

## Statutory Language and Summary

### Homelessness and Foster Care in “The Every Student Succeeds Act of 2015”

This document provides the statutory language of the major amendments on homelessness and foster care in the Every Student Succeeds Act (ESSA). ESSA strengthens and improves the education of over 1.3 million children and youth experiencing homelessness, from early childhood through high school graduation, as well as establishing protections for students in foster care through a statutory vehicle that is separate from the McKinney-Vento Act. The amendments to Title I, Part A will take effect after the 2016-2017 academic year, pursuant to the Consolidated Appropriations Act of 2016 (H.R. 2029). The amendments to the McKinney-Vento Act go into effect on July 1, 2016.<sup>1</sup>

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### 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.<sup>2</sup>
- 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.<sup>3</sup>

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

<sup>2</sup> “(g) OTHER PLAN PROVISIONS.—(1) DESCRIPTIONS.—Each State plan shall describe... (F) how the State educational agency will provide support to local educational agencies in the identification, enrollment, attendance, and school stability of homeless children and youths.” 20 U.S.C. 6311(g)(1)(F).

<sup>3</sup> “(b) PLAN PROVISIONS.-- To ensure that all children receive a high-quality education, and to close the achievement gap between children meeting the challenging State academic standards and those children who are not meetings such standards, each local educational agency plan shall describe... (6)

- All LEAs that receive Title I Part A funds must reserve funds to support homeless students.<sup>4</sup>
- 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.<sup>5</sup>
- 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.<sup>6</sup>

the services the local educational agency will provide homeless children and youths, including services provided with funds reserved under section 1113(c)(3)(A), to support the enrollment, attendance, and success of homeless children and youths, in coordination with the services the local educational agency is providing under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.).” 20 U.S.C. 6312(b)(6).

<sup>4</sup> “(c) ALLOCATIONS ... (3) RESERVATION OF FUNDS. (A) IN GENERAL.-- A local educational agency shall reserve such funds as are necessary under this part, determined in accordance with subparagraphs (B) and (C), to provide services comparable to those provided to children in schools funded under this part to serve— (i) homeless children and youths who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live.” 20 U.S.C. 6313(c)(3)(A).

*[By deleting the phrase “who do not attend participating schools”, this amendment requires all LEAs that receives Title I, Part A to reserve such funds as are necessary to provide homeless children and youth with services comparable to those provided to children in schools funded under this part.]*

<sup>5</sup> “(c) ALLOCATIONS ... (3) RESERVATION OF FUNDS... (B) METHOD OF DETERMINATION.—The share of funds determined under subparagraph (A) shall be determined— (i) based on the total allocation received by the local educational agency; and (ii) prior to any allowable expenditure or transfers by the local educational agency. (C) HOMELESS CHILDREN AND YOUTHS.—Funds reserved under subparagraph (A)(i) may be— (i) determined based on a needs assessment of homeless children and youths in the local educational agency, taking into consideration the number and needs of homeless children and youths in the local educational agency, and which needs assessment may be the same needs assessment as conducted under section 723(b)(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433(b)(1)).” 20 U.S.C. 6313(c)(3)(B) and (C)(i).

<sup>6</sup> “(c) ALLOCATIONS ... (3) RESERVATION OF FUNDS... (C) HOMELESS CHILDREN AND YOUTHS.—Funds reserved under subparagraph (A)(i) may be... (ii) used to provide homeless children and youths with services not ordinarily provided to other students under this part, including providing— (I) funding for the liaison designated pursuant to section 722(g)(1)(J)(ii); and (II) transportation pursuant to section 722(g)(1)(J)(iii) of such Act (42 U.S.C. 11432(g)(1)(J)(iii)).” 20 U.S.C. 6313(c)(3)(C)(ii).

