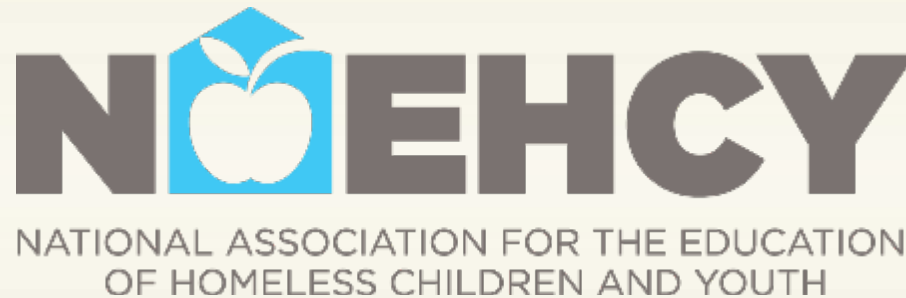


ED/HHS June 2016 Guidance on Children in Foster Care



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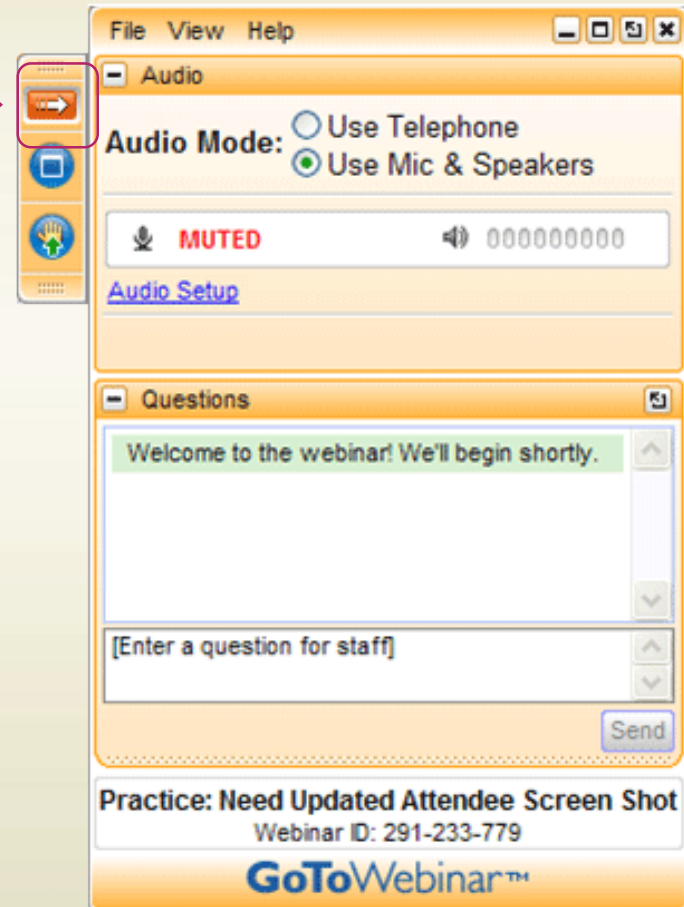
July 2016

NAEH CY

- National membership association dedicated to educational excellence for children and youth experiencing homelessness, from early childhood through higher education.
 - Local Youth Task Forces, State Higher Ed Networks, Early Childhood Committee
- Technical assistance on policy implementation.
- Bringing your voices to Congress and state legislatures.
- Youth leadership and support.

