provisions. (ESEA section 1111(g)(1)(E)(iv)). Roles and responsibilities of the SEA POC may include:

- Coordinating with State child welfare agencies to issue joint, statewide guidance to further implement the Title I educational stability provisions;
- Facilitating data sharing with State child welfare agencies, consistent with the Family Educational Rights and Privacy Act (FERPA) and other Federal or State privacy laws, regulations, and policies;
- Collaborating with staff from other SEA programs (e.g., the Education for Homeless Children and Youth program; Title I, Part A program; Title I, Part D program; and special education programs) and other SEA staff (e.g., transportation staff and data coordinators) to improve outcomes for students in foster care and ensure compliance with applicable program requirements;
- Collaborating on other State-specific guidance that directly impacts the educational experiences and academic outcomes of students in foster care;
- Monitoring LEAs to ensure local compliance with the Title I educational stability provisions;
- Providing regular professional development opportunities and technical assistance to LEA POCs and other personnel regarding educational stability and supports for students in foster care;
- Participating in professional development related to supporting the educational stability and success of students in foster care; and
- Maintaining an accurate list of LEA POCs and child welfare education POCs.

An SEA, in collaboration with child welfare agencies, is encouraged to issue State-specific guidance that details the roles and responsibilities of the SEA POC.

It is essential that an SEA POC have sufficient capacity and the necessary resources to meaningfully oversee implementation of the Title I educational stability provisions. To ensure effective collaboration with LEAs and child welfare agencies, an SEA is encouraged to make the contact information for the SEA POC publicly available via its website.

B-3. Are LEAs required to designate an LEA POC?

LEAs must designate a POC if the corresponding local child welfare agency notifies the LEA, in writing, that the agency has designated a POC. (ESEA section 1112(c)(5)(A)). However, LEAs are encouraged to designate an LEA POC even if the child welfare agency has not notified the LEA in writing of their

corresponding POC given that implementation of educational stability requirements largely occurs at the local level and depends on effective coordination among multiple stakeholders.

B-4. What are examples of the roles and responsibilities of the LEA POC?

An LEA, including the LEA POC, must collaborate with the State or local child welfare agency to implement the Title I educational stability provisions. (See ESEA section 1112(c)(5)). The roles and responsibilities of the LEA POC may include:

- Developing a process for completing a best interest determination (BID);[10]
- Documenting outcomes of BID processes;
- Resolving disputes related to BID processes and school of origin transportation;
- Facilitating the transfer of records and ensuring immediate enrollment when students in foster care change school placements;
- Facilitating data sharing with the child welfare agencies, consistent with FERPA and other Federal or State privacy laws, regulations, and policies;
- Developing and coordinating implementation of local school of origin transportation procedures;
- Ensuring that students in foster care are enrolled in and regularly attending school; and
- Providing professional development and training to school-based staff on the Title I educational stability provisions and the unique educational needs of students in foster care.

The SEA, in collaboration with child welfare agencies, is encouraged to issue State-specific guidance that details the roles and responsibilities of LEA POCs. It is essential that an LEA POC have sufficient capacity and the necessary resources to meaningfully oversee implementation of the Title I educational stability provisions.

B-5. Are State and local child welfare agencies required to have POCs?

Although Title IV-E does not require child welfare agencies to identify POCs to coordinate with educational agencies, child welfare agencies are strongly encouraged to designate POCs at the State and local levels, depending on their agency structure. Both Title IV-E and Title I require coordination between child welfare and educational agencies, so designating POCs in each agency will help facilitate a successful, sustainable collaboration.

Child welfare agencies are encouraged to notify LEAs in writing about their POC, or changes to their POC, as soon as practicable. A sample LEA POC notification letter is provided on ED's webpage.

B-6. What are some examples of the roles and responsibilities of a child welfare agency POC?

Some of the roles and responsibilities of the child welfare agency POC may include:

- Serving as one of the primary contacts for school staff, district personnel, and other service providers;
- Coordinating with the corresponding LEA POC on implementation of the Title I educational stability provisions;
- Establishing a process to notify the LEA when a student attending the LEA has been placed in foster care or experiences a foster care placement change;
- Establishing a procedure for completing BID processes with all relevant parties;

[10] For additional information about BID processes, see Section E.

- Facilitating transfer of records to LEAs, including immunizations, medical records, and copies of Individualized Education Programs (IEPs) and Section 504 plans[11] and supporting documents and other records relating to the provision of modifications and services required by IEPs and Section 504 plans[12];
- Working with LEAs to ensure that students in foster care are immediately enrolled in school and, where needed, to coordinate transportation services;
- Managing BIDs and transportation cost agreements between the LEA and the child welfare agency;
- Providing training to LEA and child welfare agency staff on educational needs of students in foster care, including State and local policies;
- Coordinating with the LEA regarding data sharing for students in foster care, consistent with FERPA and other Federal or State privacy laws, regulations, and policies;
- Coordinating services so that students in foster care can access early educational services for which they are eligible, including Head Start and Early Head Start, home visiting, and preschool programs administered by the SEA or LEA, and screening and referrals to health, mental health, dental, and other appropriate services; and
- Informing parents[13] of students in foster care of the students' educational rights and providing public notice of the educational rights of students in foster care to community stakeholders

The State child welfare agency, in collaboration with the SEA, is encouraged to issue State-specific guidance that details the roles and responsibilities of child welfare agency POCs.

[11] "Section 504 plan" is a common term used to refer to the documentation of the regular or special education and related aids and services provided consistent with Section 504.
[12] Under IDEA, an IEP is a written statement for a student with a disability that includes a statement of the special education, related services and supplementary aids and services to be provided to the student and is developed in accordance with the requirements in 34 C.F.R. §§ 300.320 through 300.328.
[13] See Section L for the definition of "parent" under IDEA.

C. Collaboration

State-Level Collaboration

C-1. Must SEAs collaborate with State child welfare agencies to support the educational stability and success of students in foster care?

Yes. The Title I educational stability provisions require each SEA to collaborate with the State child welfare agency to ensure the educational stability of students in foster care. (ESEA section 1111(g)(1)(E)).

C-2. How should SEAs collaborate with State child welfare agencies?

While the Title I educational stability provisions require each SEA to collaborate with its corresponding State child welfare agencies, the ESEA does not prescribe specific collaborative routines or strategies. As such, SEAs and State child welfare agencies are encouraged to develop ongoing, collaborative routines that will lead to full implementation of the Title I educational stability provisions. While there is not a one-size-fits-all approach to interagency collaboration, SEAs and State child welfare agencies are encouraged to:

- Hold regular meetings (e.g., bi-weekly) to share information and discuss implementation challenges;
- Develop routines for regularly sharing data and information (e.g., bi-directional data sharing agreements);
- Facilitate cross-systems training and technical assistance opportunities; and
- Periodically review, revise, and update State-wide guidance concerning educational opportunities for students in foster care.

Strong coordination and collaboration procedures and policies may lead to improved academic and educational outcomes of students in foster care. To ensure that collaboration between SEAs and State child welfare agencies is effective, agencies are encouraged to view interagency collaboration as an essential component of their programs, and staff at both agencies should have the time and capacity required to meaningfully engage in the collaboration. Accordingly, it is critical for senior leadership in both agencies, for example a chief State school officer and State human services director, to prioritize these coordination efforts and to model cross-agency collaboration themselves.

C-3. How can an SEA POC collaborate with other SEA staff to support the educational stability and success of students in foster care?

To ensure educational success for students in foster care, an SEA POC should work closely with other divisions of the SEA to ensure relevant SEA programs and policies address the unique needs and experiences of students in foster care and do not inadvertently create barriers for this student population. Intra-agency collaboration also ensures that SEA resources are strategically and efficiently used to support students in foster care. For example, to provide statewide guidance on best practice for supporting students in foster care or to ensure statewide policies do not have adverse effects on students in foster care, an SEA POC should collaborate with SEA divisions managing:

- Student transportation services;
- School meals;
- School counselors and pupil personnel workers;
- School resource officers;
- Data collection and public reporting;

- Supplemental educational services and programming, including tutoring, afterschool programs, and summer school programs; and
- Other programs for which students in foster care may be eligible. See Sections L through V on Special Populations and Funding for information on cross-program eligibility.

Local-Level Collaboration

C-4. Must LEAs collaborate with child welfare agencies to support the educational stability and success of students in foster care?

Yes. If an LEA receives a Title I subgrant, the LEA must collaborate with State or local child welfare agencies to implement the Title I educational stability provisions. (ESEA section 1112(c)(5)).

C-5. How should LEAs collaborate with child welfare agencies?

While the Title I educational stability provisions do not prescribe methods for LEA collaboration with child welfare agencies, LEAs are encouraged to work closely with child welfare agencies to tailor processes and procedures to the unique local context. For example, LEAs and child welfare agencies are encouraged to:

- Develop a routine for ongoing cross-agency collaboration to implement the Title I educational stability provisions;
- Establish criteria to be used in decision-making processes; and
- Facilitate cross-systems training and technical assistance opportunities.

Strong coordination and collaboration, along with procedures and policies that reflect this collaboration, improve the educational outcomes of students in foster care. To ensure that collaboration between LEAs and child welfare agencies is effective, agencies are encouraged to view interagency collaboration as an essential component of their programs, and staff at both agencies should have the time and capacity required to meaningfully engage in the collaboration.

C-6. With which child welfare agencies should an LEA collaborate?

An LEA is encouraged to develop processes for collaboration with any child welfare agency with placement and care responsibility for students enrolled in the LEA. This may include the State child welfare agencies, any local child welfare agency that operates within the boundaries of the LEA, and any child welfare agency serving jurisdictions neighboring the LEA.

C-7. Must child welfare agencies collaborate with LEAs to support the educational stability and success of students in foster care?

Yes. A child welfare agency is required to include a plan for ensuring the educational stability of a child in foster care in the child's case plan. The case plan must include an assurance that the child welfare agency has coordinated with the LEA(s) to ensure the child can remain in the school the child was enrolled in at the time of the placement, or, if remaining in that school is not in the best interests of the child, an assurance to enroll the child immediately in a new school with all of their educational records. (SSA section 475(1)(G)). Further, the LEA must also collaborate with the child welfare agency to conduct and complete a student-centered BID process. (See ESEA sections 1111(g)(1)(E)(i) and 1112(c)(5)).

C-8. How can LEAs and child welfare agencies work collaboratively to support school-based staff who work directly with students in foster care?

Students in foster care may experience a multitude of challenges, including domestic violence, abuse and neglect, chronic poverty, and other adverse childhood experiences. LEAs are encouraged to collaborate with child welfare and other relevant State and local agencies to ensure that all school staff are trained to support the complex needs of students in foster care and are informed about the impact that trauma has on a student's ability to learn. Cross-system collaboration should also ensure that the appropriate interventions and strategies are in place to meet the unique needs of students in foster care.

LEAs and child welfare agencies are encouraged to consider opportunities to cross-train both child welfare and education staff on the importance of educational stability for students in foster care. For example, LEAs and child welfare agencies may provide training to school staff including principals, general and special educators, school counselors, school social workers, and school enrollment personnel, about the needs of students in foster care and background information about the child welfare system. Possible areas for training include maintaining students in their schools of origin, understanding the process and factors involved in completing a BID process, coordinating transportation plans, protecting student privacy, maintaining accurate education records, and coordinating other services for students in foster care (including, for example, mental health services and academic counseling).

LEAs and child welfare agencies are likewise encouraged to work collaboratively to raise awareness and increase knowledge about child welfare policy, such as case plan requirements and related legislation, including Title IV-E and other laws that pertain to the education of students in foster care.

Collaboration with Other Stakeholders

C-9. How can SEAs, LEAs, and child welfare agencies collaborate with other stakeholders to improve educational opportunities and academic outcomes for students in foster care?

Educational and child welfare agencies are encouraged to collaborate with many partners to serve students in foster care. These partners may include:

- Legal practitioners, including judges, guardians ad litem, educational advocates, court appointed special advocates (CASAs), and student attorneys;
- Community-based organizations that support families involved in the child welfare system;
- Community-based organizations that provide wrap-around services, including public health organizations and mental health providers, to highly mobile students and families;
- Education and child welfare advocacy groups;
- Parent mentor groups; and
- Tribal leaders.

LEAs and local child welfare agencies are encouraged to develop a framework for collaboration that includes these stakeholders.

D. School of Origin

D-1. What is a "school of origin"?

The school of origin is the public school a student is enrolled in when they enter foster care or when they change foster care placements. (See ESEA section 1111(g)(1)(E)).

D-2. How does the school of origin provision apply to a child who has never been enrolled in a public school?

A child in foster care who has never been enrolled in a public school does not have a school of origin and should be immediately enrolled in a new school even if the child is unable to produce records normally required for enrollment (see Section G).

D-3. For what length of time does the school of origin provision apply?

A student in foster care must remain in their school of origin for the duration of their time in foster care unless a determination is made that it is not in their best interest to remain in the school of origin. (See ESEA sections 1111(g)(1)(E)(i) and 1112(c)(5)).

D-4. How does the school of origin provision apply once a student exits foster care?

While the Title I educational stability provisions do not apply when a student exits foster care, SEAs and LEAs are encouraged to prioritize educational stability for these students. In addition to benefitting academically from continued school stability, students transitioning out of foster care will benefit from maintaining connections with their peers, teachers, and other supportive adults at their school. SEAs and LEAs are encouraged to consider adopting policies that allow a student exiting foster care during the school year to remain enrolled at their school of origin through at least the end of the school year.

D-5. How do the school of origin provisions apply to feeder school patterns?

When a student completes the final grade level serviced by the school of origin, the next school in the feeder school pattern becomes the school of origin. For example, when a student in foster care completes the final grade at an elementary school, their school of origin becomes the middle school the student is assigned to in the LEA's feeder school pattern.

E. Best Interest Determination

E-1. What is a BID?

A BID is a process through which educational agencies and child welfare agencies partner with important people in a student's life to determine whether it is in a student's best interest to remain at their school of origin or change schools. (See ESEA section 1111(g)(1)(E)(i)).

E-2. When must a BID process be completed under the Title I educational stability provisions?

An SEA, in collaboration with the State child welfare agency, must ensure that LEAs complete a BID process at the time of foster care placement (i.e., when a student enters foster care or changes foster care placements). (See ESEA section 1111(g)(1)(E)(i)).

E-3. How quickly should LEAs, in collaboration with child welfare agencies, complete a BID process?

Although the Title I educational stability provisions do not prescribe a specific timeline for completing a BID process, the LEA, in collaboration with child welfare agencies, is encouraged to complete a BID process as quickly as possible to prevent educational discontinuity. LEAs, in collaboration with child welfare agencies, are encouraged to complete a BID process within three business days of the time of placement in foster care. In situations where a student will experience a planned foster care placement change, LEAs and child welfare agencies are encouraged to complete the BID process prior to the planned placement change.

E-4. Must a student in foster care remain in their school of origin while LEAs, in collaboration with child welfare agencies, complete the BID process?

Yes. To ensure educational stability, a student in foster care must remain in their school of origin until the LEA, in collaboration with the child welfare agency, completes the BID process and determines that it is in the student's best interest to attend a different school. (See ESEA section 1111(g)(1)(E)(i)).

E-5. What factors should be considered in completing a BID process?

An SEA, in collaboration with the State child welfare agency, must ensure that an LEA takes into consideration all factors relating to a student's best interest when completing a BID process. These factors must include both "the appropriateness of the current educational setting" and "the proximity to the school in which the student is enrolled at the time of placement." (ESEA section 1111(g)(1)(E)(i)). Educational agencies and child welfare agencies have flexibility in determining which factors should be considered when evaluating the appropriateness of the current educational setting and whether a different school placement is in a student's best interest.