- 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.<sup>7</sup>

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

### **State Coordinators**

- States must designate State Coordinators who can sufficiently carry out their duties.<sup>8</sup>
- 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.<sup>9</sup>
  - Respond to inquiries from homeless parents and unaccompanied youth, to ensure they receive the full protections and services provided by the law.<sup>10</sup>

<sup>7</sup> “(h) REPORTS.— (1) ANNUAL STATE REPORT CARD...**(C) MINIMUM REQUIREMENTS.—** Each State report card required under this subsection shall include the following information: ...  
 (ii) For all students and disaggregated by each subgroup of students described in subsection (b)(2)(B)(xi), homeless status, status as a child in foster care, and status as a student with a parent who is a member of the Armed Forces (as defined in section 101(a)(4) of title 10, United States Code) on active duty (as defined in section 101(d)(5) of such title), information on student achievement on the academic assessments described in subsection (b)(2) at each level of achievement, as determined by the State under subsection (b)(1).  
 (iii) For all students and disaggregated by each of the subgroups of students, as defined in subsection (c)(2), and for purposes of subclause (II) of this clause, homeless status and status as a child in foster care—... (II) high school graduation rates, including four-year adjusted cohort graduation rates and, at the State’s discretion, extended-year adjusted cohort graduation rates.” 20 U.S.C. 6311(h)(1)(C)(ii) and (iii).

<sup>8</sup> “(d) ACTIVITIES- Grants under this section shall be used for the following: ... (3) To establish or designate **in the State educational agency** an Office of **the** Coordinator for Education of Homeless Children and Youths **that can sufficiently carry out the duties described for the Office in this subtitle** in accordance with subsection (f).” 42 U.S.C. 11432(d)(3).

<sup>9</sup> “(B) NOTICE- State coordinators established under subsection (d)(3) and local educational agencies shall inform school personnel, service providers, advocates working with homeless families, **parents and guardians of homeless children and youths, and homeless children and youths** of the duties of the local educational agency liaisons, **and publish an annually updated list of the liaisons on the State educational agency’s website.**” 42 U.S.C. 11432(g)(6)(B).

<sup>10</sup> “(f) FUNCTIONS OF THE OFFICE OF COORDINATOR- The Coordinator for Education of Homeless Children and Youths established in each State shall... **(7) respond to inquiries from parents**

- Post the number of homeless children and youth on the SEA website annually.<sup>11</sup>
- 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.<sup>12</sup>
- Conduct monitoring of LEAs.<sup>13</sup>

## **Local Liaisons**

- Local liaisons must:
  - Be able to carry out their duties described in the law.<sup>14</sup>

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and guardians of homeless children and youths, and (in the case of unaccompanied youths) such youths, to ensure that each child or youth who is the subject of such an inquiry receives the full protections and services provided by this subtitle.” 42 U.S.C. 11432(f)(7).

<sup>11</sup> “(f) FUNCTIONS OF THE OFFICE OF COORDINATOR- The Coordinator for Education of Homeless Children and Youths established in each State shall-- (1) gather and make available reliable, valid, and comprehensive information on—(A) the number of homeless children and youths identified in the State, which shall be posted annually on the State educational agency’s website.” 42 U.S.C. 11432(f)(1)(A).

<sup>12</sup> “(f) FUNCTIONS OF THE OFFICE OF COORDINATOR- The Coordinator for Education of Homeless Children and Youths established in each State shall... (6) provide professional development opportunities for local educational agency personnel and the local educational agency liaison designated under subsection (g)(1)(J)(ii) to assist such personnel and liaison in identifying and meeting the needs of homeless children and youths, and provide training on the definitions of terms related to homelessness specified in sections 103, 401, and 725 to the liaison.” 42 U.S.C. 11432(f)(6).

<sup>13</sup> “(f) FUNCTIONS OF THE OFFICE OF COORDINATOR- The Coordinator for Education of Homeless Children and Youths established in each State shall... (5) provide technical assistance to and conduct monitoring of local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of subsection (e)(3) and paragraphs (3) through (7) of subsection (g)” 42 U.S.C. 11432(f)(5).

<sup>14</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (J) Assurances that the following will be carried out... (ii) The local educational agencies will designate an appropriate staff person, able to carry out the duties described in paragraph (6)(A), who may also be a coordinator

- 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.<sup>15</sup>
- Ensure that school personnel providing McKinney-Vento services receive professional development and other support.<sup>16</sup>
- 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.<sup>17</sup>

### **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.<sup>18</sup>

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for other Federal programs, as a local educational agency liaison for homeless children and youths.” 42 U.S.C. 11432(g)(1)(J)(ii).

