

## **Summary of Major Amendments on Homelessness and Foster Care in “The Every Student Succeeds Act of 2015”**

The “Every Student Succeeds Act of 2015,” (ESSA), includes nearly all of NAEHCY’s recommendations to strengthen and improve the education of over 1.3 million children and youth experiencing homelessness, from early childhood through high school graduation. It incorporates best practices from states and school districts across the country to increase the identification, enrollment, stability, and school success of children and youth experiencing homelessness. ESSA increases resources for homeless students by expanding the availability and use of Title IA funds, and by raising the authorized funding level for the McKinney-Vento Act’s Education for Homeless Children and Youth program.

ESSA also includes nearly all of NAEHCY’s recommendations to provide children and youth in foster care with core protections for school stability and school access through a statutory vehicle that is separate from the McKinney-Vento Act, and that outlines clear, distinct and appropriate responsibilities for both the education and child welfare agencies.

Taken together, these amendments will assist students experiencing homelessness to enroll in and attend school, complete their high school education, and continue on to higher education—their best hope of avoiding poverty and homelessness as adults.

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Unless otherwise noted, the amendments made to Title I, Part A and the McKinney-Vento Act go into effect on July 1, 2016.<sup>1</sup>

### **Title I Part A of the Elementary and Secondary Education Act**

- State Title I plans must describe how the state educational agency (SEA) will provide support to local educational agencies to ensure the identification, enrollment, attendance, and school stability of homeless children and youth.
- Local Title I plans must describe the services the local educational agency (LEA) will provide to support the enrollment, attendance, and success of homeless children and youth, including services provided with the Title I homeless reservation, in coordination with the services the LEA provides under the McKinney-Vento Act.
- All LEAs that receive Title I Part A funds must reserve funds to support homeless students.

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<sup>1</sup> While the bill currently includes conflicting effective dates for the McKinney-Vento Act, this conflict will be rectified as a technical amendment clarifying the July 1 effective date.

- The amount of Title I funds reserved for homeless children and youth may be determined based on a needs assessment, and must be based on the total allocation received by the LEA and reserved prior to any allowable expenditure of transfers by the LEA.
- Title I funds reserved for homeless children and youth may be used for services not ordinarily provided by Title I, including local liaisons and transportation to the school of origin.
- State report cards must include disaggregated information on the graduation rates and academic achievement of homeless children and youth, and children and youth in foster care.

## **McKinney-Vento Act's Education for Homeless Children and Youth Program**

### **State Coordinators and Local Liaisons**

- States must designate State Coordinators who can sufficiently carry out their duties.
- State Coordinators must:
  - Inform school personnel, service providers and advocates of the contact information and duties of liaisons, including publishing an annually updated list of liaisons on the SEA website.
  - Respond to inquiries from homeless parents and unaccompanied youth, to ensure they receive the full protections and services provided by the law.
  - Post the number of homeless children and youth on the SEA website annually.
  - Develop and implement professional development programs for liaisons and other LEA personnel to improve their identification of homeless children and youth and heighten their awareness of, and capacity to respond to, specific needs in the education of homeless children and youth. Such training must include information on certain specified federal definitions of homelessness.
  - Conduct monitoring of LEAs.
- Local liaisons must:
  - Be able to carry out their duties described in the law.
  - Disseminate public notice of McKinney-Vento rights in locations frequented by parents, guardians, and unaccompanied youth, in a manner and form understandable to parents, guardians, and youth.
  - Ensure that school personnel providing McKinney-Vento services receive professional development and other support.
- SEAs and LEAs must adopt policies and practices to ensure that liaisons participate in professional development and other technical assistance activities, as determined appropriate by the State Coordinator.

### **School Stability**

- In determining the school that is in a child or youth's best interest to attend, LEAs must:
  - Make a best interest determination, with a presumption that staying in the school of origin is in the child or youth's best interest, unless it is against the wishes of the parent, guardian or unaccompanied youth.
  - Consider student-centered factors related to the child's or youth's best interest, including factors related to the impact of mobility on the achievement, education, health, and safety

- of homeless children and youth, giving priority to the wishes of the parent or guardian, or the unaccompanied youth.
- Provide a written explanation including the right to appeal the decision, if after conducting the best interest determination, the LEA determines that it is not in the child's or youth's best interest to attend the school of origin or the school requested by the parent, guardian or unaccompanied youth. The explanation must be in a manner and form understandable to the parent, guardian or youth.
- Give priority to the views of unaccompanied youth in best interest determinations.
- The definition of school of origin includes the designated receiving school at the next grade level for all feeder schools, when a student completes the final grade level served by the school of origin. The determination of whether it is in a student's best interest to follow the feeder school pattern is subject to the same process as other best interest determinations.
- When a student obtains permanent housing, transportation to the school of origin must be provided until the end of the academic year, if it is in the student's best interest to remain in that school.

### **Enrollment and Full Participation**

- Homeless children and youth must be enrolled in school immediately, even if they have missed application or enrollment deadlines during any period of homelessness.
- SEAs and LEAs must develop, review, and revise policies to remove barriers to the identification, enrollment, and retention of homeless students in school, including barriers due to fees, fines, and absences.
- States must have procedures to ensure that homeless children and youth who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State or local levels.
- If a dispute arises over eligibility, school selection or enrollment, the child or youth must be immediately admitted to the school in which the parent, guardian or unaccompanied youth seeks enrollment, pending resolution of the dispute, including all available appeals.
- In the case of a dispute, written explanations must be provided of decisions related to school selection or enrollment made by the school, LEA or SEA, including the right to appeal.