A BID process should be student-centered and context-specific. Parties to the BID process must presume that remaining in the school of origin is in the student's best interest, unless the BID suggests that attending another school, including any public school the student has attended previously, is in the student's best interest. Though the specific factors may vary depending on context, educational agencies and child welfare agencies should consider a variety of student-centered factors to complete a BID process. These factors may include:

- Preferences of the student;

- Preferences of the student's parent(s);
- The student's attachment to the school of origin, including meaningful relationships with staff and peers;
- The student's involvement in extracurricular activities at the school of origin;
- Placement of the student's sibling(s);
- Influence of the school climate on the student, including safety;
- The availability and quality of the services in the school to meet the student's educational and socioemotional needs;
- History of school transfers and how they have impacted the student;
- How the length of the commute would impact the student, based on the student's developmental stage;
- Information about the immediate and long-term education plan (including any information within the child welfare case plan) for the student;
- Considerations of the student's child welfare permanency goal;[14]
- Whether the student is a student with a disability under IDEA who is receiving special education and related services or a student with a disability under Section 504 who is receiving regular or special education or related aids and services;[15] and
- Whether the student is an English learner (EL) and is receiving language services, and, if so, the availability of those required services in a school other than the school of origin, consistent with Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974.[16]

If a student's new foster care placement is a childcare institution, the LEA should partner with the child welfare agency to conduct a BID process, prior to the student's entry into the childcare institution, to determine whether it is in the student's best interest to attend the public school where the childcare institution is located. In so doing, the LEA will work with the child welfare agency to determine which school can provide high-quality services to meet the student's academic and social emotional needs.

E-6. Can transportation costs or administrative burden be considered in completing a BID process?

Consistent with HHS' guidance in ACYF-CB-PI-10-11, transportation costs should not be considered when determining a student's best interest. Similarly, administrative burden for educational agencies or child welfare agencies should not be considered when completing a BID process.

E-7. Must SEAs and LEAs use a specific procedure when completing a BID process?

The Title I educational stability provisions do not prescribe a specific procedure for completing BID processes. SEAs are encouraged to work with State child welfare agencies to develop clear guidelines or model policies for completing BID processes. In developing and implementing BID processes for students in foster care, SEAs and State child welfare agencies should ensure the decision-making process is fair and unbiased and that it prioritizes the well-being and educational success of each student, including access to resources and transparent and collaborative decision-making. Additionally, to ensure participants consider all relevant student-centered factors during BID discussions, such guidelines and

[14] For additional information about permanency goals and planning, visit the Child Welfare Information Gateway's topical webpage on permanency.
[15] See Section L for more information about considerations for students with disabilities in foster care.
[16] See Question M-1 for more information about considerations for EL students in foster care.

model policies could include a BID checklist for use at the local level. Further, such guidelines and policies could dictate the extent to which LEAs and local child welfare agencies are required to document BID process participants, discussion points, and final decisions, and include this information in the students' education and child welfare records.

Similarly, the Title I educational stability provisions do not prescribe a specific forum for completing a BID. As such, the BID process can be incorporated into previously established meetings. For example, in some States, a child's 48-hour emergency/shelter care hearing could serve as a forum for completing a BID process. Alternatively, a BID process could be completed in a stand-alone meeting.

E-8. Who should be involved in a BID process?

The LEA, in collaboration with the local child welfare agency POC, is responsible for completing the BID process. To the extent practicable, the LEA POC and the local child welfare agency POC should be involved in all BID meetings. As BID processes are student specific, POCs are encouraged to include other education and child welfare practitioners who have specific or specialized knowledge about the student in the BID process. It is critical that the BID process includes the student, when appropriate, and other important people in the student's life with information about the student's social, emotional, and academic needs.

The following table outlines potential participants in the BID process. (This list is not exclusive; all relevant parties should be included in a BID process to the extent practicable.)

Participants from the LEA	Participants from the child welfare agency	Additional participants, if relevant
• LEA POC • Teachers and school leaders • Coaches and mentors • Counselors or other school-based mental health professionals such as school social workers or school psychologists • English Learner staff members, if relevant • Special education staff members and providers, if relevant • LEA representatives from IEP/504[17] and placement team, if applicable • School of origin representatives with knowledge about the student	• Local child welfare agency POC • Student's caseworker	• The student[18] • Parents • Current and future caregivers (includes foster parents, relatives and/or legal guardians) • Education attorney • Student's attorney • CASA • Guardian ad litem • Mental health professional • Translator

[17] 504 Team is a common term used to refer to the group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options who make placement decisions for students with disabilities under Section 504.

[18] Educational and child welfare agencies are encouraged to always involve a student in a BID process, regardless of the student's age.

F. School of Origin Transportation

F-1. What is school of origin transportation?

School of origin transportation is transportation to and from the school in which a child in foster care is enrolled at the time the child enters foster care or experiences a change in placement. (See ESEA section 1112(c)(5)(B)). Questions F-11 and F-12 discuss school of origin transportation across LEA or State lines.

F-2. What is an LEA's role in providing school of origin transportation to a student in foster care?

The Title I educational stability provisions require LEAs receiving Title I funds to collaborate with child welfare agencies to develop and implement clear written procedures governing how transportation to maintain students in foster care in their schools of origin will be provided, arranged, and funded for the duration of the students' time in foster care. (ESEA section 1112(c)(5)(B)). These procedures must ensure that:

- Students in foster care will promptly receive school of origin transportation in a cost-effective manner and in accordance with section 475(4)(A) of the SSA (ESEA section 1112(c)(5)(B)(i)); and
- If there are additional costs incurred in providing transportation to the school of origin, the LEA will provide such transportation if:
    1. The local child welfare agency agrees to reimburse the LEA for the cost of such transportation;
    2. The LEA agrees to pay for the cost; or
    3. The LEA and local child welfare agency agree to share the cost.

    (ESEA section 1112(c)(5)(B)(ii)).

LEAs, in collaboration with child welfare agencies, should provide school of origin transportation to students in foster care that is age- and developmentally appropriate.

F-3. How quickly should LEAs provide school of origin transportation?

Timely provision of school of origin transportation is critical to ensure that students in foster care can attend school regularly and experience educational continuity. The Title I educational stability provisions require that an LEA ensure that children in foster care are "promptly" provided school of origin transportation. (ESEA section 1112(c)(5)(B)(i)). As such, each LEA's written transportation procedures should establish the LEA's process for providing, arranging, and funding school of origin transportation in sufficient detail to allow such transportation to be provided without undue delay—e.g., within three business days of the completion of the BID process.

F-4. If an LEA does not provide transportation to students who are not in foster care, is it required to provide school of origin transportation to students in foster care?

Yes. An LEA must ensure that school of origin transportation is provided for students in foster care consistent with the written transportation procedures developed by the LEA in collaboration with child welfare agencies under section 1112(c)(5)(B) of the ESEA. These requirements apply regardless of whether an LEA provides transportation for students who are not in foster care. As such, an LEA that does not typically provide transportation should ensure that its written transportation procedures identify

how the LEA will provide, arrange, and fund school of origin transportation for a student in foster care should such transportation be required at the conclusion of a BID process.

F-5. Are charter school LEAs required to provide school of origin transportation for students in foster care?

Yes, a charter school considered to be an LEA by the SEA must meet the Title I educational stability provisions' school of origin transportation requirements on the same basis as any other LEA.

F-6. What details should written transportation procedures include?

As discussed in Question F-2, the Title I educational stability provisions require LEAs receiving Title I funds to collaborate with child welfare agencies to develop and implement clear written procedures governing how transportation to maintain students in foster care in their schools of origin will be provided, arranged, and funded for the duration of the students' time in foster care. (ESEA section 1112(c)(5)(B)). Written transportation procedures, collaboratively developed by an LEA and relevant child welfare agencies, should include detailed, step-by-step protocols that the LEA and child welfare agencies will follow in providing, arranging, and funding school of origin transportation for students in foster care. Written transportation procedures might delineate:

- A list of approved modes of transportation that may be available for students in foster care, including low- or no-cost options and options that may be unique to an LEA's local context;
- The timeline for providing transportation;
- A cost-sharing agreement between LEAs and relevant child welfare agencies to cover additional transportation costs incurred in providing school of origin transportation;
- Procedures to ensure student safety;
- Information referencing IDEA requirements for transportation when transportation is a related service, as determined by a student's IEP Team and included on a student's IEP;[19]
- Whether school of origin transportation will be provided if a student exits foster care during the school year;
- The process to resolve transportation-related disputes;
- How transportation will be provided for necessary out-of-school and summer academic supports; and
- Whether transportation will be provided for extracurricular activities.

LEAs and relevant child welfare agencies are encouraged to create a student transportation template to ensure parties evaluate all relevant considerations when providing, arranging, and funding a student's school of origin transportation. As indicated in Question F-13, SEAs are encouraged to collaborate with the relevant State child welfare agencies to provide uniform State-wide guidelines governing how LEAs should implement the Title I school of origin transportation requirements.

F-7. What does it mean to provide transportation to the school of origin in a "cost-effective manner and in accordance with section 475(4)(A) of the Social Security Act"?

Section 1112(c)(5)(B)(i) of the ESEA requires that the procedures an LEA develops in collaboration with the State or local child welfare agency ensure that students in foster care receive school of origin transportation in a "cost-effective manner and in accordance with section 475(4)(A) of the Social Security Act." In determining whether transportation is "cost-effective," an LEA must consider the reasonableness

[19] See Question L-6 for an explanation of IDEA requirements related to transportation as a related service under 34 C.F.R. §§ 300.34(a) and (c)(16).

of those costs. Section 475(4)(A) of the SSA defines "foster care maintenance payments," which, in part, allow reimbursement for the cost of "reasonable travel" for children in foster care to their school of origin. (For more information about foster care maintenance payments, see Question V-2.) As such, that means if a child is receiving a Title IV-E foster care maintenance payment, the Title IV-E agency is permitted to include the reasonable costs of transportation for that eligible child.

Therefore, to comply with section 1112(c)(5)(B)(i) of the ESEA, transportation procedures developed by an LEA, in collaboration with State or local child welfare agencies, should consider a variety of factors, including cost, distance, and length of travel, as well as whether the mode of transportation is developmentally appropriate for the student. An LEA and State or local child welfare agency should also consider how school of origin transportation can be provided for minimal or no additional costs. Examples of no-cost or low-cost options for transportation that LEAs and State or local child welfare agencies could explore include whether:

- The student may be dropped off at a school bus stop near the existing transportation system for the school of origin;
- Public transportation options exist, if the student is of an appropriate age and has or is able to acquire the skills to utilize such options;
- The foster parents, biological parents, or other family member(s) are willing and able to transport the student to school;
- There are pre-existing bus routes or stops close to the new foster care placement that cross LEA boundaries, such as bus routes for magnet schools and transportation for students experiencing homelessness as required by the McKinney-Vento Act; and
- The student is already eligible for transportation covered by other programs.[20]

F-8. What constitutes "additional costs" incurred in providing transportation to maintain students in foster care in their schools of origin?

Additional costs incurred in providing school of origin transportation are the difference between what an LEA otherwise would spend to transport a student to their assigned school and the cost of transporting a child in foster care to their school of origin. An LEA's transportation procedures must address any additional costs incurred in providing school of origin transportation. (See ESEA section 1112(c)(5)(B)(ii)).

For example, if the LEA provides school of origin transportation through an established bus route, there is no additional cost. If the LEA provides school of origin transportation through a student-specific transportation mode (e.g., through a private vehicle or transportation company), the difference between the student-specific transportation costs and the LEA's usual per student transportation costs is the "additional cost." Further, if the LEA must re-route busses to transport a student in foster care to their school of origin, the cost of re-routing is an "additional cost."

As mentioned in Question F-6, an LEA's written transportation procedures must delineate how any additional costs incurred in providing school of origin transportation will be funded. (See ESEA section 1112(c)(5)(B)(ii)).

[20] See Question L-6 for an explanation of when school of origin transportation costs may be covered by IDEA.

F-9. How often should an LEA, in collaboration with relevant child welfare agencies, review and update its transportation procedures?

While the ESEA does not establish a timeline for reviewing and updating transportation procedures, to ensure that transportation procedures remain effective and current, LEAs and local child welfare agencies are encouraged to *annually* review and revise their transportation procedures.

F-10. Is an LEA required to provide transportation for students in foster care to participate in school-sponsored extracurricular activities or out-of-school or summer academic and enrichment programs?

As noted in Question F-1, an LEA must ensure that students in foster care promptly receive transportation to and from their school of origin. This includes transportation for needed academic supports in order for the student to succeed in school, such as afterschool tutoring and summer learning and enrichment programs. LEAs also are encouraged to provide transportation for the student to meaningfully participate in other school activities that occur outside the regular school day, including extracurricular activities that support their overall well-being. LEAs should take these activities into account when developing their written transportation procedures (see Question F-2).

F-11. How should transportation procedures address transportation across LEA or county lines?

Students in foster care may be placed in foster care placements across LEA and/or county lines, requiring coordination among multiple LEAs and child welfare agencies to provide school of origin transportation. Thus, in developing transportation procedures, LEAs are encouraged to work with other LEAs, including through regional education service agencies, and relevant child welfare agencies with which they regularly interact to establish inter-LEA transportation procedures. As referenced in Question H-3, educational agencies should collaborate with child welfare agencies to develop dispute resolution procedures that will help practitioners resolve disputes related to school of origin transportation, and these dispute resolution procedures should include disputes related to transportation across LEA or county lines.

F-12. How should transportation procedures address transportation across State lines?

Students in foster care are sometimes placed in foster care placements across State lines, requiring coordination among multiple SEAs and State child welfare agencies to provide school of origin transportation. SEAs, in collaboration with child welfare agencies, are encouraged to examine placement patterns to identify areas where students in foster care from their State are frequently placed in a neighboring State and develop inter-State protocols for arranging transportation across State lines. SEAs and State child welfare agencies are encouraged to provide guidance and technical assistance to LEAs and local child welfare agencies as they develop transportation procedures that include inter-State procedures.

Educational agencies and child welfare agencies should be aware of any Interstate Compact on the Placement of Children (ICPC) that exists between States. The ICPC establishes uniform legal and administrative procedures that govern the interstate placement of children. ICPC agreements vary between States and govern whether States charge the sending State for public education, specialized educational services, educational assessments, and other costs. More information on each State's policies is available at https://www.icpcstatepages.org.

F-13. What is the SEA's role in providing school of origin transportation?

Transportation procedures may require coordination and cooperation between multiple local child welfare agencies and LEAs, as well as multiple SEAs and State child welfare agencies. Although development and implementation of transportation procedures for students in foster care are the responsibility of LEAs, the SEA is encouraged to collaborate with the relevant State child welfare agencies to provide uniform statewide guidelines for how an LEA should implement the Title I school of origin transportation requirements. SEAs, in collaboration with relevant child welfare agencies, are encouraged to include guidelines for providing, arranging, and funding school of origin transportation, and are likewise encouraged to establish a mechanism for resolving interagency disputes related to school of origin transportation. Statewide guidelines should also indicate how LEAs that do not receive Title I funds will maintain a student in foster care in their school of origin, when determined to be in their best interest.

SEA duties also include monitoring and oversight of the development, implementation, and maintenance of transportation procedures required under ESEA section 1112(c)(5)(B). SEAs must ensure that LEAs have transportation procedures in place and that those procedures are being effectively implemented. (See 2 C.F.R. § 200.332(d)).

