

Analysis: 11 States Struggle to Meet Federal Education Requirements for Foster Youth

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A little more than a year after federal law mandated school districts across the country ensure foster youth are transported to school, at least 11 states are outright failing – or are clearly struggling – to make this happen, according to new reporting by *The Chronicle of Social Change*.

Starting in November and running through December, *The Chronicle* sent media requests to state departments of education in all 50 states. The requests asked whether or not states were in compliance with the Every Student Succeeds Act's (ESSA) foster youth transportation mandate.

The law, which was signed by President Barack Obama in 2015, marked the first major overhaul of federal education policy since 2001's No Child Left Behind. Part of ESSA focused on the unique educational needs of foster youth, who consistently underperform compared to their peers on all academic measures.



President Obama signing ESSA into law in 2015. Photo: Britannica.com/AP Images

A key reason for those compromised outcomes is the educational instability that these youngsters face as they are bounced from foster home to foster home while in the system.

To combat that, ESSA included a number of mandates aimed at promoting educational stability.

One of the key provisions of the law was to establish the concept of “school of origin.”

The idea is that if a child changes schools or school districts, the default is that a foster youth stays in the school they were attending prior to entering foster care, or the school they were attending prior to a change in their foster care placement.

Moving schools should only happen if the foster care agency deems it in the student’s “best interest.”

When that happens, ESSA requires that they be immediately enrolled in a new school, and that their records be transferred immediately.

If it is in the student’s best interest to stay at their so-called “school of origin,” districts are now required to ensure that these students remain enrolled. ESSA also made it the state education agency’s responsibility to ensure that districts work with child welfare agencies to provide transportation to school.

The deadline for complying with these educational stability mandates was a year after the passage of the law, so Dec. 10, 2016.

In the year since the deadline passed, *The Chronicle* has published numerous stories focused both on state struggles and successes in implementation of this portion of the law. But we had never engaged in a comprehensive national review.

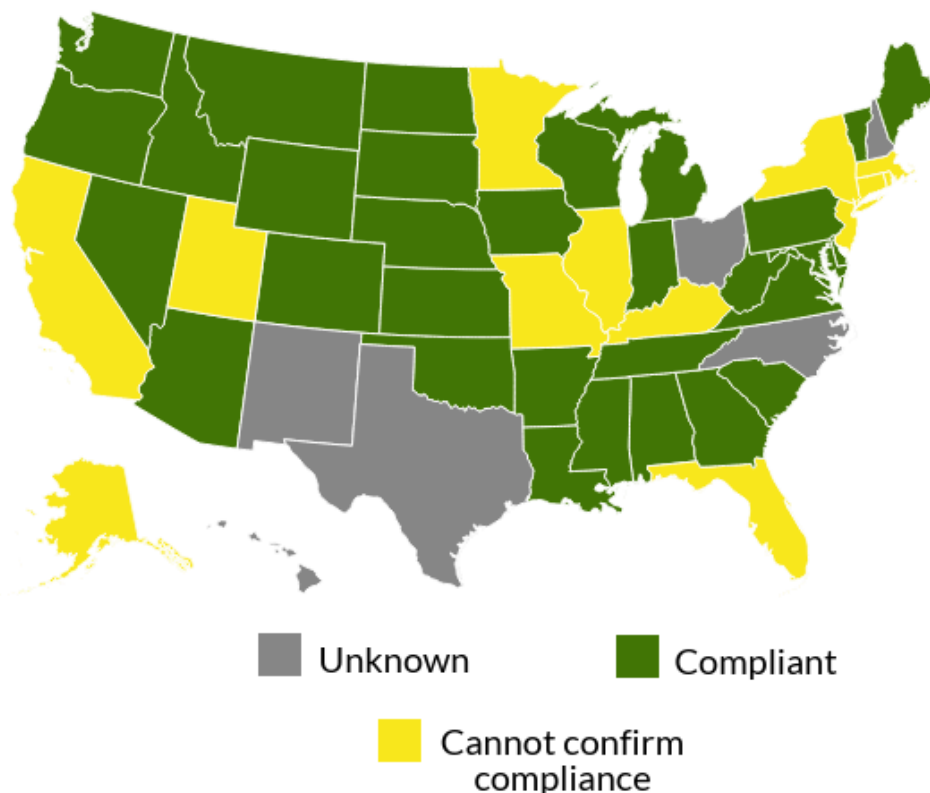
Of the 44 state departments of education that replied to our media requests, 33 stated that they had compiled assurances from every school district in their respective states that those districts had completed and implemented plans to transport foster youth to their school of origin as ESSA required.