Housekeeping: Hiding the Control Panel

Hide Your
Control Panel



Housekeeping: Showing the Control Panel

Show Your
Control Panel

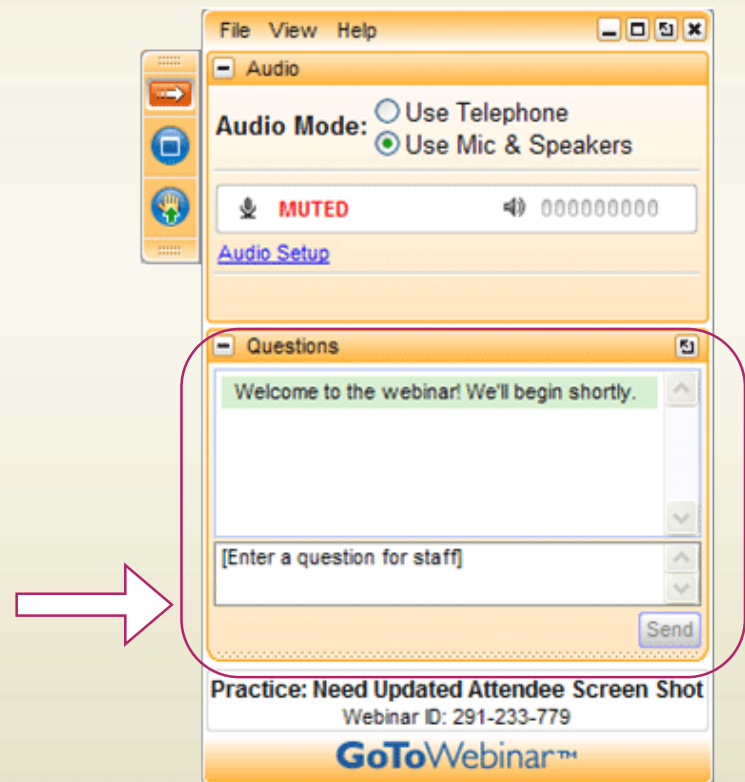


Also:

We are recording this webinar and
will make it available on-line.

Housekeeping: Using the Questions Pane

We'll only be taking written questions and comments via the Questions pane. We will either respond by typing a message in the Questions pane or will answer your question when we break for questions.



Where to Find the Documents

- Effective Dates Letter
 - <http://www2.ed.gov/policy/elsec/leg/essa/edhhseffectivedatesdcl.pdf>
- Non-Regulatory Guidance
 - <http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>
 - <http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercaredcl.pdf>
- Stakeholder Engagement Letter
 - <http://www2.ed.gov/policy/elsec/guid/secletter/160622.html>

ESSA: Statutory Context for the Guidance

- ESSA included significant amendments to Title I, Part A designed to provide school stability and immediate enrollment to children in foster care.
- Implementation of these provisions is not part of the McKinney-Vento Act and does not fall under the McKinney-Vento Coordinator's responsibility.
- ESSA also amended the McKinney-Vento Act to removed children and youth “awaiting foster care placement” from the definition of homeless.
 - Effective December 10, 2016 in all but 3 states (AR, DE, NV).

ESSA Title I Part A Amendments on Foster Care – State Title I Plans (1)

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 in foster care, including assurances that:

1. Foster youth remain in their school of origin, unless a determination is made that it is not in their best interest.
2. When a determination is made that it is not in the best interest to remain in the school of origin, the child must be immediately enrolled in a new school.

Title I Part A Amendments on Foster Care – State Title I Plans (2)

- The SEA designates 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 McKinney-Vento State Coordinator.

Title I, Part A Amendments on Foster Care-- Local Title I Plans (1)

Local Title I plans must contain an assurance that the LEA will collaborate with the state or local child welfare agency to:

- Designate a point of contact if the corresponding child welfare agency notifies the LEA, in writing, that it has designated a point of contact for the LEA.
- The statute does not specify whether the McKinney-Vento liaison can be the point of contact, but MV requires that liaisons be “able to carry out” the duties described in the law.

Title I, Part A Amendments on Foster Care-- Local Title I Plans (2)

- 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, which must:
 1. 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.

Title I, Part A Amendments on Foster Care-- Local Title I Plans (3)

2. 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.

The Guidance and Letters

- Are not laws.
- Are not legally binding.
- Represent ED's and HHS's interpretation of the laws.
- Are not the same as the proposed regulations published on May 31, 2016.
 - <http://naehcy.org/legislation-and-policy/legislative-updates/draft-essa-regulations-published-action-needed>

Effective Dates: Dear Colleague Letter (DCL)

- The DCL changes the effective dates of ESSA Title I provisions related to children in foster care.
- Under the Consolidated Appropriations Act, those provisions were supposed to take effect for the 2017-18 school year.
 - ESSA provides an earlier date (December 10, 2016) for the local transportation procedures.
- ESSA allows ED some leeway to ensure an “orderly transition.”
- ED is using this authority to change the effective dates of foster care provisions, by imposing a condition on every SEA’s Fiscal Year 2016 Title I grant award.

Effective Dates DCL (cont.)