F-14. What is the role of the child welfare agency in providing transportation for a student in foster care to their school of origin?

A child welfare agency administering plans under Titles IV-E and IV-B of the SSA must ensure that the educational stability plan of each child in foster care includes an assurance that the child welfare agency has coordinated with the appropriate LEA(s) to ensure the child can remain in the school of origin, or, if remaining in that school is not in the child's best interest, an assurance that the child will be enrolled immediately in a new school. (SSA section 475(5)(G)(ii)). Given the shared responsibility of child welfare agencies and LEAs to ensure educational stability, child welfare agencies are encouraged to continue to work with the appropriate LEA(s) in exploring the full range of options for providing and funding transportation to maintain a student in their school of origin, consistent with the child's educational stability plan.

F-15. For how long must an LEA provide a student with transportation services under ESEA section 1112(c)(5)?

An LEA that receives Title I funds must ensure that a student in foster care needing transportation to the school of origin receives such transportation for the duration of the time the student is in foster care. (ESEA section 1112(c)(5)(B)).

As mentioned in Question D-4, the Title I educational stability provisions do not apply when a student exits foster care. However, when a student exits foster care, the LEA is encouraged to continue prioritizing the student's educational stability. In so doing, the LEA is encouraged to consider whether remaining at the school of origin is in the student's best interest. When remaining at the school of origin is determined to be in the student's best interest, the LEA is encouraged to provide transportation to the school of origin through the end of the school year in which the student exits foster care, and the LEA is encouraged to provide transportation to the school of origin past the end of the school year in which the student exits foster care to the extent that it is feasible to do so.

F-16. What funding sources may be used to pay for additional school of origin transportation costs?

In addition to State and local funds that may be available for providing school of origin transportation, certain Federal funds can address additional school of origin transportation costs.

Title IV-E Federal funds are available to assist with additional school of origin transportation costs for students who are eligible for Title IV-E foster care maintenance payments (i.e., those students who meet the specific requirements in section 472 of the SSA).[21] This is the primary source of Federal funding available to child welfare agencies to use for this purpose. Specifically, the cost of reasonable travel for a student in foster care to remain in their school of origin may be included in the Title IV-E foster care maintenance payment. Child welfare agencies receiving Title IV-E funds have discretion in determining what is considered reasonable travel, and may take into account factors such as cost, distance, and duration of travel. The child welfare agency may decide which of the enumerated costs to include in a student's foster care maintenance payment. In addition, transportation costs associated with the student's attendance at their school of origin are allowable foster care administrative costs under Title IV-E. Although Title IV-E reimbursement is available for the Federal portion of these costs for some students, child welfare agencies receiving Title IV-E funds are responsible for the non-Federal portion of the additional costs.[22] For more detailed guidance, see page 20 of ACYF-CB-PI-10-11.

In addition, an LEA may use Title I funds to pay for additional costs needed to transport students in foster care to their schools of origin. An LEA may not use funds reserved to serve homeless children and youth under section 1113(c)(3)(A)(i) of the ESEA to provide school of origin transportation for students in foster care. As described in Question L-6, an LEA may use IDEA funds to pay for additional school of origin transportation costs if the student in foster care has an IEP and the IEP Team determines that the student requires transportation as a related service to assist a student with a disability to benefit from special education.

For additional information about funding to provide school of origin transportation, including transportation to extracurricular and after-school activities, refer to the Funding section.

F-17. Can an LEA use transportation routes or vehicles designated for students with disabilities to provide school of origin transportation for students in foster care without disabilities?

It may be permissible to use transportation that is provided using IDEA funds in cases where an "incidental benefit" is provided to nondisabled student in foster care as a result of special education and related services provided under IDEA to students with disabilities. For example, if buses are purchased exclusively to transport students with disabilities, but the buses are not full and are able to pick up nondisabled students in foster care along the usual bus routes, and no additional IDEA funds would need to be expended to transport those nondisabled students, the buses purchased with IDEA funds may be used to transport nondisabled students in foster care. For more information, see the OSEP letter to Bowman.

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[21] In FY 2022, the eligibility rate for Title IV-E foster care maintenance payments had declined to about 38 percent of all children in foster care. (pg. 342 of https://www.acf.hhs.gov/sites/default/files/documents/olab/fy-2024-congressional-justification.pdf).

[22] Child welfare agencies are reimbursed at the applicable Federal Medical Assistance Percentage for claims for Title IV-E foster care maintenance payments, and at 50 percent for claims for Title IV-E administrative costs (section 474 of the SSA).

G. Immediate Enrollment and Records Transfer

G-1. What are the Title I immediate enrollment and records transfer requirements?

When a BID process indicates that it is not in a student's best interest to remain at their school of origin, LEAs must ensure that a student in foster care is immediately enrolled in their new school even if the student does not have the documentation typically required for enrollment. Once a student is enrolled, the enrolling school must contact the student's school of origin for relevant records. (ESEA section 1111(g)(1)(E)(ii)-(iii)).

G-2. How should educational agencies define "immediate" for the purposes of the Title I immediate enrollment requirement?

Immediate enrollment means that, if a BID process indicates that it is in a student in foster care's best interest to change schools, the student is fully enrolled as soon as practicable (e.g., within 3 business days) to avoid educational discontinuity. A student is not fully enrolled if a student is not attending school or fully participating in classes, extracurricular activities, and out-of-school and summer opportunities.

G-3. What records should the enrolling school request from a student in foster care's school of origin?

The enrolling school should request all records typically required for enrollment, as well as records relevant to that student's prior academic experience. While enrollment requirements vary across LEAs, such records might include:

- Immunization records;
- Academic transcripts;
- Class enrollment history, including any advanced or remedial courses;
- Attendance records; and
- An IEP or 504 plan, if applicable.

G-4. How quickly should the school of origin transfer records to a student in foster care's enrolling school?

To minimize educational discontinuity and to ensure that the student can fully participate in coursework and extracurricular activities at their enrolling school, the school of origin is encouraged to provide relevant records to the enrolling school within three business days.

G-5. After a student in foster care is enrolled under the Title I immediate enrollment requirement, can the enrolling school still require documentation typically required for student enrollment?

Yes. The Title I immediate enrollment requirement is intended to ensure educational stability for students in foster care and, as such, ensure that students are not unduly delayed from coursework due to school transitions. Once a student in foster care is enrolled in their new school, the educational agency should work with the relevant child welfare agencies to gather any outstanding records required for enrollment.

G-6. Does the Title I immediate enrollment requirement govern records that are required for ongoing enrollment?

No. As mentioned in Question G-1, the Title I immediate enrollment and records transfer requirements are intended to ensure educational stability for students in foster care by avoiding enrollment delays due to the availability of records typically required for initial school enrollment. These requirements do not apply to circumstances beyond initial enrollment, including the provision of documentation and records required for ongoing enrollment. Once a student in foster care is immediately enrolled in their new school, the student and their caregivers are responsible for providing the documents typically required for enrollment in the school.

G-7. What additional steps can educational agencies take to effectively implement the Title I immediate enrollment and records transfer requirements?

Enrollment delays can negatively impact attendance and lead to other adverse consequences for students in foster care, such as being enrolled in inappropriate classes or not receiving necessary academic services. SEAs and LEAs are required to ensure they do not impede or delay enrollment. As such, educational agencies are encouraged to periodically review and revise school enrollment policies and practices to remove any barriers to immediate enrollment and records transfer for students in foster care. For example, some LEAs require tuition reimbursement for students in foster care who have been placed in the LEA but are still under the jurisdiction of a child welfare agency in another State; in these situations, LEAs must ensure tuition reimbursement policies do not impede or delay student enrollment.

H. Dispute Resolution

H-1. Must SEAs develop dispute resolution procedures to govern implementation of the Title I educational stability provisions?

While the Title I educational stability provisions do not require SEAs to develop dispute resolution procedures, SEAs and State child welfare agencies are encouraged to develop statewide procedures to govern how to resolve disputes related to the implementation of the Title I educational stability provisions—including disputes related to school placement decisions, school enrollment, and school of origin transportation. Such dispute resolution procedures should cover all manner of disputes that might arise in the implementation of the Title I educational stability provisions, including disputes between educational agencies and child welfare agencies, disputes between LEAs, and disputes between SEAs.

Further, such dispute resolution procedures should ensure that disputes are resolved as quickly as possible to minimize disruption to a student's education, and educational agencies are encouraged to design dispute resolution procedures that can be completed within five business days. The dispute resolution process should be fair to all parties and should allow resolution to be reached in an expeditious manner.

H-2. How should disagreements related to school placement be resolved?

As stated in Question H-1, each SEA, in collaboration with State child welfare agencies, is encouraged to develop dispute resolution procedures to govern disputes arising in the implementation of the Title I educational stability provisions, and such procedures should include a process to overcome disagreements related to school placement decisions. For example, if there is disagreement between educational and child welfare agencies regarding school placement for a student in foster care, the dispute resolution procedures could identify a specific party or agency as the final decision maker in the BID process.[23]

H-3. How should disagreements related to school of origin transportation be resolved?

An LEA must collaborate with State and local child welfare agencies to develop transportation procedures to ensure that students in foster care receive transportation to their school of origin. (ESEA section 1112(c)(5)(B)(i)). As recommended in Question F-6, such transportation procedures should include dispute resolution provisions to navigate transportation-related disputes, including disagreements related to the cost of school of origin transportation.

As stated in Question H-1, each SEA, in collaboration with State child welfare agencies, is encouraged to develop dispute resolution procedures to govern disputes arising in the implementation of the Title I educational stability provisions, and such procedures should include a process to quickly overcome disagreements related to the provision of school of origin transportation. For example, if there is disagreement between educational agencies and child welfare agencies regarding school of origin transportation, the dispute resolution procedures could identify a specific party or agency as the final decision maker in resolving the dispute.

[23] Note that, for students with disabilities in foster care, placement decisions must adhere to relevant special education requirements. For additional information on serving students with disabilities in foster care, see Section L.

H-4. How should disagreements related to school enrollment be resolved?

As stated in Question H-1, each SEA, in collaboration with State child welfare agencies, is encouraged to develop dispute resolution procedures to govern disputes arising in the implementation of the Title I educational stability provisions, and such procedures should include a process to quickly overcome disagreements related to school enrollment. For example, if there is disagreement about whether a school should enroll a student in foster care, the dispute resolution procedures could identify a specific party or agency as the final decision maker in resolving the dispute.

H-5. Must a student remain in their school of origin while disputes are being resolved?

Yes. To ensure educational stability, an LEA must ensure that a student in foster care remains in their school of origin while disputes are being resolved. (See ESEA sections 1111(g)(1)(E)(i) and 1112(c)(5)(B)).

Ensuring Academic Success

To ensure that students in foster care can reach their full academic potential, it is critical that schools meet these students' unique social, emotional, physical, behavioral, and mental health needs. This means ensuring that schools have the necessary tools to assist students in foster care in addressing any barriers that may prevent them from fully accessing and experiencing a supportive educational environment. This section discusses how school attendance, discipline, and graduation policies may negatively impact students in foster care and highlights steps that educational agencies and child welfare agencies can take to ameliorate these potential barriers. This section also addresses some of the resources and programs that educational agencies and child welfare agencies can leverage to help students in foster care prepare for postsecondary opportunities.

I. Attendance

I-1. How can involvement in the child welfare system impact school attendance?

Students in foster care are more likely to be chronically absent than their peers.[24] Students in foster care may face unique barriers to consistent school attendance, including:

- Changes in foster care placement;
- Court hearings or other appointments related to involvement in the child welfare system that occur during school hours; and
- Lack of transportation (e.g., due to lengthy disputes between agencies).

I-2. How can educational agencies increase school attendance for students in foster care?

Educational agencies are strongly encouraged to consider the unique experiences of students in foster care and develop strategies for increasing school attendance for this student population. For example, educational agencies are encouraged to collaborate with child welfare and other agencies, such as transportation, to provide tailored supports to students in foster care to ensure regular school attendance. This may include sharing a student in foster care's attendance information with the student's case manager so that both agencies can support the student's regular school attendance. (For more information about sharing data and information about students in foster care, see Section Y.)

Educational agencies also are encouraged to review and revise attendance policies to avoid disproportionate impacts of attendance policies. For example, educational agencies may limit punitive and less effective consequences, such as suspension and expulsion, for chronically absent students when the underlying reasons for absences are related to the student's involvement in the child welfare system. Educational agencies are encouraged to implement supports for students in foster care to address the underlying causes and impacts of their school absences.

As mentioned in Section W, educational agencies, SEAs, and LEAs are encouraged to disaggregate their chronic absenteeism data by student groups, including students in foster care, to monitor attendance rates and use these data to inform interventions, strategies, and progress. With this disaggregated data,

[24] Bruch, J., Gellar, J., Cattell, L., Hotchkiss, J., & Killewald, P. (2020). Using data from schools and child welfare agencies to predict near-term academic risks (REL 2020–027). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Mid-Atlantic. Retrieved from http://ies.ed.gov/ncee/edlabs.

educational agencies may be able to better identify when interventions are needed to increase attendance among specific student groups, including students in foster care.

In addition, ED has compiled a suite of resources to support educators in reducing rates of chronic absenteeism. For example, ED's Supporting Student Attendance and Engagement webpage includes quick reference resources and information about using formula and discretionary grant program funds to enhance student attendance and engagement. For more information and resources to support student attendance, see the Student Engagement and Attendance Technical Assistance Center (SEAC).

I-3. How can child welfare agencies increase school attendance for students in foster care?

As stated in Question A-2, child welfare agencies have a responsibility to ensure that students in foster care are enrolled in school. Child welfare agencies must also include certain education records in case plans for students in foster care and must ensure that the case plan contains up-to-date and accurate information. (SSA sections 475(1)(C) and 475(5)(D)). Child welfare agencies are encouraged to include information about school attendance in these education records. Further, child welfare agencies are encouraged to consistently communicate with a student's school and, when needed, partner with the school to improve the student's attendance.

Students in foster care occasionally need to attend appointments (with social workers, for example) and court hearings during the school day. To the extent feasible, child welfare agencies are encouraged to minimize interruptions to a student's education when scheduling such appointments and hearings. For example, to ensure students in foster care are able to fully participate in school, child welfare agencies are encouraged to take efforts to ensure that such appointments and hearings do not conflict with major school events, including academic assessments, field trips, extracurricular activities, or other school-wide functions.

J. Creating Supportive and Inclusive Learning Environments

J-1. How can educational agencies address the disproportionate discipline of students in foster care?

Involvement in the child welfare system can be traumatic for children and families, and students in foster care are more likely than their peers to experience other adverse childhood experiences (ACEs).[25] Research indicates that ACEs are associated with higher incidences of exclusionary discipline, such as suspension and expulsion.[26] These policies are ineffective in meeting the underlying needs of the student. To ensure that students with a history of ACEs, including students in foster care, are not disproportionately impacted by school discipline policies, educational agencies are strongly encouraged to instead incorporate trauma-informed practices and positive behavioral interventions and supports (PBIS) into their school climate policies. Information about trauma-informed discipline practices can be accessed via the T4PA Center. Information on PBIS can be accessed via the Center on PBIS. LEA and school staff are also encouraged to review ED's *Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates* and *Positive, Proactive Approaches to Supporting the Needs of Children with Disabilities: A Guide for Stakeholders*, which provides guidance on how to maintain safe, inclusive, supportive, and fair learning environments for students and school staff and includes specific recommendations for evidence-based practices to give students what they need to learn and grow.

