



National Association of Public
Child Welfare Administrators

an affiliate of the American Public Human Services Association

Fostering Success in Education Act A Summary of S. 2801

Fostering Connections to Success and Increasing Adoption Act (P.L. 110-351) was signed into law in the fall of 2008. This landmark legislation mandated that child welfare agencies ensure the educational stability of all children under their care. Particularly, the new law requires child-placing agencies to allow children to remain in the same school after moving to another living arrangement. If it is not in the best interests of the child to remain in the school of origin, then immediate enrollment in a new school is required and the child's educational records must be transferred promptly. Child welfare agencies are obligated to coordinate with local education agencies. These same requirements were not given to education agencies.

Introduced by Sen. Al Franken (D-Minn.), the Fostering Success in Education Act (S. 2801) is designed to hold educational agencies accountable for the same academic well-being for all young people in foster care. The overall vision of S. 2801 is to create seamless coordination between child welfare and state and local education agencies to meet the educational needs of foster children.

New Assurances for Child Welfare Under IV-E Educational Stability Plan

S. 2801 creates new assurances under Title IV-E. State child welfare agencies must make certain that they have coordinated with the appropriate local education agency to ensure that the child remains in the school of origin and that child welfare agencies are covering the cost of necessary transportation. Additionally, there must be an assurance from both child welfare and education agencies that if it is not in the best interests of the child to remain in the original school, immediate enrollment in a new school has occurred and educational records have been provided to the school.

Finally, child welfare must ensure that steps have been taken to collaborate with education agencies to eliminate barriers to the educational stability, school enrollment and educational success of the child.

New State Plan Requirements for Child Welfare

Under S. 2801, state plans must include information about collaboration with education agencies on data collection and monitoring of the educational stability requirements. The plan must also provide information about how state and local child welfare agencies have identified staff to be point people within the agencies to work with state and local education agencies.

Local and State Education Requirements

S. 2801 creates a foster child's educational "bill of rights" that state and local education agencies, which receive funds under the Elementary and Secondary Education Act, must follow. Each foster child must have equal access to the same education opportunities as their peers, including early childhood and public preschool programs.

Children under state-county supervision have the right to remain in their original schools when a placement change occurs and for all subsequent changes. When it is determined that remaining in the original school is not in the child's best interest, immediate enrollment in another school is required, despite the status of academic and medical records or proof of residency. Prompt transfer of records is required. School records, including transcripts, plans, evaluations and assessment, must be maintained so that they are readily available. Records are to be transferred regardless of any owed fees or fines.

When a foster child is reunified or placed permanently with another family and his/her case is closed, the child must be afforded the opportunity to finish out the school year with necessary transportation provided by the local education agency. The education agency must treat the foster child as a resident entitled to all school privileges regardless of their place of residence.

Additionally, foster children must have equal access to public charter, private or magnet schools, advanced placement courses, vocational training, extracurricular activities and summer school. Students should be integrated and not segregated whenever possible. Foster children must be provided with free transportation to and from school regardless of their special needs. Foster youth must be allowed to transfer credits or partial credit in order to graduate.

States cannot explicitly or implicitly require attendance at a private school for children in group homes or residential placement facilities.

State and local education agencies have 120 days from enactment to change laws, regulations, policy and practice that prohibits the above.

Education Coordinator Responsibilities

Legislative language in S. 2801 mandates that states designate a coordinator within the educational agencies to serve as lead in implementing the provisions. The educational coordinator is expected to collaborate with child welfare agencies and programs under the McKinney–Vento Act and IV-E and B of the Social Security Act.

S. 2801 clarifies that it is the responsibility of the education coordinator is to ensure that the educational stability plan under P.L. 110-351 is carried out. The overarching goal of the coordinator is to ensure the success of the program by gathering information on the problems foster children have accessing public education. He/she monitors how academic barriers are being addressed and provides technical assistance to both child welfare and education agencies. The education coordinator collects data on educational outcomes for foster children and reports them to state officials and the secretary of the U.S. Department of Education.

Finally, the education coordinator ensures that a dispute resolution process is in place when disagreements over school placement occur (see page 3 for a description of the dispute resolution process).

Foster Care Liaison Responsibilities

Each local education agency will designate a foster care liaison. This person(s) will make sure that every foster child is identified, enrolled and has full and equal opportunities to educational services, including special education, English as a second language, early childhood and preschool. The liaison informs parents, educational decision-makers and child welfare agencies about opportunities available to foster children. The responsibility of the foster care liaison is to make sure that a foster child has school stability and is promptly enrolled in school. It is the responsibility of the liaison to work to expedite the transfer of records. He/she will work with school personnel to prepare for implementation of the new requirements and ensure that local child welfare and education agencies are collaborating.