<sup>15</sup> “(6) LOCAL EDUCATIONAL AGENCY LIAISON- (A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... (vi) public notice of the educational rights of homeless children and youths is disseminated in locations frequented by parents or guardians of such children and youths, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a manner and form understandable to the parents and guardians of homeless children and youths, and unaccompanied youths.” 42 U.S.C. 11432(g)(6)(A)(vi).

<sup>16</sup> “(6) LOCAL EDUCATIONAL AGENCY LIAISON- (A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... (ix) school personnel providing services under this subtitle receive professional development and other support.” 42 U.S.C. 11432(g)(6)(A)(ix).

<sup>17</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (J) Assurances that the following will be carried out... (iv) The State and the local educational agencies in the State will adopt policies and practices to ensure participation by liaisons described in clause (ii) in professional development and other technical assistance activities provided pursuant to paragraphs (5) and (6) of subsection (f), as determined appropriate by the Office of the Coordinator.” 42 U.S.C. 11432(g)(1)(J)(iv).

- 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.<sup>19</sup>
  - 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.<sup>20</sup>
  - Give priority to the views of unaccompanied youth in best interest determinations.<sup>21</sup>
- 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

<sup>18</sup> “(B) **SCHOOL STABILITY**- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall-- (i) ~~to the extent feasible~~ **presume that keeping the child or youth in the school of origin is in the child’s or youth’s best interest**, except when doing so is contrary to the **request** of the child's or youth's parent or guardian, **or (in the case of an unaccompanied youth) the youth.**” 42 U.S.C. 11432(g)(3)(B)(i).

<sup>19</sup> “(B) **SCHOOL STABILITY**- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall... (ii) **consider student-centered factors related to the child’s or youth’s best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth, giving priority to the request of the child’s or youth’s parent or guardian or (in the case of an unaccompanied youth) the youth.**” 42 U.S.C. 11432(g)(3)(B)(ii).

<sup>20</sup> “(B) **SCHOOL STABILITY**- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall... (iii) **if, after conducting the best interest determination based on consideration of the presumption in clause (i) and the student-centered factors in clause (ii), the local educational agency 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 or guardian, or (in the case of an unaccompanied youth) the youth, provide the child's or youth's parent or guardian or the unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information** regarding the right to appeal under subparagraph (E).” 42 U.S.C. 11432(g)(3)(B)(iii).

<sup>21</sup> “(B) **SCHOOL STABILITY**- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall... (iv) **in the case of an unaccompanied youth, ensure that the local educational agency liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, gives priority to the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).**” 42 U.S.C. 11432(g)(3)(B)(iv).



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.<sup>22</sup>

- 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.<sup>23</sup>

### **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.<sup>24</sup>

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<sup>22</sup> “(I) **SCHOOL OF ORIGIN DEFINED-** In this paragraph: ... (ii) **RECEIVING SCHOOL.**—When the child or youth completes the final grade level served by the school of origin, as described in clause (i), the term “school of origin” shall include the designated receiving school at the next grade level for all feeder schools.” 42 U.S.C. 11432(g)(3)(I)(ii).

<sup>23</sup> “(g) **STATE PLAN- (1) IN GENERAL-** For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (J) Assurances that the following will be carried out... (iii) The State and the local educational agencies in the State will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin (as determined under paragraph (3)), in accordance with the following, as applicable:

(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.” 42 U.S.C. 11432(g)(1)(J)(iii).

*[Prior to the Every Student Succeeds Act, the U.S. Department of Education had interpreted the word “homeless” in this paragraph to limit school of origin transportation to currently homeless children and youth. The elimination of the word “homeless” removes that limitation and extends the right to transportation to the school of origin to all children and youth attending their schools of origin pursuant to section 722(g)(3).]*

<sup>24</sup> “(C) **IMMEDIATE ENROLLMENT-** (i) **IN GENERAL.--** The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth... (II) **has**

- 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.<sup>25</sup>
- 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.<sup>26</sup>
- If a dispute arises over eligibility, school selection or enrollment, the child or youth must be immediately enrolled in the school in which the parent, guardian or unaccompanied youth seeks enrollment, pending resolution of the dispute, including all available appeals.<sup>27</sup>
- 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.<sup>28</sup>

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missed application or enrollment deadlines during any period of homelessness.” 42 U.S.C. 11432(g)(3)(C)(i)(II).