It is also critical for educational agencies to ensure that students in foster care are provided safe and supportive climates and subject to fair and effective discipline strategies. Removing students from school (e.g., by suspending a student) should be used only as a last resort. SEAs and LEAs are encouraged to:

- Create awareness among educators and administrators of the types of behaviors that might be related to a student's involvement in the child welfare system and provide educators and administrators with strategies to assist the students;
- Create awareness among educators and administrators of the types of behaviors or circumstances that indicate the need for an evaluation under IDEA or Section 504, and the discipline protections under IDEA or under Section 504;[27]
- Provide information to school personnel regarding how trauma can impact student behavior and professional development on how to mitigate the effects of trauma in the school environment by providing trauma-informed support;
- Ensure that, prior to taking disciplinary action, school personnel consider issues related to a student's involvement in the child welfare system. This may be especially relevant when students accumulate absences and tardies related to changes in placement, court appearances, or other appointments;

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[25] Turney K, Wildeman C. Adverse childhood experiences among children placed in and adopted from foster care: Evidence from a nationally representative survey. Child Abuse Negl. 2017 Feb;64:117-129. doi: 10.1016/j.chiabu.2016.12.009. Epub 2017 Jan 10. PMID: 28086178.

[26] Pierce H, Jones MS, Gibbs BG. Early adverse childhood experiences and exclusionary discipline in high school. Soc Sci Res. 2022 Jan;101:102621. doi: 10.1016/j.ssresearch.2021.102621. Epub 2021 Jul 30. PMID: 34823667.

[27] *OSEP Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions* (July 19, 2022) https://sites.ed.gov/idea/files/qa-addressing-the-needs-of-children-with-disabilities-and-idea-discipline-provisions.pdf; U.S. Dep't of Educ., OCR, *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973*, at 6-8 (July 2022), https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf.

- Ensure that, after a student is suspended, the student is returned to and reintegrated into their traditional classroom environment in a nondisruptive manner;
- Review discipline records for individual schools to identify patterns related to the disproportionate use of more extreme discipline (e.g., suspension or expulsion) for students in foster care, including students of color;
- Consult with school behavior response teams to assign discipline corresponding to the behavior;
- Assign advocates for students and consult them appropriately as decisions are made;
- Determine the key contact—student, sibling, foster parent, kin caregiver, or other guardian—with whom to address truancy and other behavioral issues;
- Connect students with mental health services as needed;
- Work with community-based organizations to provide mentoring or other support;
- Provide clear and specific expectations of appropriate class and school behavior, positive and consistent classroom management practices, and frequent positive interactions with teachers and staff members;
- Implement discipline alternatives to suspensions or separating students in foster care from their peers; and
- Implement a schoolwide approach to positive and proactive behavioral support systems and behavioral interventions for historically underserved students.

K. High-School Completion and Transition-Aged Youth

High School Completion

K-1. How can educational agencies ensure that students in foster care do not encounter challenges related to credit accrual and transfer?

Students in foster care may face challenges in accruing the credits to complete high school, as class offerings, methods of calculating credits, and graduation requirements can vary greatly across States, LEAs, and schools. These various policies and requirements can have a disproportionate impact on highly mobile students, including students in foster care.

Accordingly, educational agencies are encouraged to establish policies to ensure that students in foster care, as well as other highly mobile students, receive credit for all completed coursework. Such credit accrual policies could include policies that:

- Award credits for all courses completed at a prior school (even if the school was in a different LEA or State);
- Require an enrolling school to consult with a student's prior school about the student's completed coursework and accrued credits;
- Award and accept partial credits for partially completed coursework; and
- Offer opportunities for students to recover missed credits, including through independent study programs, online coursework, summer school, or other programs.

K-2. How can educational agencies ensure that policies related to graduation do not unduly burden students in foster care?

Educational agencies are encouraged to review and revise graduation policies to ensure that the policies do not pose additional burdens on students in foster care. Graduation policies could include policies that:

- Allow students in foster care to complete high school by meeting statewide graduation requirements rather than LEA-specific requirements;
- Require educational agencies and child welfare agencies to collaborate to cover graduation costs typically assumed by parents; and
- Ensure outstanding fees (such as school library fines) do not bar students in foster care from earning a high school diploma.

Postsecondary Education

K-3. How can educational agencies prepare students in foster care for postsecondary opportunities?

Many of the barriers that impede high school completion for students in foster care can also impede students in foster care from adequately preparing for postsecondary education and career opportunities. To prevent or overcome these barriers, educational agencies are encouraged to establish policies and programs that assist students in foster care as they consider their postsecondary plans. Questions K-7 and K-8 describe education and child welfare programs that can support students in foster care pursuing post-secondary opportunities.

Children and youth in foster care often live apart from their families and are sometimes with multiple

caregivers over a relatively short period of time. As a result, students in foster care do not always have strong relationships with adults who can help them explore and plan for postsecondary opportunities. Educational agencies are encouraged to monitor attendance, behavior, and course performance, and establish programs that provide one-on-one coaching and coordination of services as early as possible in high school to help students in foster care explore and prepare for various post-graduation pathways. Such coaching and coordination may be provided by a school counselor, career coach, mentor, or school social worker. Educational agencies are also encouraged to establish policies to ensure that a student in foster care's planning for postsecondary opportunities aligns with the student's foster care transition plan, which in turn requires meaningful engagement between school-based staff (e.g., school counselor) and child welfare staff (e.g., caseworker). Educational agencies are likewise encouraged to ensure that students in foster care in high school are able to participate in dual enrollment programs.

Educational agencies are also encouraged to ensure that students in foster care receive supports needed to fully participate in schoolwide opportunities to plan for postsecondary opportunities. For example, LEAs are encouraged to ensure that students in foster care can fully participate in schoolwide college and career fairs by holding the events during the normal school schedule or providing transportation to the events, to provide students in foster care with information on how to apply for postsecondary related testing and admittance, and to support and encourage their completion of the Free Application for Federal Student Aid (FAFSA®).

K-4. How does the FAFSA Simplification Act (FSA) positively impact students with experience in the foster care system?

The FAFSA is the application that students must complete to apply for Federal student financial aid for postsecondary education. The FSA, which was enacted as part of the Consolidated Appropriations Act of 2021, reduced the barriers that students who have had experience in the foster care system may face when completing the FAFSA. Under the FSA, students who were in foster care on or after their thirteenth birthday are considered "independent students" for the purposes of completing the FAFSA and qualifying for Federal student financial aid. (20 U.S.C. § 1087vv(d)(1)(B)). This means that the financial resources of the student's parents are not considered in determining eligibility for Federal student financial aid.

Under the FSA, it is now easier for students in foster care to receive and retain independent student status. For example, under the FSA, students who are in or have transitioned from foster care:

- Do not need to annually redetermine their independent student status (20 U.S.C. § 1087uu-2(d)); and
- Are entitled to an initial independent student status determination as quickly as practicable (20 U.S.C. § 1087uu-2(c)(1)).

For additional information on the FAFSA Simplification Act's provisions, access the Dear Colleague Letter entitled *FAFSA Simplification Act Changes for Implementation in 2023-24*, released by ED's Federal Student Aid office.

K-5. How can educational agencies and child welfare agencies support students in foster care in securing independent student status for FAFSA purposes?

Students in the foster care system may not have access to their parent's financial records. Under the FSA, a student who was in foster care at age 13 or older is considered "independent" for purposes of the FAFSA if they provide any of the following information:

- A court order or official State documentation that the student received Federal or State support in foster care;

- A documented phone call, written statement, or verifiable electronic data match, which confirms the student was in foster care at age 13 or older, from a—
  - Child welfare agency;
  - State Medicaid agency; or
  - Public or private foster care placing agency or foster care facility or placement;
- A documented phone call or a written statement from an attorney, a guardian ad litem, or a CASA that confirms the student was in foster care at age 13 or older and documents the person's relationship to the student;
- Verification of the student's eligibility for an education and training voucher under the John H. Chafee Foster Care Program (see Question K-8 for more information); or
- A documented phone call or written statement from a financial aid administrator at another institution who documented the student's circumstance in the same or a prior award year.

(20 U.S.C. § 1087uu-2(b)).

Educational agencies and child welfare agencies are encouraged to support eligible students in securing this documentation.

School-based practitioners and caseworkers who work directly with students are also encouraged to:

- Identify eligible students preparing for postsecondary opportunities;
- Provide eligible students with information about completing the FAFSA; and
- Support students, regardless of their status determinations, in completing the FAFSA.

Educational agencies and child welfare agencies are also encouraged to provide training and technical assistance to school-based practitioners and caseworkers on the FAFSA so that they are equipped to support students in foster care through this process.

K-6. How can educational agencies and child welfare agencies help students in foster care secure financial assistance for postsecondary education and training?

For students in foster care, a lack of financial resources is often a barrier for postsecondary enrollment and completion.[28] Educational agencies and child welfare agencies are therefore strongly encouraged to support students in foster care as they apply for, and consider how to finance, postsecondary education and training opportunities.

As mentioned in Question K-5, educational agencies and child welfare agencies are encouraged to support eligible students in documenting "independent student" status when completing the FAFSA, which is the first step for receiving Federal financial aid for postsecondary education. Similarly, as mentioned in Questions K-7 and K-8, some States, institutions of higher education (IHEs), and training programs offer financial assistance specifically to students with prior experience in foster care. Educational agencies and child welfare agencies are encouraged to help students with experience in the foster care system explore all available financial assistance options. For example, school-based practitioners and caseworkers are encouraged to provide students in foster care with information about scholarships for which they might be eligible and, as needed, support those students in completing scholarship applications.

[28] Cochrane, D. & Szabo-Kubitz, L. (2009). Hopes & hurdles: California foster youth and college financial aid. *The Institute for College Access & Success.* Retrieved from: https://eric.ed.gov/?id=ED509352.

K-7. What education programs may be available to help students in foster care enroll in and complete postsecondary education and career training opportunities?

SEAs, LEAs, and IHEs may participate in various Federal programs that can support students in foster care as they navigate postsecondary education and career training opportunities. In addition, many States fund local programs that can help students in foster care make a successful transition to postsecondary and career opportunities. LEA and school-based staff should be familiar with the Federal- and State-funded programs in their communities that can address the unique needs of students in foster care. Additionally, educational agencies and child welfare agencies are encouraged to collaborate to share information about these programs and to ensure students in foster care are informed about program eligibility and participation requirements.

The following table describes some of the Federal and State education programs and policies that may assist with postsecondary education and career training for students in foster care.

Career & Technical Education	The Carl D. Perkins Career and Technical Education Act (Perkins V) governs Federal requirements related to career and technical education (CTE).[29] Perkins V delineates "special populations"—including youth in foster care or youth that have formerly been in foster care—that grantees must prioritize in the implementation of CTE programs. Program activities to support special populations can include, for example, projects to close gaps in CTE participation rates and reduce expenses for students enrolled in CTE courses.
GEAR UP Program	Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is a grant program that aims to increase the number of low-income students who are prepared to enter and complete postsecondary education opportunities. Certain GEAR UP State grants may prioritize the unique needs of disconnected students, which may include students in foster care, in implementing the program. Grantees can use GEAR UP funds for a variety of purposes, including providing participating students with academic enrichment opportunities (e.g., tutoring or extended-day programs), connecting participating students to IHEs, or enabling participating students to participate in Advanced Placement (AP), International Baccalaureate (IB), or college entrance examination preparation courses.

[29] Students in foster care who complete at least three CTE credits are less likely to drop out of high school. Additionally, those with extensive employment experience while in high school, such as the work-based learning offered in CTE, are more likely to graduate. U.S. Department of Education, Office of Career, Technical, and Adult Education, Outcomes of Youth Transitioning from Foster Care to Adulthood: A Literature Review, Washington, D.C., 2019. Available at: https://s3.amazonaws.com/PCRN/file/Outcomes_of_Youth_Transitioning_from_Foster_Care_to_Adulthood_-_A_Literature_Review.pdf.

TRIO Programs	The TRIO Programs (TRIO) are eight distinct programs designed to identify and provide services for individuals from disadvantaged backgrounds. For example, the Educational Opportunities Centers program provides counseling and supports related to navigating the college admissions process, and funded projects can specifically be directed at students who are in foster care or are aging out of foster care. Similarly, the Upward Bound program is designed to increase high school completion rates and enrollment in postsecondary institutions, and funded projects can also specifically be directed at high school students who are in foster care or are aging out of foster care.
On-campus Programming	Many States and IHEs have funded programs that provide on-campus programming and supports for students with current or past experience in the child welfare system who are attending postsecondary institutions. Such programs can help students balance the demands of completing their academic coursework (for example, through dedicated academic counseling) and meeting their basic needs (for example, by providing campus housing to students during school breaks).

K-8. What child welfare programs may be available to help students in foster care enroll in and complete postsecondary education and training opportunities?

Child welfare agencies may fund or partner with organizations to offer a range of programs that can assist students in foster care both prepare for and complete postsecondary education and training opportunities. Educational agencies are encouraged to collaborate with child welfare agencies to better understand the availability of programs within their communities and how educational agencies can connect students in foster care to available supports.

The following table describes some of the Federal and State child welfare programs and policies that may assist with postsecondary education and career training for students in foster care.

Transition Plans	Child welfare agencies must develop a transition plan during the 90-day period immediately prior to the date a youth or young adult will transition out of foster care. The transition plan must be personalized at the direction of the youth or young adult and must include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports, and employment services, and information about the importance of designating another individual to make health care treatment decisions when the youth or young adult is unable to do so themselves. (SSA section 475(5)(H)).
Independent Living and Transition Supports	The John H. Chafee Foster Care Program for Successful Transition to Adulthood (the Chafee program) provides funds to assist youth and young adults involved (or formerly involved) in the foster care system to transition successfully to adulthood. This flexible funding can be used in a variety of methods to support the educational needs of young people, if not covered by the Chafee Education and Training Voucher program. Chafee services and supports vary by State, county, and agency and may be available up to age 23 in some States.
Chafee Education and Training Voucher (ETV) Program	The ETV program, a component of the Chafee program, is designed to assist young adults involved (or formerly involved) in the foster care system pay expenses associated with postsecondary education or vocational training at

	eligible institutions (defined as "institutions of higher education," including public and nonprofit IHEs, proprietary IHEs, and postsecondary vocational institutions). ETV funds can be used to cover expenses identified in the "Cost of Attendance," including tuition, textbooks and school supplies, room and board, and childcare. Eligible young people can receive up to $5,000 (based on unmet need) for up to five years and up to age 26.
Extended Foster Care Supports	The Fostering Connections to Success and Increasing Adoptions Act of 2008 gives States the option to provide title IV-E foster care maintenance payments, adoption assistance and, if applicable, kinship guardianship assistance to eligible young adults up to the age of 19, 20, or 21. As part of the eligibility requirements, young adults must meet education or employment conditions. Title IV-E agencies have the discretion to select some or all of these conditions for the program and may establish criteria for meeting the conditions. See ACYF-CB-PI-10-11 for more information.
State Tuition Assistance Programs	Many States have State tuition assistance programs that waive tuition fees for public universities for students who were in foster care on their 18th birthday or who graduated high school while in foster care. For example, some States provide tuition assistance or fee waivers to eligible students, while other States assist eligible students with related expenses (including expenses related to books, room and board, or school supplies).

Special Populations

Like all students, students in foster care are multi-faceted individuals with unique intersecting identities, strengths, and needs. Educational agencies and child welfare agencies should understand the unique identity of each student in foster care, including their involvement with other systems, to craft educational opportunities that fully meet each student's needs. This section provides information on cross-system and cross-program opportunities to support students in foster care.

L. Students with Disabilities in Foster Care

L-1. What are the unique barriers to educational success for students with disabilities[30] in foster care?