- The DCL makes the following provisions take effect on December 10, 2016:
 - The requirement that State Title I Plans describe the steps a SEA will take to ensure collaboration with the State child welfare agency to ensure the educational stability of children in foster care, including assurances that those children can remain in their school of origin if in their best interest and be immediately enrolled in a new school when not staying in their school of origin.
 - The requirement that SEAs designate a foster care point of contact, who shall not be the McKinney-Vento State Coordinator.

Effective Dates DCL (cont.)

- The DCL makes the following provisions take effect on December 10, 2016:
 - The requirement that LEAs collaborate with child welfare agencies to develop and implement written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged and funded (with LEAs to pay additional costs only if reimbursed by child welfare agencies or if the LEA agrees to pay or share costs).

Effective Dates DCL (cont.)

- LEAs should designate foster care points of contact by December 10, 2016 if the corresponding child welfare agency has informed the LEA in writing that it has designated a point of contact for schools
 - Guidance suggests LEAs designate points of contact “in an expedited manner” (p. 21).

Non-Regulatory Guidance

- “Significant guidance is non-binding and does not create or impose new legal requirements.” (p. 3)
- References the Fostering Connections to Success and Increasing Adoptions Act of 2008, which requires child welfare agencies to: (q. 5)
 - Include a plan for ensuring educational stability in every child’s case plan.
 - Ensure the placement of each child in foster care takes into account the proximity of the placement to the child’s school.
 - Coordinate with LEAs to ensure each child in foster care can remain in the school of origin if in his/her best interest.

Non-Regulatory Guidance: Definition of “child in foster care”

- “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. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child....” (q. 1)

Non-Regulatory Guidance: SEA Responsibilities

- Repeats the ESSA language.
- “The SEA should coordinate with the State or tribal child welfare agency to develop and disseminate uniform guidelines for implementing the Title I educational stability provisions.” (q. 3)
- Designate State POC by December 10, 2016.

Non-Regulatory Guidance: LEA Responsibilities Generally

- An LEA must collaborate with State and tribal child welfare agencies to implement the Title I educational stability provisions. (q. 4)
- Provisions apply to preschool children “if an LEA offers a public preschool education.” (q. 5)
- “It is essential that the designated [state and local] POCs have sufficient capacity and necessary resources to fulfill their duties.” (p. 21)

Non-Regulatory Guidance: School of Origin

- Defined as the school in which the child is enrolled at the time of placement in foster care.
- If a child's foster placement changes, the school of origin would be the school in which the child was enrolled at the time of the placement change. (q. 10)
- Children can remain in the school of origin for their entire time in foster care. (q. 11)

Non-Regulatory Guidance: Best Interest Determinations

- “We encourage SEAs to work with the State or tribal child welfare agencies to establish guidelines to be used by LEAs and schools in coordination with local child welfare agencies to guide the decision making process.” (q. 13)
- Student-centered factors (q. 12)
- Should involve the school, child welfare, student, foster parents, biological parents, education decision-makers (q. 14)

Non-Regulatory Guidance: Best Interest Determinations

- Timeline: “as quickly as possible to prevent educational discontinuity”
 - Student should remain in the school of origin while the decision is made, “to the extent feasible and appropriate.” (q. 15)
- If there is disagreement about best interest:
 - “The relevant agencies should make every effort to reach agreement regarding the appropriate school placement of children in foster care. However, if there is disagreement regarding school placement for a child in foster care, the child welfare agency should be considered the final decision maker in making the best interest determination (unless State law or policy dictates otherwise).” (q. 18)

Non-Regulatory Guidance: Best Interest Determinations

- Other disputes:
 - “We encourage SEAs and LEAs to collaborate with child welfare agencies to develop a dispute resolution process at the local level.” (q. 19)
 - “To the extent feasible and appropriate, an LEA must ensure that a child remains in his or her school of origin while the disputes are being resolved.” (q. 20)

Non-Regulatory Guidance: Transportation

- “We encourage SEAs to include guidelines for how additional costs for transportation will be funded and to establish a mechanism or policy for LEAs to resolve interagency disputes related to transportation costs.” (q. 21)
- The Guidance repeats ESSA regarding LEA responsibilities (collaborate with child welfare to develop procedures, paying additional costs under 3 specific conditions). (q. 22)
 - Additional costs are “the difference between what an LEA otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin.” (q. 27)

Non-Regulatory Guidance: Transportation Funding

- “We encourage child welfare agencies to continue to work with the appropriate LEA(s) in exploring the full range of options for providing and funding transportation to maintain a child in his or her school of origin.” (q. 23)
- “Given the emphasis on shared agency responsibility to ensure educational stability in both the Fostering Connections Act and Title I, the LEA and the local child welfare agency should make every possible effort to reach agreement regarding how transportation should be funded if there are additional costs.” (q. 28)

Non-Regulatory Guidance: Transportation Funding (cont.)