<sup>25</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the identification of homeless children and youths, and the enrollment and retention of homeless children and youths in schools in the State, including barriers to enrollment and retention due to outstanding fees or fines, or absences.” 42 U.S.C. 11432(g)(1)(I).

<sup>26</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (F) A description of procedures that ensure that... (iii) homeless children and youths 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, on-line learning, and charter school programs, if such programs are available at the State and local levels.” 42 U.S.C. 11432(g)(1)(F)(iii).

<sup>27</sup> “(E) ENROLLMENT DISPUTES- If a dispute arises over eligibility, or school selection or enrollment in a school-- (i) the child or youth shall be immediately ~~admitted to~~ enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals.” 42 U.S.C. 11432(g)(3)(E)(i).



## Credit Accrual and College Readiness

- States must have procedures to identify and remove barriers that prevent students from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies.<sup>29</sup>
- 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.<sup>30</sup>
- State plans must describe how homeless youth will receive assistance from school counselors to advise, prepare, and improve their readiness for college.<sup>31</sup>

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<sup>28</sup> “(E) ENROLLMENT DISPUTES- If a dispute arises over eligibility, or school selection or enrollment in a school... (ii) the parent or guardian of the child or youth or (in the case of an unaccompanied youth) the youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by the school, the local educational agency, or the State educational agency involved, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.” 42 U.S.C. 11432(g)(3)(E)(ii).

<sup>29</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (F) A description of procedures that ensure that... (ii) youths described in section 725(2) and youths separated from public schools are identified and accorded equal access to appropriate secondary education and support services, including by identifying and removing barriers that prevent youths described in this clause from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies.” 42 U.S.C. 11432(g)(1)(F)(ii).

<sup>30</sup> “(6) LOCAL EDUCATIONAL AGENCY LIAISON- (A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... (x) unaccompanied youths... (II) have opportunities to meet the same challenging State academic standards as the State establishes for other children and youth, including through implementation of the procedures under paragraph (1)(F)(ii).” 42 U.S.C. 11432(g)(6)(A)(x)(II).

<sup>31</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (K) A description of how youths described in section 725(2) will receive assistance from counselors to advise such youths, and prepare and improve the readiness of such youths for college.” 42 U.S.C. 11432(g)(1)(K).

- 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.<sup>32</sup>

### **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.<sup>33</sup>
- Liaisons must ensure homeless families and children can access early intervention services under IDEA Part C, if eligible.<sup>34</sup>
- The definition of school of origin includes preschools.<sup>35</sup>

<sup>32</sup> “(6) LOCAL EDUCATIONAL AGENCY LIAISON- (A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... (x) unaccompanied youths... (III) are informed of their status as independent students under section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) and that the youths may obtain assistance from the local educational agency liaison to receive verification of such status for purposes of the Free Application for Federal Student Aid described in section 483 of such Act (20 U.S.C. 1090).” 42 U.S.C. 11432(g)(6)(A)(x)(III).

<sup>33</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (F) A description of procedures that ensure that-- (i) homeless children have equal access to the same public preschool programs, administered by the State educational agency or local educational agency, as provided to other children in the State.” 42 U.S.C. 11432(g)(1)(F)(i).

<sup>34</sup> “(6) LOCAL EDUCATIONAL AGENCY LIAISON- (A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... (iii) homeless families and homeless children and youths have access to and receive educational services for which such families, children, and youths are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act (42 U.S.C. 9831 et seq.), early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), and other preschool programs administered by the local educational agency.” 42 U.S.C. 11432(g)(6)(A)(iii).

<sup>35</sup> “(I) SCHOOL OF ORIGIN DEFINED- In this paragraph: (i) IN GENERAL.-- The term ‘school of origin’ means the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool.” 42 U.S.C. 11432(g)(3)(I)(i).

## **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.<sup>36</sup>
  - The professional development activities for liaisons and other school personnel that States must provide.<sup>37</sup>
  - The list of barriers that SEAs and LEAs must regularly review and revise.<sup>38</sup>
  - The purpose of coordination among liaisons and community and housing agencies.<sup>39</sup>
  - The purpose of LEA subgrants.<sup>40</sup>

<sup>36</sup> “(d) ACTIVITIES- Grants under this section shall be used for the following: ... (2) To provide services and activities to improve the identification of homeless children and youths (including preschool-aged homeless children)....” 42 U.S.C. 11432(d)(2).