A significant percentage of students in foster care receive special education services. Students in foster care are more likely than their peers who are not in foster care to receive special education services.[31] Students with disabilities in foster care also encounter unique barriers related to educational stability. For example, research suggests that students in foster care who are receiving special education services tend to change schools more frequently than students receiving special education services who are not in foster care.[32]

L-2. What protections does IDEA provide for students with disabilities, including students in foster care?

IDEA is the Federal law that assists States and LEAs in providing special education and related services to eligible students with disabilities.[33] Under Part B of IDEA, States and LEAs must make available a free appropriate public education (FAPE) at the preschool, elementary, and secondary levels to all eligible students with disabilities, ages three through 21, in the least restrictive environment (LRE). FAPE means the provision of special education, related services and supplementary aids and services at no cost to the parents. (34 C.F.R. §§ 300.17, 300.39, 300.42, 300.101, and 300.201). Under IDEA, FAPE is provided through an appropriately developed IEP based on the individual needs of the child. An IEP must include a child's present levels of academic achievement and functional performance, and the impact of a child's disability on their involvement and progress in the general education curriculum. For all children with disabilities, IEP goals must be aligned with grade-level content standards.[34] As required under IDEA, the IEP must also include appropriate measurable postsecondary goals, and transition services needed to

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[30] Under IDEA, the term "student with a disability" has the same meaning as "child with a disability" in 34 C.F.R. § 300.8. For purposes of coverage under Section 504, a student with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

[31] Gee, K., Beno, C., & Witte, J. (2020). Students with disabilities in the CORE districts (Policy Analysis for California Education). Stanford, CA. Retrieved from https://eric.ed.gov/?id=ED605098.

[32] Platt, C. et al. (2022). Placement disruption of children with disabilities in foster care. *Journal of Pediatric Nursing, 66*, 30-35. Retrieved from https://www.sciencedirect.com/science/article/abs/pii/S0882596322001178#preview-section-cited-by.

[33] 20 U.S.C. §§ 1400 – 1482.

[34] States are permitted to define alternate academic achievement standards for children with the most significant cognitive disabilities, provided those standards are aligned with the State's academic content standards, promote access to the general curriculum, and reflect professional judgment of the highest achievement standards possible, in accordance with 34 C.F.R. § 200.1(d). 34 C.F.R. § 300.160(c)(2)(i).

assist the child in reaching those goals. The child's IEP must be developed, reviewed, and revised in accordance with the requirements outlined in the regulations implementing IDEA in 34 C.F.R. §§ 300.320 through 300.328.

LRE means that, to the maximum extent appropriate, students with disabilities are educated with students without disabilities, and that special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that the student cannot be educated satisfactorily in regular classes with the provision of supplementary aids and services. (34 C.F.R. § 300.114(a)). While IDEA presumes that the first placement option considered for each student with a disability is the regular classroom with appropriate supplementary aids and services,[35] LEAs must make available a range of placement options to meet the needs of students with disabilities for special education and related services, including instruction in regular classes, special education classes, separate schools, home instruction, and instruction in hospitals and institutions. (34 C.F.R. § 300.115).

Under IDEA, each student's educational placement decision must be made by a group of knowledgeable persons including the student's parents.[36] This group may also include staff with special knowledge regarding the student from a child welfare agency. (34 C.F.R. § 300.116). IDEA requires that the educational placement of each eligible student with a disability, including students with disabilities in foster care, be determined at least annually and be based on the student's IEP in accordance with the student's individual needs. Unless the student's IEP requires another arrangement, the student is educated in the school that they would attend if they did not have a disability. (34 C.F.R. § 300.116).

If during a school year, a student with a disability in foster care transfers to a new LEA within the State through the BID process or due to other circumstances (such as a change in foster care), IDEA requires the new LEA (in consultation with the student's parent) to provide FAPE to the student, including services comparable to those described in the child's IEP from the previous LEA, until the new LEA either: (1) Adopts the child's IEP from the previous public agency; or (2) Develops, adopts, and implements a new IEP that meets the applicable IEP requirements in IDEA. (34 C.F.R. § 300.323(e)).

The regulations implementing IDEA also include mechanisms for resolving disputes about the provision of FAPE, including mediation, State complaints, and due process hearings. (34 C.F.R. §§ 300.151–300.153 and 300.506–300.518).

For additional information about Part B of IDEA and its requirements, access https://sites.ed.gov/idea/.

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[35] Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with IDEA's LRE requirements. 34 C.F.R. § 300.42.

[36] IDEA requirements related to educational placement are addressed in 34 C.F.R. § 300.116. "Parent" is defined in the regulations implementing IDEA at 34 C.F.R. § 300.30. Note that this definition includes a child's foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent. The IDEA definition of "parent" means a party responsible for providing consent on behalf of a student and may include a guardian or other person acting in the place of a parent, as well as a surrogate parent. See Question L-4 for additional information about identifying a "parent" in the context of students in foster care.

L-3. What protections does Section 504 provide for students with disabilities, including students in foster care?

Students with disabilities who are eligible for services under IDEA and students with disabilities who are not eligible under IDEA are both protected by Section 504, a Federal law that prohibits discrimination on the basis of disability by recipients of Federal financial assistance, including public schools.[37] Section 504 requires LEAs to provide FAPE based on the requirements in Section 504 to students who have disabilities, regardless of whether they are eligible for services under IDEA, because failure to provide the educational programming and services necessary to meet their disability-based educational needs is a denial of equal educational opportunity and disability discrimination.[38] FAPE under Section 504 is different than FAPE under IDEA as it requires the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, and requires adherence to specific procedures.[39] An IEP developed and implemented in accordance with IDEA is one means of meeting the Section 504 FAPE requirements. Like IDEA, Section 504 also requires that, to the maximum extent appropriate, students with disabilities be educated in the regular education environment, unless they cannot be educated satisfactorily in that environment with the use of supplementary aids and services.[40] LEAs often develop written plans, commonly referred to as Section 504 Plans, for students with disabilities who receive services under Section 504. Even if a student does not require special education services and does not have an IEP, they may nevertheless be a student with a disability under Section 504 and be entitled to receive modifications or related aids and services under Section 504. (34 C.F.R. § 104.33(b)(2)).

For additional information on Section 504 see *Protecting Students with Disabilities*, available on the ED Office for Civil Rights website: https://www.ed.gov/laws-and-policy/individuals-disabilities/protecting-students-with-disabilities, and *Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools*, also available on the ED Office for Civil Rights website: https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/504-resource-guide-201612.pdf .

L-4. Who can act as a "parent" for students with disabilities in foster care under Part B of IDEA?

As mentioned in Questions L-2 and L-5, IDEA includes a student's "parent" in the group of persons who make placement decisions for a student with a disability, and the student's "parent" must consent to the initial provision of special education and related services to the student. (20 U.S.C. § 1414(a)(1)(D), 34 C.F.R. §§ 300.116 and 300.300(b)). IDEA defines "parent" to include the following persons:

- A student's birth or adoptive parent, who is presumed to be the parent under IDEA, unless they do not have legal authority to make educational decisions for the child (34 C.F.R. § 300.30(b)(1));

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[37] 29 U.S.C. § 794, 34 C.F.R. part 104. Students with disabilities who are in foster care are also protected by Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibits disability discrimination by public entities, including public schools, regardless of whether they receive Federal financial assistance (42 U.S.C. §§ 12131–12134, 28 C.F.R. part 35).

[38] Section 504 and IDEA are different laws with different requirements. IDEA requires States and LEAs to make available FAPE for children with disabilities, defined to include children with specified disabilities, who need special education. 20 U.S.C. § 1401(3), 34 C.F.R. § 300.8. Under Section 504, individuals with disabilities who must be provided with FAPE are elementary and secondary students who have a physical or mental impairment that substantially limits one or more major life activities. 34 C.F.R. §104.3(j) and (l).

[39] 34 C.F.R. §§ 104.33–104.36.

[40] 34 C.F.R. § 104.34(a).

- A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- A guardian generally authorized to act as the student's parent or to make educational decisions for the student (but not the State if the student is a dependent of the State);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the student lives, or an individual who is legally responsible for the student's welfare; or
- A surrogate parent who has been appointed in accordance with 34 C.F.R. § 300.519.

(20 U.S.C. § 1401(23); 34 C.F.R. § 300.30)

Note that biological or adoptive parents retain education decision-making rights under IDEA unless State law, regulation, or a court order limits those rights. (34 C.F.R. § 300.30(b)(1)). If a judicial decree or order identifies a specific person or persons to act as the parent of a student or to make educational decisions on behalf of a student, then that identified person is the parent for purposes of IDEA.

To effectively support students with disabilities in foster care, LEAs are encouraged to communicate with child welfare agencies to confirm the identity of and engage with the individual serving as a "parent" in decisions about the student's school placement and other special education and related service needs.

L-5. What is the role of the representative serving as a "parent" for a student with disabilities in foster care under Part B of IDEA?

The individual serving as a "parent" is required to provide consent prior to an initial evaluation to determine if a student is eligible for services under IDEA and, if the student is found eligible for services, must also provide consent before the initial provision of special education and related services. (34 C.F.R. § 300.300(a–b)). This individual has the educational rights and responsibilities of a biological parent and may represent the student in all subsequent matters relating to identification, evaluation, and educational placement of the student and the student's receipt of FAPE. (34 C.F.R. § 300.519).

These individuals are also important participants in the BID process, as they have valuable information about the student's special education needs. For example, these individuals can indicate whether a student's needs are being met in the current school placement and can indicate the types of services and supports the student will need in a new school environment, and these factors should be considered during the BID process.

L-6. If a student in foster care needs school of origin transportation and has transportation listed as a related service in their IEP, is the LEA responsible for providing transportation?

Yes. The LEA in which a student with a disability is enrolled in is responsible for providing transportation for the student, if transportation is listed as a related service in the student's IEP, regardless of whether the student is in foster care. (34 C.F.R. §§ 300.34(a) and (c)(16)). Generally, IDEA, Part B funds, as well as State and local special education funds, can be used for costs related to special education and related services. (34 C.F.R. § 300.202). While the Title I educational stability provisions indicate that "additional costs" for school of origin transportation may be assumed by the LEA, the child welfare agency, or both the LEA and the child welfare agency, the LEA is responsible for transportation that is required as a related service under IDEA. Therefore, the cost of school of origin transportation for a

student in foster care with transportation listed as a related service in the student's IEP is generally the full responsibility of the LEA in which a student is enrolled.

Under IDEA, students with disabilities, including those in foster care, must be afforded an equal opportunity for participation in nonacademic and extracurricular services and activities, which may include the provision of transportation listed as a related service on the student's IEP. (34 C.F.R. §§ 300.34(a); 300.34(c)(16); and 300.107).[41]

For more information, see the OSEP letter to Bowman and OSEP Questions and Answers on Serving Children with Disabilities Eligible for Transportation.

L-7. Where can educational agencies and child welfare agencies find more information about how special education laws apply to students in foster care?

In 2022, ED's Office of Special Education Programs published a letter to State directors of special education on highly mobile students with disabilities, which highlights several issues relevant to educational stability for students in foster care. This letter emphasizes timely and expedited evaluations and eligibility determinations for highly mobile students with disabilities who transfer to a different school district and clarifies that such students must have access to comparable services (including summer and other extended school year services, if applicable), until the new school district either adopts the student's IEP from the previous school district or develops and implements a new IEP for the student that meets applicable requirements in State and Federal law. (34 C.F.R. § 300.323(e)).

[41] For additional information, see Question E-1 in *Questions and Answers on Serving Children with Disabilities Eligible for Transportation*, available at https://sites.ed.gov/idea/files/OMB_08-0101_Transportation-11-4-09_FINAL.pdf.

M. English Learners (ELs)

M-1. What special considerations and legal requirements govern the rights of ELs in foster care?

Some children in foster care are also ELs—students identified as having limited English proficiency in speaking, listening, reading, or writing English. Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunities Act of 1974 (EEOA) require public schools to ensure that all EL students, including EL students in foster care, can participate meaningfully and equally in educational programs. To meet their obligations under Title VI and the EEOA for all EL students, LEAs must:

- Identify and assess all potential EL students in a timely, valid, and reliable manner;
- Provide EL students with a language assistance program that is educationally sound and proven successful;
- Sufficiently staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Keep EL students in the same environment as their English-speaking peers whenever possible;
- Ensure that EL students with disabilities are evaluated in a timely and appropriate manner for special education and disability-related services, that their language needs are considered in these evaluations and delivery of services, and that they are provided with both the language assistance services and the disability-related services to which they are entitled;
- Meet the needs of EL students who opt out of language assistance programs;
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level core content, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied;
- Evaluate the effectiveness of an LEA's language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program was reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and
- Ensure meaningful communication with parents who have limited English proficiency (LEP).

Additional information about States' and LEAs' legal obligations under Title VI and the EEOA can be found in a DCL about EL students and LEP parents jointly released by ED and the U.S. Department of Justice.

Educational agencies must also ensure that EL students in foster care are able to fully benefit from the ESEA educational stability provisions. Safeguards towards this end may include:

- Incorporating translators into BID processes so that EL students in foster care may be involved in the process, when appropriate;
- Considering language needs as part of the BID process; and
- Ensuring that school of origin transportation providers can adequately communicate with EL students in foster care.

M-2. What special considerations and legal requirements must be taken into account when completing a BID process for EL students in foster care who are required to receive language services under Title VI and the EEOA?

As noted in the answer to Question M-1, LEAs must identify and assess all potential EL students, and provide all EL students, including EL students in foster care, with a language assistance program that is educationally sound and proven successful. When a best-interest determination is made for an EL student in foster care, the LEA must ensure that it complies with its obligations under Title VI and the EEOA, as described in the answer to Question M-1.

For additional information about completing BID processes, see Section E.

N. Students Experiencing Homelessness

N-1. Are students in foster care eligible for services under the McKinney-Vento Homeless Assistance Act's (McKinney-Vento Act's) Education for Homeless Children and Youth (EHCY) program?

Students in foster care are not typically eligible for services under the EHCY program, as these students would not typically meet the definition of "homeless children and youth" established by the McKinney-Vento Act; however, there are circumstances where a student in foster care may be eligible for services under the EHCY program. The McKinney-Vento Act defines "homeless children and youths" as individuals who lack a "fixed, regular, and adequate nighttime residence," and the law provides examples of living situations that would meet this definition. (McKinney-Vento Act section 725(2)). Circumstances in which a student in foster care may be eligible for EHCY services include:

- A student in foster care runs away from their foster care placement and resides outside the physical custody of their foster care caregivers; or
- A natural disaster displaces both a student in foster care and their foster care caregivers.

EHCY local liaisons determine whether a student is eligible for EHCY services on a case-by-case basis because lacking a fixed, regular, and adequate nighttime residence is a fact-specific, local determination. SEA and LEA foster care points of contact should coordinate with ECHY local liaisons if they believe a student in foster care may be eligible for services under the EHCY program.

For additional information about EHCY program eligibility, access the National Center for Homeless Education's resources on determining program eligibility (https://nche.ed.gov/determining-eligibility/) or review Questions A-1 through A-3 of the EHCY program's non-regulatory guidance (https://www.ed.gov/sites/ed/files/2020/07/160240ehcyguidanceupdated082718.pdf).

N-2. How should school of origin transportation be provided to students who exit the EHCY program by entering foster care?