Four states – Rhode Island, Illinois, Florida and Massachusetts – issued responses that indicate that the mandate to have transportation plans in place has not yet been met. In California, which failed to submit a response to this particular request, previous reporting has shown that implementation remains incomplete. A bright spot is Los Angeles County, which, in November, contracted with a kid-friendly ride-sharing service to get foster kids to school.

Responses from Utah, Alaska, Kentucky, New York, Minnesota and Missouri suggest that while school districts have tried to live up to ESSA, the state agencies there could not definitively confirm that they were all doing so.

In all, about 162,000 foster youth, or 37 percent of the nearly 440,000 in foster care nationally, are living in states where compliance is murky at best. An additional 60,000 live in states that failed to respond to repeated requests for information.

ESSA Compliance by State



50 Shades of Compliance

In December, *The Chronicle* [published a story](#) about New York's struggles to implement the law.

Despite the State Department of Education's assertion that 98 percent of the state's school districts had submitted assurances that they would come up with transportation plans, *The Chronicle's* reporting showed confusion regarding which system – education or foster care – was responsible for getting foster youth to school. The result: foster parents driving long distances and having to fight tooth and nail to be reimbursed for gas.

At the time, Kathleen McNaught, who directs the American Bar Association's Legal Center for Foster Care and Education within the Center on Children and the Law, said that the "short" timeline to implement ESSA was bound to cause confusion.

"It's a relatively new law, with big bureaucracies having to work together to coordinate policies, involving purse strings on all sides," McNaught said. "That brings a lot of complexities."

In other states, responses gathered suggest that the education departments there have much further to go than even New York.

After three requests directed at the transportation requirements under ESSA, a communications official with Illinois State Board of Education simply sidestepped the question.

“As of Dec. 6, 2017, 495 school districts have identified a foster care point of contact,” said the state board’s Jackie Mathews in an email.

Among ESSA’s foster care provisions was a requirement that state education agencies designate a foster care liaison in districts across the state. While Illinois’ response marks progress, there are a total of 852 school districts in the state, meaning it is 58 percent compliant with one part of the law.

In Florida, the Department of Education there isn’t even tracking whether its school districts are attempting to comply with the law.

“Unfortunately, districts do not report this data to the department,” wrote Audrey Walton, a press secretary with the Florida Department of Education. “I would suggest reaching out to districts individually.”

Massachusetts was frank in telling *The Chronicle* that it had not met the Dec. 10, 2016 deadline to come up with and implement plans for transporting foster youth to their school of origin.

“Some districts are still working out cost-sharing agreements,” wrote Jacqueline Reis, a media relations coordinator for the state’s Department of Elementary and Secondary Education. “In the meantime, some students are getting rides from their foster family, their programs or a social worker.”

Despite the difficulties some states are facing, others, like Colorado, appear to be managing ESSA’s transportation requirements well.

Jeremy Meyer, the director of communications for the Colorado Department of Education, wrote that there have been no complaints “related to compliance with transportation.”

“For example, many counties have hired employees whose primary obligations are to facilitate best interest determinations and to coordinate with school districts,” Meyer wrote. “Counties are also seeking creative transportation solutions. The preferred modes of transportation are to utilize existing school bus routes or to reimburse caregivers for their mileage. When these options are not available, counties have done whatever it takes to ensure children and youth get to school, even occasionally having caseworkers provide transportation until other arrangements can be made.”

Oversight

Under ESSA, the federal Department of Education (ED) could restrict Title I funding to school districts that have failed to comply with the mandates. Title I is the department's largest grant program, with President Donald Trump's 2018 budget allotting \$14.9 billion to assist low-income students.

When asked what ED would do to enforce ESSA given the wide variability in compliance, a communications official with the department sent *The Chronicle* a lengthy statement describing the agency's efforts to ensure compliance with ESSA's foster care mandates.

But that official, who asked not to be named, did not suggest the agency would take any substantive action.

"At this time, the Department has no knowledge of that any state agencies are out of compliance with the educational stability provisions," the statement read. "Moving forward the Department is committed to continuing to support state and district implementation efforts, and the Department is committed to ensuring the educational stability of foster youth."