<sup>37</sup> “(d) ACTIVITIES- Grants under this section shall be used for the following: ... (5) To develop and implement professional development programs for liaisons designated under subsection (g)(1)(J)(ii) and other local educational agency personnel—(A) to improve their identification of homeless children and youths; and (B) to heighten the awareness of the liaisons and personnel of, and their capacity to respond to, specific needs in the education of homeless children and youths.” 42 U.S.C. 11432(d)(5).

<sup>38</sup> “(g) STATE PLAN- (1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following... (I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the identification of homeless children and youths, and the enrollment and retention of homeless children and youths in schools in the State, including barriers to enrollment and retention due to outstanding fees or fines, or absences.” 42 U.S.C. 11432(g)(1)(I).

“(7) REVIEW AND REVISIONS- (A) IN GENERAL- Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the identification of homeless children and youths or the enrollment of homeless children and youths in schools that are selected under paragraph (3).... (C) SPECIAL ATTENTION- Special attention shall be given to ensuring the identification, enrollment, and attendance of homeless children and youths who are not currently attending school.” 42 U.S.C. 11432(g)(7).

<sup>39</sup> (C) COORDINATION PURPOSE- The coordination required under subparagraphs (A) and (B) shall be designed to-- (i) ensure that homeless children and youths are promptly identified....” 42 U.S.C. 11432(g)(5)(C).

<sup>40</sup> “(a) GENERAL AUTHORITY- (1) IN GENERAL- The State educational agency shall, in accordance with section 722(e), and from amounts made available to such agency under section 726, make subgrants to local educational agencies for the purpose of facilitating the identification, enrollment, attendance, and success in school of homeless children and youths.” 42 U.S.C. 11433(a)(1).

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

- LEAs must coordinate McKinney-Vento and special education services within the LEA, and with other involved LEAs.<sup>41</sup>

## **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).<sup>42</sup>

## **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.<sup>43</sup>
- Liaisons must refer homeless families and students to housing services, in addition to other services.<sup>44</sup>

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<sup>41</sup> “(D) HOMELESS CHILDREN AND YOUTHS WITH DISABILITIES.—For children and youths who are to be assisted both under this subtitle, and under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), each local educational agency shall coordinate the provision of services under this subtitle with the provision of programs for children with disabilities served by that local educational agency and other involved local educational agencies.” 42 U.S.C. 11432(g)(5)(D).

<sup>42</sup> “(G) PRIVACY.—Information about a homeless child's or youth's living situation shall be treated as a student education record, and shall not be deemed to be directory information, under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).” 42 U.S.C. 11432(g)(3)(G).

<sup>43</sup> “(D) HOMELESS STATUS.—A local educational agency liaison designated under paragraph (1)(J)(ii) who receives training described in subsection (f)(6) may affirm, without further agency action by the Department of Housing and Urban Development, that a child or youth who is eligible for and participating in a program provided by the local educational agency, or the immediate family of such a child or youth, who meets the eligibility requirements of this Act for a program or service authorized under title IV, is eligible for such program or service.” 42 U.S.C. 11432(g)(6)(D).

<sup>44</sup> “(6) LOCAL EDUCATIONAL AGENCY LIAISON- (A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... (iv) homeless families and homeless children and youths receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services.” 42 U.S.C. 11432(g)(6)(A)(iv).

## **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.<sup>45</sup>
- McKinney-Vento subgrant funds may be used to attract, engage, and retain homeless children and youth who are not enrolled in school.<sup>46</sup>
- 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.<sup>47</sup>

## **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.<sup>48</sup>

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<sup>45</sup> “(3) QUALITY- In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:... (G) The extent to which the local educational agency will use the subgrant to leverage resources, including by maximizing nonsubgrant funding for the position of the liaison described in section 722(g)(1)(J)(ii) and the provision of transportation. (H) How the local educational agency will use funds to serve homeless children and youths under section 1113(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(c)(3)).” 42 U.S.C. 11433(c)(3)(G) and (H).