### **Credit Accrual and College Readiness**

- States must have procedures to identify and remove barriers that prevent youth from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies.
- Local liaisons must ensure that unaccompanied homeless youth have opportunities to meet the same State academic achievement standards as the State establishes for other children and youth, including by implementing procedures to remove barriers that prevent homeless youth from receiving credit for full or partial coursework satisfactorily completed at a prior school.
- State plans must describe how homeless youth will receive assistance from school counselors to advise, prepare, and improve their readiness for college.

- Local liaisons must ensure that unaccompanied homeless youth informed of their status as independent students for college financial aid and may obtain assistance to receive verification for the FAFSA.

### **Preschool Children**

- State plans must include procedures that ensure that homeless children have access to public preschool programs, administered by the SEA or LEA, as provided to other children.
- Liaisons must ensure homeless families and children can access early intervention services under IDEA Part C, if eligible.
- The definition of school of origin includes preschools.

### **Identification of Homeless Children and Youth**

- Identification of homeless children and youth is added to:
  - The activities and services for which state grants must be used.
  - The professional development activities for liaisons and other school personnel that States must provide.
  - The list of barriers that SEAs and LEAs must regularly review and revise.
  - The purpose of coordination among liaisons and community and housing agencies.
  - The purpose of LEA subgrants.

### **Homeless Children and Youth with Disabilities**

- LEAs must coordinate McKinney-Vento and special education services within the LEA, and with other involved LEAs.

### **Privacy**

- Schools must treat information about a homeless child's or youth's living situation as a student education record, subject to all the protections of the Family Educational Rights and Privacy Act (FERPA).

### **Access to HUD Homeless Assistance**

- Local liaisons are authorized to affirm whether children and youth meet the U.S. Department of Housing and Urban Development (HUD) definition of homelessness, to qualify them for HUD homeless assistance programs.
- Liaisons must refer homeless families and students to housing services, in addition to other services.

### **McKinney-Vento Subgrants**

- In addition to existing quality criteria, subgrant applications will be judged on the extent to which the LEA uses the subgrant to leverage resources, including maximizing nonsubgrant funds for the position of the liaison and the provision of transportation, and how the LEA uses Title IA set-aside funds to serve homeless children and youth.
- McKinney-Vento subgrant funds may be used to attract, engage, and retain homeless children and youth who are not enrolled in school.

- McKinney-Vento subgrant funds may be used for extraordinary or emergency assistance needed to enable homeless children and youths to attend school and participate fully in school activities.

### **U.S. Department of Education**

- The Secretary must:
  - Disseminate public notice about the educational rights of homeless children and youth nationwide to all Federal agencies and grant recipients serving homeless families, children or youth.
  - Provide support and technical assistance to SEAs concerning areas in which documented barriers to a free appropriate public education persist.
  - Issue guidelines concerning how a State may assist LEAs to implement the amendments and may revise state policies and procedures to remove barriers to the identification, enrollment, attendance, and success of homeless children and youth in school.

### **Funding Level**

- The bill authorizes \$85 million for each of fiscal years 2017 through 2020. This represents a 21% increase over the previously authorized level of \$70 million, and a 31% increase over the currently appropriated level of \$65 million.

### **Definitions**

- On December 10, 2016,<sup>2</sup> the phrase “awaiting foster care placement” will be deleted from the definition of homelessness in the McKinney-Vento Act.

## **Summary of Amendments on Foster Care in Title I Part A of the Elementary and Secondary Education Act**

State Title I Plans must describe the steps the SEA will take to ensure collaboration with the State child welfare agency to ensure the educational stability of children or youth in foster care, including assurances that:

- Foster youth are enrolled or remain in their school of origin, unless a determination is made that it is not in their best interest.
- The determination will be based on best interest factors, including consideration of the appropriateness of the current educational setting, and the proximity to the school in which the child is enrolled at the time of placement.
- When a determination is made that it is not in the child’s best interest to remain in the school of origin, the child will be immediately enrolled in a new school.
- The SEA will designate a point of contact for child welfare agencies, who will oversee implementation of the SEA responsibilities.
- The SEA point of contact may not be the same person as the State Coordinator for homeless children and youth under the McKinney-Vento Act.

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<sup>2</sup> In Delaware and Nevada only, children “awaiting foster care placement” will be deleted from the McKinney-Vento Act on December 10, 2017 (two years after enactment, instead of one year).

Local Title I plans must contain an assurance that LEAs receiving Title I funds will:

- Collaborate with the state or local child welfare agency to:
  - Within one year of enactment, develop and implement procedures for how transportation to maintain foster youth in their schools of origin, when in their best interest, will be provided, arranged and funded. These procedures must:
    - Ensure that foster youth who need transportation to the school of origin promptly receive it in a cost-effective manner, and in accordance with the child welfare agency's authority to use child welfare funding available under section 475(4)(A) of Title IV-E of the Social Security Act to provide transportation.
    - Ensure that if there are additional costs incurred in providing transportation to the school of origin, LEAs will provide it if:
      - They are reimbursed by the child welfare agency;
      - The LEA agrees to pay the costs; or
      - The LEA and the child welfare agency agree to share the costs.
  - Designate a point of contact for the local child welfare agency, if the local child welfare agency notifies the LEA, in writing, that it has designated a point of contact for the LEA.

### **Charter Schools and Other Programs in Title IV (21st Century Schools)**

- States receiving charter school grants under Title IV Part C of the Every Student Succeeds Act must work with charter schools on recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for foster youth and unaccompanied homeless youth.
- Unaccompanied homeless youth age 14 and older are exempted from the parental consent requirement to receive mental health assessments and services, if the provider has actively sought consent but cannot reasonably obtain it, under Title IV programs, including Safe and Healthy Students, 21<sup>st</sup> Century Community Learning Centers, charter schools, and magnet schools.