- Allowable funds include: (q. 30)
 - State and local funds typically available for transportation.
 - Child welfare Title IV-E funds (for children eligible for IV-E foster care maintenance payments).
 - Title I funds.
 - But NOT funds from the homeless set-aside.

Non-Regulatory Guidance: Transportation Disputes

- “We recognize that there may be rare occasions when an LEA and local child welfare agency face difficulties reaching agreement on how to fund any additional costs incurred to provide transportation” (q. 28)
- Transportation procedures should include dispute provisions. (q. 28)
- States are encouraged to develop uniform state dispute processes. (q. 28)
- LEAs must provide transportation while payment disputes are resolved. (q. 32)

Non-Regulatory Guidance: Immediate Enrollment

- Enrollment “as soon as possible”, even in the absence of documents normally required. (q. 33)
- The enrolling school must contact the prior school to obtain records. (q. 33)
- SEAs and LEAs should take steps to revise policies that are barriers to enrollment and attendance. (q. 33)

Non-Regulatory Guidance: Emphasis on Collaboration

- “In light of the new Title I provisions, we encourage child welfare agencies to revisit how they are coordinating with SEAs and LEAs to meet their Title IV-E plan assurance.” (q. 6)
- “At the most basic level, we strongly encourage the child welfare agencies to notify LEAs, as they already are in many cases, when students enter foster care or change foster care placements.” (q. 38)
 - “LEAs should coordinate with child welfare agencies to establish formal mechanisms to ensure that they are promptly notified when a child enters foster care or changes foster care placements.”

Non-Regulatory Guidance: Emphasis on Collaboration

- “Successful implementation of the ESEA will require strong partnerships and consistent collaboration between educational and child welfare agencies.” (DCL accompanying Guidance)
- Cross-training and inter-agency working groups are suggested. (q. 39-40)

Guidance and DCLs: Implementation Discussion

- LEA foster care points of contact
 - Best interest determinations
 - Disputes
- Transportation
- What potential impact do you see?

ED's *Proposed Regulations* on Title I

- On May 31, ED published proposed regulations on Title I.
 - Regulations, after public comment and final publications, do have the force of law.
- Three proposed regulations on students in foster care / experiencing homelessness.
 - Transportation for Students in Foster Care
 - Achievement and Graduation Data
 - State Plan Consolidation

Proposed Regulation: Transportation for Students in Foster Care

“The SEA will ensure that an LEA receiving funds under title I, part A of the Act will provide children in foster care transportation, as necessary, to and from their schools of origin, consistent with the procedures developed by the LEA in collaboration with the State or local child welfare agency under section 1112(c)(5)(B) of the Act, even if the LEA and local child welfare agency do not agree on which agency or agencies will pay any additional costs incurred to provide such transportation.”

Make Your Voice Heard!

- Public comments on these proposals are critical!
 - Comments are due August 1, 2016.
 - Comments should be submitted via the web portal: <https://www.regulations.gov/#!documentDetail;D=ED-2016-OESE-0032-0001>
- NAEHCY's Comment Template is available at http://naehcy.org/sites/default/files/dl/legis/template_essaregs.docx
- Share you comments with your Members of Congress: www.senate.gov; www.house.gov

General Resources

National Association for the Education of Homeless Children and Youth

<http://naehcy.org>

Facebook and Twitter

National Center on Homeless Education

<http://center.serve.org/nche/>

National Network for Youth

<http://www.nn4youth.org>

DVDs for awareness-raising

- “Real Students, Real Schools”: naehcy.org/videos
- “The McKinney-Vento Act in Our Schools”: pjulianelle@naehcy.org
- <http://www.hearus.us>