The EHCY program provides school of origin transportation to eligible students experiencing homelessness. (McKinney-Vento Act section 722((g)(1)(J)(iii)). Similarly, as mentioned in Question F-2, each LEA receiving a Title I subgrant must, in collaboration with local child welfare agencies, develop written transportation procedures that outline how the LEA will arrange, provide, and fund school of origin transportation for students in foster care. When a student enters foster care and no longer meets the EHCY program criteria, a BID process may indicate that it is in the student's best interest to remain at their school of origin. In such instances, to ensure that there is a seamless transition from EHCY school of origin transportation to Title I school of origin transportation, an LEA and child welfare agency's transportation procedures should establish the process for navigating the transition between programs. In establishing transportation procedures to navigate the transition between programs, LEAs are encouraged to prioritize stability and consistency, including, for example, by ensuring that both the mode of school of origin transportation and the student's transportation schedule remain consistent. LEAs must ensure that the transition from EHCY school of origin transportation to Title I school of origin transportation does not cause the student in foster care to miss school time.

See Section F for more information about LEA school of origin transportation policies.

N-3. How can educational agencies coordinate programming for students in foster care and students experiencing homelessness?

Research shows that youth who age out of foster care are at high risk for becoming homeless during their transition to adulthood, with as many as 46 percent of such young people experiencing homelessness by age 26.[42] Research also suggests, however, that young people who age out of foster care with a high school diploma or GED are less likely to experience homelessness than are their peers aging out of the system without such credentials.[43]

To ensure students have access to relevant wraparound supports and academic interventions, educational agencies can strategically coordinate programming for students in foster care and students experiencing homelessness. For example, some requirements under the Title I educational stability provisions and the McKinney-Vento Act are similar, and students experiencing homelessness and students in foster care are eligible for identical supports under other Federal programs, including the National School Lunch Program, the FAFSA Simplification Act (see Questions K-4 through K-5), and career and technical education programs like Perkins V (see Question K-7). Where possible and appropriate, program staff from both foster care and EHCY programs are encouraged to collaborate in connecting students in foster care and students experiencing homelessness to programs for which they are eligible, and to advise staff managing such programs of the unique needs of highly mobile student populations. Through such collaboration, program staff can administer Federal programs more efficiently and connect more students to the supports to which they are entitled.

Similarly, while students in foster care are generally not eligible for services under the EHCY program (see Question N-1), leaders of SEA and LEA EHCY programs often have connections to community resources and programs that may benefit students in foster care as well as students experiencing homelessness. As such, leaders of foster care and EHCY programs should share program planning information and, where appropriate, find opportunities to coordinate programming with community-based providers.

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[42] Dworsky A, Napolitano L, Courtney M. Homelessness during the transition from foster care to adulthood. Am J Public Health. 2013 Dec;103 Suppl 2(Suppl 2):S318-23. doi: 10.2105/AJPH.2013.301455. Epub 2013 Oct 22. PMID: 24148065; PMCID: PMC3969135. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3969135/.

[43] Flannigan, A., O'Meara, M., & Rajouria, A., Better Data on Homelessness Needed as Young Adults with Foster Care Experience Transition to Adulthood (August 2020). https://www.childtrends.org/publications/better-data-on-homelessness-needed-as-young-adults-with-foster-care-experience-transition-to-adulthood.

O. Students Involved in the Juvenile Justice System

O-1. What is the relationship between the child welfare system and the juvenile justice system?

Studies demonstrate that students in foster care are far more likely than their peers to be involved with the juvenile justice system. For example, one study found that more than 90 percent of youth in foster care who changed placements five or more times become involved with the juvenile justice system.[44] Research also demonstrates that highly mobile students, including students in foster care, are disproportionately impacted by exclusionary school discipline policies,[45] which can contribute to students' involvement in the criminal justice system (sometimes referred to as the "school-to-prison pipeline" [46]). See Question J-1 for more information on how school discipline policies impact students in foster care and effective alternative approaches.

For more information about youth with prior or current involvement in both the child welfare system and the juvenile justice system, often referred to as "dual-system youth,"[47] access resources from the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) at https://ojjdp.ojp.gov/.

O-2. May a student in foster care be served by Title I, Part D of the ESEA (Title I, Part D)?

Yes. Title I, Part D funds provide for educational and related services to support the educational achievement of students who are neglected, delinquent, or at-risk. A student might both be in foster care and receive Title I, Part D-funded services under certain circumstances. For example, if a student in foster care is adjudicated into a correctional program receiving a Title I, Part D subgrant, that student may be served under the Title I, Part D program. Additionally, Title I, Part D funds may support services to at-risk youth in local schools, which also would be subject to the Title I educational stability provisions. As defined by ESEA section 1432, the term "at-risk" includes a child or youth who "has come into contact with the juvenile justice system or the child welfare system in the past."

Title I, Part D consists of two distinct programs (also known as subparts), one for State agency programs and another for local agency programs.

- Subpart l funds State agency programs for children and youth living in institutions for neglected or delinquent children and youth, attending community day programs for neglected or delinquent children and youth, or living in adult correctional institutions.
- Under Subpart 2, an SEA awards subgrants to LEAs to serve children and youth who are in locally operated correctional facilities or are attending community day programs for delinquent children and youth. An LEA may also use Subpart 2 funds to operate programs in local schools

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[44] J.P. Ryan & M.F. Testa. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review, 27*, 227–249. Retrieved from https://www.sciencedirect.com/science/article/pii/S0190740904002026.

[45] Pierce H, Jones MS, Gibbs BG. Early adverse childhood experiences and exclusionary discipline in high school. Soc Sci Res. 2022 Jan;101:102621. doi: 10.1016/j.ssresearch.2021.102621. Epub 2021 Jul 30. PMID: 34823667.

[46] Shaw, Sara., and St. John, Victor. (2023). Supporting Students Experiencing Homelessness and Involved in the Criminal Justice System. Washington, D.C. National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth (NDTAC).

[47] Development Services Group, Inc. 2021. Intersection of Juvenile Justice and Child Welfare Systems. Literature review. Washington, DC: Office of Juvenile Justice and Delinquency Prevention. https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/Intersection-Juvenile-Justice-Child-Welfare-Systems.

for children and youth returning from correctional facilities and programs that serve at-risk children and youth.

For additional information about the Title I, Part D program, please see: https://www.ed.gov/grants-and-programs/formula-grants/formula-grants-special-populations/neglected-delinquent-or-at-risk-mdash-title-i-part-d.

O-3. How can educational agencies coordinate programming for students in foster care and students in juvenile justice facilities?

Educational agencies, child welfare agencies, and juvenile justice agencies are encouraged to implement policies that minimize educational disruptions and mitigate challenges to providing a well-rounded education as students move between foster care and juvenile justice systems. For example, these agencies are encouraged to develop policies to create procedures for students transitioning from juvenile justice facilities into the foster care system to ensure that the BID process is completed quickly, that transportation needs are resolved, and that the student is immediately enrolled, in accordance with the Title I educational stability provisions. Similarly, these agencies are encouraged to develop data-sharing routines, aligned with all Federal privacy laws, between educational agencies, child welfare agencies, and juvenile justice agencies to ensure that, if a student in foster care is placed in a juvenile justice facility, relevant educational records for that student are immediately transferred to the juvenile justice facility.

Finally, Title II, Part B of the Juvenile Justice and Delinquency Prevention Act of 1974 requires each State to establish a State Advisory Group, charged with studying and improving the experiences of youth involved in the juvenile justice system. Educational and child welfare agencies are encouraged to participate in OJJDP State Advisory Groups.

For more strategies to support cross-program collaboration within educational agencies, access the National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth's (NDTAC's) *Voices from the Field: Program Feature on the Intersection of Title I, Part D; McKinney-Vento Act; and Title I, Part A Foster Care*.

P. American Indian and Alaska Native Youth

P-1. Do the Title I educational stability provisions apply to students involved in Tribal foster care?

Yes. The Title I educational stability provisions apply to students who are in Tribal foster care on the same basis as described in Questions A-1 through A-7. SEAs and LEAs must collaborate with Tribal child welfare agencies to meet the educational stability provisions for students in Tribal foster care. (ESEA section 1111(g)(1)(E)(iv)).

P-2. Does the Indian Child Welfare Act (ICWA) impact implementation of the Title I educational stability provisions for students in foster care?

No. ICWA governs decisions related to removal and foster care placement for American Indian and Alaska Native children and youth. As mentioned in Question A-5, the Title I educational stability provisions govern school placement decisions when a student enters foster care or experiences a foster care placement change. When working with students in foster care, educational agencies and child welfare agencies should ensure that they meet relevant requirements from ICWA and the Title I educational stability provisions.

Q. Preschool-Age Children in Foster Care

Q-1. Do the Title I educational stability provisions apply to preschool-age children in foster care?

If an LEA offers a public preschool education, it must implement the Title I educational stability provisions for children in foster care in preschool, including ensuring that a child in foster care remains in their preschool of origin, unless a determination is made that it is not in the child's best interest. (See ESEA section 1111(g)(1)(E)).

Funding

The ESEA does not provide dedicated funding to improve academic outcomes for students in foster care (though, as discussed below, LEAs may use a portion of their Title I subgrant to implement the Title I Title I educational stability provisions). Educational agencies and child welfare agencies are encouraged to consider the extent to which other Federal programs may address the unique needs of students in foster care and improve academic outcomes for the student population. This section provides an overview of some Federal programs that educational agencies and child welfare agencies are encouraged to leverage for these purposes.

Please note that some Federal program funds may only be used to support eligible students, and those Federal programs are described in more detail in the Sections L through Q of this non-regulatory guidance. For example, for additional information on how IDEA funding may be used to support students with disabilities in foster care, please see Section L.

R. Title I, Part A of the ESEA

R-1. How may educational agencies use Title I funds to implement the Title I educational stability provisions?

Educational agencies can use Title I funds to implement the following Title I educational stability provisions:

- Covering "additional costs" incurred in providing school of origin transportation for students in foster care. (ESEA section 1112(c)(5)(B)).
- Funding positions for SEA and LEA points of contact (POCs). (ESEA sections 1111(g)(1)(E)(iv) and 1112(c)(5)(A)).

R-2. In addition to paying for the "additional costs" for school of origin transportation, on what basis are students in foster care eligible to receive other Title I services?

The purpose of the Title I program is to provide all students significant opportunity to receive a high-quality education and to close achievement gaps. Students in foster care are eligible to receive Title I services designed to meet this purpose on the same basis as other students who attend a Title I school. Most Title I schools operate a schoolwide program in which any student in the school (including students in foster care) may receive Title I services, which a school designs to address its needs based on its comprehensive needs assessment. A small subset of Title I schools operates a targeted assistance program, in which the school identifies low-achieving students for Title I services based on multiple, educationally related criteria. As such, Title I funds can be used to provide services to students in foster care who attend a Title I targeted assistance program school and are selected for Title I services (ESEA section 1115) or attend a Title I schoolwide program school (ESEA section 1114). Additional information about these types of Title I programs and the use of Title I funds to improve student achievement is available in ED's Title I *ESSA Schoolwide Guidance* (September 29, 2016) available at: https://www.ed.gov/sites/ed/files/2020/02/essaswpguidance9192016.pdf.

Title I provides LEAs and Title I schools with flexibility in how they use their Title I funds to improve student achievement based on the unique needs of their students. For example, if a schoolwide program school has a substantial number of students in foster care, its comprehensive needs assessment will likely identify some needs that are unique to this group of students. The school may then use its Title I funds for activities (e.g., counseling, wraparound services, or other additional supports) that it tailors to address

their specific needs as a means to improve student achievement.

R-3. May LEAs use Title I funds to improve educational outcomes for students in foster care?

Yes. As stated in Questions R-1 and R-2, SEAs and LEAs may use Title I funds to implement key requirements of the Title I educational stability provisions for students in foster care and to provide these students with other Title I services on the same basis as other students. A school implementing a Title I schoolwide program can use Title I funds to address the needs identified in its comprehensive needs assessment. This could include providing academic support for students in foster care as well as other supports, like counseling, school-based mental health programs, mentoring services, and other strategies to support students' overall well-being and development. For students in a school operating a Title targeted assistance program, the school can provide the same supports for foster care students that are identified for Title I services.

Note that while the ESEA requires an LEA to reserve funds to serve certain student groups (e.g., students experiencing homelessness), there is no specific reservation required for supporting students in foster care.

S. Title IV, Part A of the ESEA

S-1. Can funds under Title IV, Part A be used to improve educational outcomes and address the unique needs of students in foster care?

Yes. Authorized under Title IV, Part A of the ESEA, the Title IV, Part A grant program is designed to increase the capacity of SEAs, LEAs, schools, and local communities to (i) provide all students with access to a well-rounded education; (ii) improve school conditions for student learning; and (iii) improve the use of technology to improve the academic achievement and digital literacy for all students. (ESEA section 4101).

LEAs have substantial flexibility in how they utilize Title IV, Part A program funds to provide students access to a well-rounded education, improve school conditions for student learning, and utilize educational technology. For example, Title IV, Part A program funds may be used for a wide range of activities that could positively impact students in foster care, including activities related to implementing:

- College and career guidance and counseling programs;
- Accelerated learning programs;
- Trauma-informed practices in classroom management;
- Positive Behavioral Interventions and Supports (PBIS) programs; and
- Academic content through the use of technology.

ED's non-regulatory guidance on the Title IV, Part A program contains more detailed information on how SEAs administer Title IV, Part A program funds to LEAs, examples of allowable uses of funds, and other important information. Access the non-regulatory guidance on the Title IV, Part A program at https://www.ed.gov/grants-and-programs/formula-grants/school-improvement/student-support-and-academic-enrichment-program#Legislation,-Regulations-and-Guidance.

S-2. How can an LEA ensure that Title IV, Part A program funds are utilized to improve academic outcomes for students in foster care?

As stated in Question S-1, LEAs have substantial flexibility in how they utilize Title IV, Part A program funds. In applying for a Title IV, Part A subgrant, an applicant LEA (or a consortium of applicant LEAs) must consult with various stakeholders to assess the needs of its students, develop priorities for its proposed Title IV, Part A program, and coordinate its Title IV, Part A program with other services provided in the community. (ESEA section 4106(c)(2)). Further, LEAs that receive Title IV, Part A program allocations of at least $30,000 must conduct periodic comprehensive needs assessments to reassess students' needs and reprioritize its Title IV, Part A program. (ESEA section 4106(d)).

LEAs are encouraged to involve stakeholders with experience or expertise in the foster care system in the Title IV, Part A program's required stakeholder engagement and comprehensive needs assessment activities. By doing so, LEAs can ensure that the unique needs of students in foster care are considered in the development of an LEA's Title IV, Part A program. To this end, participants in an LEA's stakeholder engagement and comprehensive needs assessment activities for the Title IV, Part A program may include:

- Students in foster care;
- Foster care caregivers;
- School social workers;
- Child welfare case managers;
- The LEA's foster care POC; and

- Community-based organizations serving students and families involved in the child welfare system.

Additional information about the Title IV, Part A program's requirements related to stakeholder engagement and comprehensive needs assessments is available at https://www.ed.gov/grants-and-programs/formula-grants/school-improvement/student-support-and-academic-enrichment-program#Legislation,-Regulations-and-Guidance.

T. Nita M. Lowey 21st Century Community Learning Centers Program (Title IV, Part B of the ESEA)

T-1. How can the 21st Century Community Learning Centers program improve academic outcomes for students in foster care?

Authorized under Title IV, Part B of the ESEA, the Nita M. Lowey 21st Century Community Learning Centers (21st CCLC) program funds the creation or expansion of community learning centers that are designed to provide academic enrichment opportunities during non-school hours (e.g., before and after school, during the summer and other school breaks, and on weekends). 21st CCLC programs provide academic enrichment services, programs, and activities, including tutorial services to help students, particularly students who attend low-performing schools, to meet challenging State academic standards. These programs also offer opportunities for family and caregiver engagement. (ESEA section 4201(a)). As students in foster care are more likely than their peers to face a variety of academic challenges,[48] 21st CCLC programs may benefit students in foster care by providing programs that address the students' unique academic and social-emotional needs.