<sup>46</sup> “(d) AUTHORIZED ACTIVITIES- A local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle, including the following: ... (7) The provision of services and assistance to attract, engage, and retain homeless children and youths, particularly homeless children and youths who are not enrolled in school, in public school programs and services provided to nonhomeless children and youths.” 42 U.S.C. 11433(d)(7).

<sup>47</sup> “(d) AUTHORIZED ACTIVITIES- A local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle, including the following: ... (16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school and participate fully in school activities.” 42 U.S.C. 11433(d)(16).

<sup>48</sup> “(1) IN GENERAL.-- The Secretary shall, before the next school year that begins after the date of enactment of the Every Student Succeeds Act, update and disseminate nationwide the public notice described in this subsection (as in effect prior to such date) of the educational rights of homeless children and youths. (2) DISSEMINATION.—The Secretary shall disseminate the notice nationwide to

- Provide support and technical assistance to SEAs concerning areas in which documented barriers to a free appropriate public education persist.<sup>49</sup>
- 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.<sup>50</sup>

### **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.<sup>51</sup>

### **Definitions**

- One year after enactment, the phrase “awaiting foster care placement” will be deleted from the definition of homelessness in the McKinney-Vento Act.<sup>52</sup>

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all Federal agencies, and grant recipients, serving homeless families or homeless children and youths.” 42 U.S.C. 11434(c).

<sup>49</sup> “The Secretary shall provide support and technical assistance to State educational agencies, concerning areas in which documented barriers to a free appropriate public education persist.” 42 U.S.C. 11434(d).

<sup>50</sup> “(g) GUIDELINES- The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after the date of enactment of the Every Student Succeeds Act, guidelines concerning ways in which a State-- (1) may assist local educational agencies to implement the provisions related to homeless children and youths amended by that Act; and (2) may review and revise policies and procedures that may present barriers to the identification of homeless children and youths, and the enrollment, attendance, and success of homeless children and youths in school.” 42 U.S.C. 11434(g).

<sup>51</sup> “AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this subtitle \$85,000,000 for each of fiscal years 2017 through 2020.” 42 U.S.C. 11435.

<sup>52</sup> The deletion of “or are awaiting foster care placement” goes into effect on December 10, 2016 in every State except Delaware and Nevada, where the deletion is effective on December 10, 2017.

“(b) EFFECTIVE DATE.—

(1) IN GENERAL.—In the case of a State that is not a covered State, the amendment made by subsection (a)(1) shall take effect on the date that is 1 year after the date of enactment of this Act.

(2) COVERED STATE.—In the case of a covered State, the amendment made by subsection (a)(1) shall take effect on the date that is 2 years after the date of enactment of this Act.

(c) COVERED STATE.—For purposes of this section the term “covered State” means a State that has a statutory law that defines or describes the phrase “awaiting foster care placement”, for purposes of a



## 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.<sup>53</sup>
- 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.<sup>54</sup>
- 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.<sup>55</sup>

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program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).” Every Student Succeeds Act of 2015, Section 9105(b).

<sup>53</sup> “(g) OTHER PLAN PROVISIONS.— (1) DESCRIPTIONS.—Each State plan shall describe... (E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that— (i) any such child enrolls or remains in such child’s school of origin, unless a determination is made that it is not in such child’s best interest to attend the school of origin, which decision shall be based on all factors relating to the child’s best interest, 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.” 20 U.S.C. 6311(g)(1)(E)(i).

<sup>54</sup> “(g) OTHER PLAN PROVISIONS.— (1) DESCRIPTIONS.—Each State plan shall describe... (E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that— (i) any such child enrolls or remains in such child’s school of origin, unless a determination is made that it is not in such child’s best interest to attend the school of origin, which decision shall be based on all factors relating to the child’s best interest, 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.” 20 U.S.C. 6311(g)(1)(E)(i).

<sup>55</sup> “(g) OTHER PLAN PROVISIONS.— (1) DESCRIPTIONS.—Each State plan shall describe... (E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that... (ii) when a determination is made that it is not in such child’s best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment” 20 U.S.C. 6311(g)(1)(E)(ii).