Process for School Placement Decisions

The local education agency serving in the school of origin shall decide, on an expeditious basis, whether staying in the current school is in the best interests of the foster child. However, a state may decide that a dependency court, or a state or local child welfare agency should be determine school placement instead.

The child welfare agency initiates the school selection process after consulting with the foster child, educational decision-maker and parents. This process can be initiated every time the child's placement changes. Child welfare agencies must notify the foster care liaison. This provision and process is not withstanding from any dependency court ruling. All court decisions are binding. Additionally, S. 2801 provides an opportunity for the educational decision-making to inform the foster care liaison when the child-placing agency has not initiated the process.

Considerations for School Placement

Whether it is the local education agency, dependency courts or child welfare agencies that make the school placement decision, these entities may consider information from the others as well as individuals who have

knowledge about the child's educational needs, including the wishes of child, parent, educational decision-maker, foster parent, court representative and teachers. Cost of transportation may *not* be considered in deciding school placement. Other factors may include harm of school mobility, impact of the commute, age of the child and length of stay in foster care, permanency plan or personal safety issues such as domestic violence, special education needs, and time remaining in school

Cost of Transportation

S. 2801 requires local education and child welfare agencies to collaborate in providing cost-effective transportation for foster children. The local education agency is responsible for the transportation and the child welfare agency will reimburse them. Child welfare agencies may use IV-E dollars for eligible children; for those not eligible, the local education agency may consider paying or sharing the cost with child welfare agencies through cooperative agreements.

Resolving and Tracking Challenges

Dispute Resolution for School Selection: State education agencies must develop a dispute resolution process that is fair, impartial and quickly resolves disagreements on school selection. Parents, education decision-makers, CASAs and GALs and child-placing agencies must receive written notice of the school selection and reasons for the decision. Stakeholders have the right to appeal the decision, except when it is directed by the court. During a dispute, S. 2801 suggests that foster children remain in their current school with a few exceptions and education and child welfare agencies collaborate on all aspects.

Complaint Management System: States must have a complaint management system for individuals and organizations representing foster children to request investigations and corrective action when appropriate. Elementary and Secondary Education funds are immune to civil action.

Sharing Information: Education agencies, both at the state and local levels, must identify barriers to information sharing with child welfare and eliminate those barriers.

Special Exemptions for Public Preschool

Latitude is give to a child's immediate enrollment in public pre-school when it is operating at full capacity. Additionally, the dispute resolution process and transportation requirements will not apply when this occurs.

Education agencies must identify, prioritize and increase enrollment for foster children in these programs. This may be done by reserving spaces and waiving application deadlines, among other methods. Additionally, education agencies may develop capacity and provide ongoing training for staff regarding the needs of children in care. Other agencies may also develop policies and practices that remove barriers to foster children's enrollment, attendance and retention in public preschool.

Developing a Foster Child's Case Plan

At the request of a child welfare agency, local education agencies can assist in developing the child-specific case plan. Collaboration may take place around the youth's transition plan and educational stability plan, including writing descriptions of programs such as training, vouchers and vocational classes and special educational needs, particularly those in the individual educational plans.

Data Collection Requirements

The state must collect valid data and report annually to the education secretary. The report must include information on the number of foster children enrolled in school and public preschool. The information provided to the secretary must also include the number of children who remained in their original school and the number who experienced enrollment delays. The state is required to provide information on foster children's assessment scores, both on time and overall graduation rates and those that repeat grades. States are required to include information on the number of foster children who are eligible for special education and IDEA services. Education and child welfare agencies at the state and local levels are to share information and collaborate in its collection.

Grants to Improve Educational Outcomes for Foster Children

S. 2801 provides state foster care and education plan grants with funded distributed based on number of children in foster care in a given state to the national total of children in care. Grants are funded at \$150 million each year

for five years. Each state receives at least \$300,000 annually. These grants are under the authority of state education agencies, which must monitor programs and ensure compliance with the grant requirements.

States are required to submit a detailed plan on how they intend to eliminate barriers to foster youth graduating from high school; eliminate barriers to foster children having equal access to public education; and how to improve information-sharing between child welfare and education agencies. States may use 25 percent of the grant for plan implementation and the other 75 percent must be awarded as subgrants. The plan requires the approval of the secretary of education in order to receive these funds. There are set-a-sides for tribes and territories as well as technical assistance.

Report to Congress

The education secretary must report to Congress on the status of educating children in foster care no later than four years after the date of enactment.

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