For more information about the 21st CCLC program, see https://www.ed.gov/grants-and-programs/formula-grants/school-improvement/nita-m-lowey-21st-century-community-learning-centers.

T-2. How can a 21st CCLC program prioritize the needs of at-risk students, including students in foster care?

SEAs must award 21st CCLC subgrants to eligible entities, which include LEAs, community-based organizations, Indian Tribes or Tribal organizations, other public or private entities, or a consortium of agencies, organizations, or entities. (ESEA section 4201(b)(3)). In awarding subgrants, SEAs must give priority to applications that propose to target services to certain groups of students including "students who primarily attend schools that enroll students who may be at risk for academic failure, dropping out of school…or who lack strong positive role models." (ESEA section 4204(i)(1)(A)(i)(II)).

Students in foster care are less likely than their peers to achieve academic success[49] and graduate from high school.[50] An SEA could award a 21st CCLC subgrant to a program that targets services to students in foster care and their caregivers, such as a community-based organization that has expertise in serving highly mobile students, including students in foster care, as long as such a program met all other 21st CCLC requirements, including the requirement that 21st CCLC programs target students who primarily attend schools eligible for schoolwide programs under ESEA section 1114. (ESEA section 4204(b)(2)(F)).

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[48] *See, e.g.*, McGuire, A., Gabrielli, J., Hambrick, E., Abel, M.R., Guler, J., & Jackson, Y. (2021), Academic functioning of youth in foster care: The influence of unique sources of social support, Children and Youth Services Review, Volume 121, ISSN 0190-7409, https://doi.org/10.1016/j.childyouth.2020.105867. (https://www.sciencedirect.com/science/article/pii/S0190740920322891)

[49] Clemens, E.V., Klopfenstein, K., Lalonde, T.L. & Tis, M. (2018). The effects of placement and school stability on academic growth trajectories of students in foster care. Children and Youth Services Review, Elsevier, 87(C), pages 86-94, https://eric.ed.gov/?id=ED593232

[50] National Youth in Transition Database. Data Brief #8, Highlights from the NYTD Survey: Outcomes reported by young people at ages 17, 19, and 21 (Cohort 3) (March 2023). Administration on Children, Youth and Families, HHS.

T-3. Can 21st CCLC program funds be used to provide transportation to students participating in a 21st CCLC program?

Generally, yes. 21st CCLC program funds may be used to safely transport participating students to and from a 21st CCLC program, as long as the costs are reasonable and necessary and do not violate the 21st CCLC program's "supplement not supplant" prohibition (for more information on the supplement not supplant requirement and 21st CCLC, see the September 2024 *Nita M. Lowey 21st Century Community Learning Centers Program Non-Regulatory Guidance* (21st CCLC Guidance)). An applicant for a subgrant must include in its application a description of how students participating in the program will travel safely to and from the center and home, if applicable. (ESEA section 4204(b)(2)(A)(ii).

T-4. How can LEAs ensure that students in foster care benefit from 21st CCLC programs?

As stated in Question T-1, 21st CCLC programs provide academic enrichment opportunities to participating students during periods when school is not typically in session (e.g., during summer breaks, before- and afterschool, or on weekends), and 21st CCLC programming may also include opportunities for students' parents and caregivers. LEA POCs should connect students in foster care and their caregivers to 21st CCLC programs. Where needed, LEA POCs are encouraged to assist students in foster care in completing the enrollment process required for a 21st CCLC program. Further, to the extent that a 21st CCLC program charges student fees, the 21st CCLC program is encouraged to waive fees for students in foster care. For more information about program fees and 21st CCLC programs, see *21st CCLC Guidance*. Finally, LEA POCs are encouraged to address any other challenges to student participation in a 21st CCLC program.

LEA POCs are also encouraged to work directly with staff at 21st CCLC programs to ensure that programming and services are accessible to and address the unique needs of students in foster care and their caregivers. For example, LEA POCs could verify that program policies, including those related to program enrollment and attendance, do not pose unintended barriers for students in foster care. Finally, LEA POCs, in collaboration with child welfare agencies, are encouraged to provide periodic training to 21st CCLC program staff about the unique experiences and needs of students in foster care.

U. Full-Service Community Schools Program of the ESEA

U-1. How can the Full-Service Community Schools (FSCS) program improve academic outcomes for students in foster care?

The FSCS program is a competitive grant program administered by ED. FSCS grantees provide comprehensive academic, social, and health services for students, students' family members, and community members that can improve educational outcomes for all students, including those in foster care. Although not all schools receive FSCS grants, the FSCS model is one that is well structured to support students in foster care.

FSCS grantees focus on coordinating and integrating services using the school as a hub and provides grants in high-poverty areas where there are often higher concentrations of students in foster care. In the Fiscal Year 2022 and Fiscal Year 2023 cohorts, the Federal FSCS grants include a priority for strengthening cross-agency coordination to support accessible and effective school-based service integration for students and families across the country.[51] The program also requires FSCS grantees to serve low-income schools that qualify for schoolwide eligibility under Title I, many of which include students in foster care.

Another component of the FSCS program that supports a continuum of coordinated supports, services, and opportunities is its call for grantees to expand pipeline services. These pipeline services span cradle to career efforts to support entry into and success in postsecondary education, and career attainment. More precisely, the ESEA describes the FSCS program's eight pipeline services of which grantees must implement at least five over the course of their grant. These include early (1) childhood education programs, (2) out-of-school-time programs, (3) support for transitions between grades, (4) family and community engagement, (5) workforce readiness activities, (6) community-based supports, (7) social, health, nutrition, and mental health services, and (8) juvenile crime prevention and rehabilitation programs. (ESEA sections 4621–4623 and 4625).

Following rulemaking in 2022, the Fiscal Year 2022, Fiscal Year 2023, and subsequent FSCS grantees were required to implement many of these pipeline services through four evidence-based elements or pillars in each school that can address the individual needs of students in foster care.[52] While each FSCS project and its schools are unique, they are commonly defined by the following place-based pillars—(i) integrated systems of support, (ii) expanded and enriched learning time and opportunities, (iii) active family and community engagement, and (iv) collaborative leadership and practices.

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[51] Descriptions of the priorities, and additional information about the program, can be found via the 2022 Notice Inviting Applications: U.S. Department of Education. (2022). Applications for New Awards; Full-Service Community Schools Program. Federal Register.

[52] More information about these four pillars of community schools and pipeline services, and additional information about the program, can be found via the 2022 Notice Inviting Applications: U.S. Department of Education. (2022). Applications for New Awards; Full-Service Community Schools Program. Federal Register.
The evidence base for the four pillars of community schools comes from: Maier, A, Daniel, J., Oakes, J. & Lam, L. (2017). Community schools as an effective school improvement strategy: A review of the evidence. Palo Alto, CA: Learning Policy Institute.

U-2. What types of services can an FSCS program provide for students in foster care?

FSCS grantees co-locate supports and services in one place, allowing schools to serve as a one-stop resource center to provide a ready web of supports for students. For example, FSCS can ensure students in foster care have access to:

- ***Integrated Systems of Support***, such as Multi-tiered Systems of Support (MTSS) that include social, emotional, and academic services. Integrated Systems of Support can connect students with case managers and social workers who can help meet the needs of students and families, which can promote family success and may reduce the need for students to enter foster care. Where necessary, integrated systems of support can help with navigating child welfare agencies and other public service providers. In addition, many community schools have school-based health centers or other ways to provide the physical and mental health services, dental care, and contacts or glasses many foster students need to fully engage in their studies. Integrated systems can also provide wrap-around services to meet the out of school time academic, social, and emotional needs of students in foster care.
- ***Expanded and Enriched Learning Time and Opportunities***, which are important for students in foster care who are more likely to move schools or be absent from school. Expanded and enriched learning opportunities (e.g., before, during, afterschool and summer learning) can keep foster students engaged throughout the year. At the heart of this pillar of community schools are school-level practices that focus on developing trusting relationships such as providing one-on-one tutoring and mentoring.
- ***Active Family and Community Engagement*** can help build a sense of belonging for students in foster care by meaningfully involving them and their support teams in the school's decision-making processes. FSCS presents an opportunity to connect families to resources to avoid CPS referrals for general neglect. It may include community meetings, events, or other programming where teachers, parents, and community members can establish positive relationships with foster students. This pillar of FSCS may also include working with community partners to promote internships or externships and other activities to support postsecondary and workforce readiness.
- ***Collaborative Leadership and Practices*** often include school-based leadership teams that actively work to bring the school and community together around common goals. Such practices may include looking at data to see if foster students are attending school regularly, improving academically, or progressing from one grade to another on time. By using data, community and school leaders can bring in community partners serving students in foster care to take shared responsibility for ensuring they succeed in and out of the classroom.

U-3. Where can an educational agency learn more about applying to the FSCS program and community schools in general?

For more information about the FSCS program, see the Full-Service Community Schools Program Website, which includes applicant eligibility, allowable uses of funds, and archived awards with descriptions of FSCS in action.

For more information about community school activities, see Federal Resources to Support Community Schools, a 2023 White House toolkit describing how Federal programs can support community school activities, including targeted support for students in foster care.

V. Title IV-E of the SSA

V-1. What are foster care maintenance payments under section 475(4)(A) of the SSA?

The SSA defines "foster care maintenance payments" as payments to cover the cost of (and the cost of providing):

- Food;
- Clothing;
- Shelter;
- Daily supervision;
- School supplies;
- A child's personal incidentals;
- Liability insurance with respect to a child;
- Reasonable travel to the child's home for visitation; and
- Reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.

In the case of institutional care, foster care maintenance payments include payments to cover the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described above. (SSA section 475(4)(A)).

Title IV-E agencies may claim Federal reimbursement for these costs on behalf of eligible students. For more information, see the Children's Bureau's Child Welfare Policy Manual, Sections 8.1B and 8.3B.1.

V-2. Are all students in foster care eligible for foster care maintenance payments under section 475(4)(A) of the SSA?

No, not all students in foster care are eligible for Title IV-E foster care maintenance payments.

V-3. What are Title IV-E administrative costs?

Title IV-E agencies can claim reimbursement for a portion of certain costs that are necessary for the proper and efficient administration of the title IV-E foster care plan. Some activities related to educational stability that may be allowable Title IV-E administrative costs include the costs of:

- Staff maintaining educational records in the written case plan for a child in foster care;
- Case assessment and case planning;
- Local travel associated with providing food, clothing, shelter, daily supervision, school supplies, and a child's personal incidentals;
- Education points of contact and other staff spending time analyzing specialized assessments (including educational assessments) to inform the case plan; and
- Independent legal representation of children in foster care, including the work of paralegals, investigators, peer partners, or social workers to the extent they are necessary to support an attorney providing independent legal representation.

(See ACYF-CB-IM-23-09).

V-4. How can Title IV-E administrative costs be used to implement the Title I educational stability provisions for students in foster care?

Title IV-E agencies can claim reimbursement for allowable Title IV-E administrative costs for some of the costs associated with implementing educational stability requirements. Specifically, Title IV-E agencies may be reimbursed for a portion of the costs of certain activities including, but not limited to:

- Some administrative costs associated with a child welfare agency's education points of contact; and
- The cost of transporting the child to and from the school of origin.

Please see Appendix III of ACYF-CB-IM-23-09 for more detailed information about uses of Title IV-E foster care administrative costs. For example, Title IV-E agencies are able to claim administrative costs related to transporting the child to and from the school of origin, when a child in foster care lives in a foster home or childcare institution outside the child's school of origin, as an allowable Title IV-E administrative cost under Title IV-E. For a cost to be an allowable Title IV-E administrative cost under Title IV-E, a cost must be one of the examples listed in 45 C.F.R. § 1356.60(c)(2) or closely related to one of those examples. The costs of transporting a child to and from the school of origin are closely related to case management, which is listed as an example of an allowable administrative cost in 45 C.F.R. § 1356.60(c)(2). Any such costs must be allocated through an approved cost allocation plan or methodology. See CWPM 8.1B. Q.27.

The Administration for Children and Families also issued a final rule allowing Title IV-E agencies to claim Federal financial participation for legal representation in civil legal proceedings necessary to carry out the Title IV-E foster care plan. An example of this legal representation includes an attorney providing independent legal representation to an eligible child/parent/relative caregiver to prepare for and participate in a legal proceeding to enroll a child in school or access education records when it is necessary to meet plan requirements to ensure the educational stability of the child while in foster care, *taking into account the appropriateness of the current educational setting* and the proximity to the school in which the child is enrolled at the time of placement in foster care; provide a copy of educational records to a child at no cost at the time the child leaves foster care; and ensure a child is enrolled in school per sections 471(a)(30) and 475(1)(G) and (5)(D) of the SSA.

An LEA is encouraged to collaborate with the child welfare agency to determine how the child welfare agency can work with the LEA to ensure educational stability for students in foster care.

Data Collection & Reporting

Educational agencies and child welfare agencies are encouraged to use data to guide programming for students in foster care and improve academic outcomes for the student population. While the Title I educational stability provisions in the ESEA do not include specific requirements related to data, other Federal education and child welfare requirements do involve data related to students in foster care. Educational agencies and child welfare agencies are encouraged to establish data-sharing routines (aligned with all Federal privacy laws) to drive program implementation. This section provides a summary of how data can be collected, shared, and used to support the educational stability and success of students in foster care, and the applicability of Federal student privacy laws.

W. Data Use

W-1. How can educational agencies use data to improve academic outcomes for students in foster care?

Educational agencies are encouraged to use data to drive program implementation and to ensure that funded activities (i) are tied to the unique needs of program beneficiaries and (ii) achieve a program's desired impact. Through data-driven program implementation, SEAs and LEAs can:

- Track academic progress over time for both individual students in foster care and a cohort of all students in foster care;
- Improve the delivery of academic supports and other wraparound services to students in foster care;
- Improve the quality of data used to fulfill Federal and State reporting requirements;
- Strengthen implementation of the Title I educational stability provisions;
- Maximize the impact of funding available to support students in foster care; and
- Guide cross-system collaborations.

To improve academic outcomes for students in foster care, educational agencies are encouraged to collect and use data available through a variety of sources, including data collected by child welfare agencies. Educational agencies are also encouraged to review their own data collection policies to both identify opportunities for collecting new data about students in foster care and improve the quality of current data collections about this student subpopulation. Recent revisions to 2 C.F.R. Part 200, also known as the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), clarify how Federal funds may be used to support integrated data systems.[53]

W-2. What data can educational agencies use to improve academic outcomes for students in foster care?

To tailor programming to individual student needs, educational agencies are encouraged to use the following types of data:

- Demographic information;

[53] More information about the Uniform Guidance can be found at https://www.ed.gov/grants-and-programs/manage-your-grant/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards-us-department-of-education. Additional information about the use of Federal funds for integrated data systems can be found in Question 12 of a related ED Frequently Asked Questions document, available at https://www.ed.gov/media/document/faqs-uniform-guidance.

- Current living placement;
- Present levels of academic performance and goals from a student's IEP;
- Special education status and IEPs or 504 plans;[54]
- School records (including prior academic performance and prior credits earned);
- Discipline records; and
- Attendance records.