- The SEA will designate a point of contact for child welfare agencies, who will oversee implementation of the SEA responsibilities.<sup>56</sup>
- 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.<sup>57</sup>

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.<sup>58</sup> 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.<sup>59</sup>

<sup>56</sup> “(g) OTHER PLAN PROVISIONS.— (1) DESCRIPTIONS.—Each State plan shall describe... (E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that... (iv) the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this subparagraph....” 20 U.S.C. 6311(g)(1)(E)(iv).

<sup>57</sup> “(g) OTHER PLAN PROVISIONS.— (1) DESCRIPTIONS.—Each State plan shall describe... (E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that... (iv) the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this subparagraph, and such point of contact shall not be the State’s Coordinator for Education of Homeless Children and Youths under section 722(d)(3) of the McKinney- Vento Homeless Assistance Act (42 U.S.C. 11432(d)(3)).” 20 U.S.C. 6311(g)(1)(E)(iv).

<sup>58</sup> “(c) ASSURANCES.— Each local educational agency plan shall provide assurances that the local educational agency will... (5) collaborate with the State or local child welfare agency to... (B) by not later than 1 year after the date of enactment of the Every Student Succeeds Act, develop and implement clear 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 for the duration of the time in foster care, which procedures shall— (i) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with section 475(4)(A) of the Social Security Act (42 U.S.C. 675(4)(A)).” 20 U.S.C. 6312(c)(5)(B)(i).

<sup>59</sup> “(c) ASSURANCES.— Each local educational agency plan shall provide assurances that the local educational agency will... (5) collaborate with the State or local child welfare agency to... (B) by not

- 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.<sup>60</sup>
  - 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.<sup>61</sup>

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later than 1 year after the date of enactment of the Every Student Succeeds Act, develop and implement clear 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 for the duration of the time in foster care....” 20 U.S.C. 6312(c)(5)(B).

<sup>60</sup> “(c) ASSURANCES.— Each local educational agency plan shall provide assurances that the local educational agency will...(5) collaborate with the State or local child welfare agency to... (B) by not later than 1 year after the date of enactment of the Every Student Succeeds Act, develop and implement clear 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 for the duration of the time in foster care, which procedures shall... (ii) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if—  
(I) the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;  
(II) the local educational agency agrees to pay for the cost of such transportation; or  
(III) the local educational agency and the local child welfare agency agree to share the cost of such transportation” 20 U.S.C. 6312(c)(5)(B)(ii).

<sup>61</sup> “(c) ASSURANCES.— Each local educational agency plan shall provide assurances that the local educational agency will...(5) collaborate with the State or local child welfare agency to—(A) designate a point of contact if the corresponding child welfare agency notifies the local educational agency, in writing, that the agency has designated an employee to serve as a point of contact for the local educational agency.” 20 U.S.C. 6312(c)(5)(A).

## **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.<sup>62</sup>
- 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.<sup>63</sup>

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<sup>62</sup> “(f) APPLICATIONS.—A State entity desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following: (1) DESCRIPTION OF PROGRAM.—A description of the State entity’s objectives in running a quality charter school program under this section and how the objectives of the program will be carried out, including— (A) a description of how the State entity will... (viii) work with charter schools on— (I) recruitment and enrollment practices to promote inclusion of all students, including by eliminating any barriers to enrollment for educationally disadvantaged students (who include foster youth and unaccompanied homeless youth).” Every Student Succeeds Act of 2015, Section 4303(f)(1)(A)(viii)(I); Title IV, Part C, Expanding Opportunity Through Quality Charter Schools (20 U.S.C. 7221 et seq.).

<sup>63</sup> “(a) PARENTAL CONSENT... (2) EXCEPTION.— Notwithstanding paragraph(1)(A), the written, informed consent described in such paragraph shall not be required in... (B) other instances in which an entity actively seeks parental consent but such consent cannot be reasonably obtained, as determined by the State or local educational agency, including in the case of— (i) a child whose parent has not responded to the notice described in paragraph (1)(B); or (ii) a child who has attained 14 years of age and is an unaccompanied youth, as defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).” Every Student Succeeds Act of 2015, Section 401(a)(2)(B)(ii); Title IV—21<sup>st</sup> Century Schools (20 U.S.C. 7101 et seq.).