To implement the Title I educational stability provisions, educational agencies are encouraged to use data related to:

- Outcomes of BID processes (for example, the frequency with which BID processes result in a student leaving their school of origin);
- School of origin transportation (for example, the average cost of providing school of origin transportation through a given provider);
- School enrollment (for example, the length of time that it takes schools to fully enroll students in foster care);
- Educational discontinuity (for example, the average length of time that a student misses school when entering foster care or changing foster care placements);
- School enrollment patterns (for example, to understand whether students in foster care are disproportionately enrolled in low-performing schools); and
- The quality and impact of technical assistance that SEAs and LEAs provide to support implementation of the Title I educational stability provisions.

[54] The regulations implementing IDEA require that a student's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. 34 C.F.R. § 300.323(d).

X. Data Collection & Reporting Requirements

X-1. What data specific to students in foster care must SEAs and LEAs include on Title I State and local report cards?

Title I State and local report cards can help highlight a school's challenges and successes, inform conversations about a student's school experience, and empower parents to be partners in their student's education. The ESEA requires that State and local report cards include the following information disaggregated by student groups, including students in foster care:

- Student achievement on the reading/language arts, mathematics, and science assessments required under ESEA section 1111(b)(2); and
- High school graduation rates (including the four-year adjusted cohort graduation rate and, at the State's discretion, extended-year adjusted cohort graduation rates).

(ESEA sections 1111(h)(1)(C)(ii)-(iii) and ESEA section 1111(h)(2)(C)).

For additional information about State and local report cards, see ED's *Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act* (Report Card Guidance).

X-2. What additional data about students in foster care can SEAs and LEAs include in Title I report cards?

The ESEA provides the minimum requirements for State and local report cards, but the statute permits SEAs and LEAs to include additional information on the report card that will "provide parents, students, and other members of the public with information" about the performance of students and schools. (ESEA sections 1111(h)(1)(C)(xiv) and(h)(2)(C)(iii)). As noted in Question X-1, ESEA section 1111(h) requires that State and local report cards include information on student achievement on State assessments and high school graduation rates, disaggregated by students in foster care. Additionally, SEAs and LEAs are encouraged to include students in foster care as a student group for required report card elements for the State overall and for each LEA and school, including:

- Performance on the Other Academic Indicator for elementary and secondary schools that are not high schools;
- Performance on the School Quality or Student Success indicator(s);
- Chronic absenteeism; and
- Postsecondary enrollment rates for each high school, if available.

In addition, to provide parents, students, and the public a more complete understanding of the unique experiences and academic outcomes for students in foster care, SEAs and LEAs are encouraged to include additional information about students in foster care on annual State and local report cards. Such additional information may include:

- Rates of participation in extracurricular activities;
- Rates of participation in career and technical education programs;
- Rates of participation in accelerated coursework, including Advanced Placement (AP) courses, International Baccalaureate (IB) programs, and courses for college credit;
- Average number of foster care placement changes and school placement changes;
- Number and percentage of students who receive special education services;
- Number and percentage of students who receive EL services;
- Number and percentage of students who have been involved with the juvenile justice system; and
- Number and percentage of students who have experienced homelessness.

When considering optional information to include in State and local report cards, the ESEA requires an SEA to ensure that such information does not reveal personally identifiable information about individual students. For additional information about ensuring student privacy on State and local report cards, please consult ED's Report Card Guidance.

X-3. What data about students in foster care do SEAs and LEAs report to ED as part of the ED*Facts* Initiative?

The ED*Facts* Initiative (ED*Facts*) is an ED project to collect, analyze, and promote the use of high-quality data. Annual data reporting through ED*Facts* is required for State formula grantees, and data reported through ED*Facts* is aggregated at the school, district, and State levels. Through ED*Facts*, States report the following State- and district-level data about students in the foster care subgroup:

- Achievement on reading/language arts, mathematics, and science assessments;
- Adjusted cohort graduation rates; and
- Enrollment counts for LEAs that receive Title I subgrants.[55]

For more information on Ed*Facts* reporting requirements, please visit the Ed*Facts* website.

X-4. What data does ED publish about students in foster care?

ED publishes publicly available data on ED Data Express, which currently includes data from ED*Facts*, Consolidated State Performance Reports (CSPR), and ED's Budget Service office. ED Data Express includes the following national, State, and local data on students in foster care:

- Achievement on reading/language arts, mathematics, and science assessments; and
- Adjusted cohort graduation rates.

Beginning in fall 2024, ED will publish ED*Facts* data on the enrollment of students in foster care in LEAs that receive Title I subgrants on ED Data Express.

For more information about data published by ED, please visit eddataexpress.ed.gov.

X-5. What data do child welfare agencies collect about the education of students in foster care?

Child welfare agencies must include certain education records in the case plans of students receiving a Title IV-E foster care maintenance payment. (See Section V for more information about Title IV-E foster care maintenance payments.) These educational records must include:

- The most recent information available regarding the names and addresses of the student's educational providers;
- The student's grade-level performance;
- The student's school record; and
- Any other relevant education information that the child welfare agency has determined is appropriate to include in the case plan.

(SSA section 475(1)(C)).

For details and examples of data sharing between educational agencies and child welfare agencies, see ACYF-CB-IM-23-09.

[55] Collection of enrollment counts for LEAs receiving Title I subgrants began in the 2022-2023 school year.

X-6. Do child welfare agencies report data about educational outcomes to HHS?

The Adoption and Foster Care Analysis and Reporting System (AFCARS) collects information from State Title IV-E agencies on all children in foster care, as described in the Technical Bulletin for data elements for out of home care, adoption, and guardianship data files. Title IV-E agencies are required to submit AFCARS data twice a year, and this data includes:

- The number of children entering and exiting foster care;
- The age, race, and ethnicity of children in foster care;
- Where children in foster care are placed (e.g., with a relative, therapeutic foster home, group home);
- The length of time children remain in care; and
- Associated outcomes (e.g., reunification, adoption).

(SSA section 479).

Beginning in FY 2023, States began reporting several education-related elements for children in foster care as part of their AFCARS data reporting including:

- A student in foster care's current level of schooling (e.g., K-12, postsecondary);
- The highest grade completed by a student in foster care; and
- Whether the student in foster care has an IEP or individualized family service plan (IFSP).

X-7. What data does HHS publish about children and youth served by the foster care system?

HHS publishes the AFCARS Report (TAR), which presents a national summary of foster care and adoption data during a given fiscal year. The publicly available foster care data includes numbers entering and exiting foster care; their outcomes, ages, race/ethnicity, and associated lengths of time in care. The publicly available adoption data includes but is not limited to ages at finalization, race/ethnicity of those adopted, and lengths of time to important milestones in the adoption process. State TARs are available for all 50 States, the District of Columbia, and Puerto Rico. Access the TAR at https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/afcars.

SEAs and LEAs are encouraged to develop routines to periodically review publicly available data on children in foster care, including data from the TAR.

X-8. How can educational agencies gather additional data about the needs of students in foster care from non-governmental organizations?

Many non-governmental organizations, including community-based organizations and advocacy organizations, work directly with students in foster care and their caregivers. These non-governmental organizations may fund research and publish data about the unique needs and experiences of students in foster care. Additionally, non-governmental organizations that provide direct services to students and families involved in the child welfare system may publish data about the impact of their programs. To fully understand and meet the needs of students in foster care, SEAs and LEAs are encouraged to consider all data available about this student population, including data from non-governmental organizations. As such, educational agencies are encouraged to maintain awareness of local and State-wide programming available for students in foster care funded by community-based organizations, including outcome data and information about these programs. Similarly, SEAs and LEAs are encouraged to periodically review emerging research and data about the unique needs of students in foster care, including relevant information published by State or national advocacy organizations.

Y. Interagency Data-sharing Routines

Y-1. Why are educational agencies and child welfare agencies encouraged to share data and information about students in foster care?

Data sharing between educational agencies and child welfare agencies can be a critical part of interagency collaboration toward improved educational outcomes for students in foster care. For example, the exchange of data between educational agencies and child welfare agencies can help chart a student's academic progress, recognize the impact of school placement changes, and identify interventions to support each student. Further, a data exchange between educational agencies and child welfare agencies helps schools and LEAs identify which students are in foster care, allowing each student to receive the Title I services to which the student is entitled. Additionally, data sharing between educational agencies and child welfare agencies supports systems in identifying needed resources, measuring progress, and implementing system-level change to improve outcomes for students in foster care.

Y-2. Does Title I require educational agencies to develop interagency data-sharing routines with child welfare agencies?

While Title I does not require educational agencies to develop interagency data-sharing routines with child welfare agencies, under the ESEA, every educational agency must annually and publicly report on key indicators for the students in foster care student group on State and local report cards. (For more information about these public reporting requirements, see Questions X-1 and X-2.) To ensure that SEAs and LEAs publicly report data that are accurate and complete, educational agencies are encouraged to collaborate with child welfare agencies to identify the members of this student group, and interagency data-sharing routines can be used to accurately identify students in foster care.

Y-3. Are child welfare agencies required to develop interagency data sharing routines with educational agencies?

No. While there is not a requirement to develop interagency data sharing routines, State and Tribal child welfare agencies may develop an optional Comprehensive Child Welfare Information System (CCWIS). CCWIS provides a Federally supported option for building what is needed to support child welfare staff, using the latest information technology tools available, focusing on data quality and on interagency data sharing, so that the staff have the right information they need at the right time to do their work. CCWIS can be used to organize and record quality case information about students in foster care to bolster educational planning for children who are in foster care. CCWIS requires bi-directional data exchanges with education agencies, where practicable. (45 C.F.R. § 1355.52(e)(2)(vi)). Whether a child welfare agency has a CCWIS or not, SEAs and LEAs are encouraged to develop data-sharing routines to periodically exchange information with child welfare agencies regarding the foster care population in their State or LEA.

Y-4. How can educational agencies and child welfare agencies structure an interagency data-sharing agreement?

As the ESEA does not require educational agencies to share data with child welfare agencies, the law does not prescribe specific structures or routines for interagency data-sharing. Accordingly, educational agencies and child welfare agencies can design data-sharing routines that are uniquely tailored to achieve their respective goals. In establishing data-sharing routines, educational agencies and child welfare agencies are encouraged to consider the following factors.

Formality of Data-Sharing Routine	Will the data-sharing routine be governed by a formal agreement (such as a memorandum of understanding) or an informal agreement?
Directionality of Exchange	Will the data-sharing routine require a one-way exchange of data (with data only flowing, for example, from the child welfare agency to the educational agency) or a bi-directional exchange of data (with both agencies sharing data)?
Frequency of Exchange	How frequently will parties share data with one another using the data-sharing routine?
Data Elements	What data does each participating agency commit to sharing via the data-sharing routine? (For additional information about data elements, see Questions Y-5 and Y-6.)
Data Use	How will each participating agency use data and information acquired via the data-sharing routine?
Access by Third Parties	Will the data-sharing routine permit participating agencies to share data and information with third parties? (For example, under a State-level data-sharing routine, will the SEA be permitted to share relevant data elements with its LEAs?)

Refer to ED's 2023 data-sharing snapshots for examples of how some educational agencies and child welfare agencies are structuring their interagency data-sharing agreements.

Y-5. What types of data could educational agencies share with child welfare agencies?

Educational agencies have access to important information about individual students in foster care and the educational program itself. The following table provides some examples of data that educational agencies could share with child welfare agencies to help support the educational stability and success of students in foster care.

Student-centered Data	Program-centered Data
For each student in foster care: • The student's enrollment and attendance records; • The student's academic records; • The student's identification as an EL or student with a disability; • Records of the student's behavior and discipline history; • Involvement in extracurricular activities; and • Class schedules, including whether the student is in advanced or remedial courses.	• LEA POC contact information; and • Outcome data for students who are not in foster care.

Refer to ED's 2023 data-sharing snapshots for examples of the data elements some educational agencies and child welfare agencies include in their interagency data-sharing agreements.

Y-6. What types of data could child welfare agencies share with educational agencies?

Child welfare agencies have access to important information about individual students in foster care and the child welfare agency itself. The following table provides some examples of data that that could be helpful for child welfare agencies to share with educational agencies to help support the educational stability and success of students in foster care. Whether the Title IV-E agency can share this data depends on local, State, and Federal laws, regulations, and policies regarding confidentiality and data sharing.

Student-centered Data	Program-centered Data
For each student in foster care: • When the student enters or exits foster care; • Data regarding foster care placement and placement changes; • Name and contact information for the student's current caregivers and guardians; and • Education information in the student's case plan (e.g., transportation details).	• Caseworker contact information; • Child welfare agency POC contact information; and • Whether the child welfare agency has a CCWIS.

Refer to ED's 2023 data-sharing snapshots for examples of the data elements some educational agencies and child welfare agencies include in their interagency data-sharing agreements.

Z. Data Privacy

Z-1. Does FERPA prohibit educational agencies from sharing data and information about students in foster care with other educational agencies?

No. FERPA applies to an educational agency's disclosure of a student's education records and personally identifiable information (PII) contained therein. Under FERPA, an educational agency generally may not disclose education records or PII from a student's education records to a third party unless the student's parent[56] (or the eligible student, which means a student who is 18 or older or in attendance at an institution of postsecondary education) has provided prior written consent. (20 U.S.C. § 1232g(b); 34 C.F.R. § 99.30).

However, there are exceptions to FERPA's general consent requirement that permit an educational agency to disclose PII from the education record of students in foster care with other educational agencies for certain purposes. For example, an educational agency may disclose PII to another school or school system in which the student seeks or intends to enroll, or where the student is already enrolled, as long as the purpose of the disclosure is related to the student's enrollment or transfer. An educational agency that discloses PII from a student's education records under this exception must make a reasonable attempt to notify the parent or the eligible student of the disclosure, unless the disclosure is initiated by the parent or the eligible student, or the annual notification of rights of the educational agency under FERPA includes a notice that the educational agency forwards education records to other schools or school systems that have requested the records and in which the student seeks or intends to enroll or is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer. An educational agency that discloses PII from education records under this exception also must provide the parent or eligible student, upon request, a copy of the education records that were disclosed and, upon request, an opportunity for a hearing to amend the education records that were disclosed. (20 U.S.C. § 1232g(b)(1)(B); 34 C.F.R. §§ 99.31(a)(2) and 99.34).

Z-2. What types of PII from education records does FERPA allow educational agencies to share with child welfare agencies without the prior written consent of the parent or eligible student?

The Uninterrupted Scholars Act amendment (USA) of FERPA permits an educational agency to disclose PII from education records without the prior written consent of the parent or eligible student to an agency caseworker or other representative of a State or local child welfare agency or Tribal organization authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with State or Tribal law, for the care and protection of the student. (20 U.S.C. § 1232g(b)(1)(L)). The USA is clear that the PII from education records disclosed to the child welfare agency or Tribal organization under the USA exception must only be used by the child welfare agency to address the educational needs of children in foster care placement, including IDEA-related needs of the child in foster care placement. For additional information, please see ED's guidance on the USA amendments.

[56] ED has recognized foster parents as parents under FERPA. For additional information, refer to ED's guidance on the USA amendments available at https://studentprivacy.ed.gov/resources/uninterrupted-scholars-act-guidance.

Z-3. Does FERPA permit educational agencies to share PII from education records of students in foster care with other stakeholders?

It depends. As stated in Question Z-1, under FERPA, an educational agency generally may not disclose PII from a student's education records to a third party unless the student's parent or the eligible student has provided prior written consent. However, there are some exceptions to FERPA's general consent requirement that permit educational agencies to disclose PII from education records without consent for certain purposes. FERPA does not require educational agencies to disclose PII from education records under a FERPA exception. For additional information on FERPA exceptions, please see the Student Privacy Policy Office website and the disclosure section in ED's Parent Guide to the FERPA.