February 2, 2014

The Honorable Lamar Alexander
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510

RE: Recommendations for promoting educational stability and success for children in foster care in the ESEA Reauthorization bill

Dear Chairman Alexander:

The American Bar Association has long been an advocate for the educational needs of children in foster care. Of the more than 400,000 children in foster care, 26,000 are school aged (5-18), and success in school can be a positive counterweight to the maltreatment and trauma many have experienced. Education has the potential to markedly improve their life opportunities and their ability to contribute to society as productive adults; however, research shows that far too many students in foster care are not succeeding in school and that a concerted effort is needed to address their unique educational needs.

We urge you to include recommendations to promote educational stability and success for children in foster care in the Senate Committee on Health, Education, Labor and Pensions’ bill to reauthorize the Elementary and Secondary Education Act (ESEA). These recommendations build on complementary obligations already required of child welfare agencies in federal law and a joint letter by the Departments of Education and Health and Human Services issued last year.

- **Right to Remain in the Same School:**
  ESEA should require that children remain in their same school when they enter care and change placements provided it is in their best interest. Children in foster care frequently change schools – when they originally enter foster care and when they later move from one foster care living arrangement to another, impeding their academic progress and contributing to low test scores and academic achievement and high drop-out rates. Instability makes it difficult for children to develop supportive relationships with teachers and peers.

- **Right to Immediate Enrollment in School:**
  ESEA should ensure that children in foster care can enroll immediately when a school change is necessary, even without the records normally required for enrollment. These children frequently face delays in school enrollment, often because of
delays in sending school records, missing or incomplete records, or the failure to meet requirements for enrollment, such as proof of immunizations.

- **Maintaining and Transferring Records:**
  ESEA should ensure that school records are maintained and immediately transferred if a child in foster care enters a new school. Children in foster care frequently change schools, which often results in important school records’ being lost or delayed while being transferred to the new school. When a child in foster care enters a new school, it is important that any records ordinarily kept by a school – including records of immunizations, health screenings, and other required health records, academic records, birth certificates, evaluations for special services or programs, and any individualized education programs – are maintained and available and immediately transferred to the enrolling school even if the child owes fees or fines or was not withdrawn from the previous school in conformance with local withdrawal procedures.

- **Help from a “Point of Contact”:**
  ESEA should require that school districts and child welfare agencies both have points of contact designated to assist children in foster care to get the education they need. A “point of contact” plays a vital role in helping children in care – by making it easier to identify a child’s educational needs, making sure the child is receiving the necessary supports and services to ensure educational success, and ensuring children are transferred promptly, receive credits, and have transportation to school. For children changing schools frequently, a point of contact can play a critical role in connecting the child with his or her new school community and supporting interagency collaboration and training. In current law, every local education agency (LEA) must designate a homeless liaison for students who are homeless, which has been an invaluable resource. Many of them already have large caseloads and separate points of contact should be included for students in foster care, particularly in high needs LEAs. The point of contact for students in foster care at the State Education Agency must also be different than the point of contact for students who are homeless and protected under McKinney Vento.

- **District and School Data on Children in Foster Care:**
  ESEA should promote the collection, evaluation and sharing of information on the education of children in foster care to help improve educational outcomes. Data can be useful in preventing individual children from falling behind and for adjusting relevant policies, programs and practices for students in foster care. Currently too little data and information sharing exist. At a minimum, the federal government must be able to obtain relevant data that exist and encourage states to use data collection to better understand the educational needs of these children. The Education Department should also add foster care status to the disaggregated data it collects.

- **Ensuring Credit for School Work Completed:**
  ESEA should require that credits children in foster care receive travel with them and are recognized when school moves are necessary. More than half of the children in foster care change schools while in care; more than a third of youth ages 17-18 have changed schools at least five times. Frequently, these moves do not coincide with natural
breaks in the school calendar, and children in care often receive no credit for work already completed, resulting in their repeating courses and grades, being short of credits, and being unable to graduate on time. Some end up dropping out of school. ESEA should require states and school districts to ensure students in foster care receive credit for work completed and that these credits are accepted as students move from school to school and district to district.

- **Providing Needed Transportation:**
  Federal policies should require that child welfare and education agencies collaborate to develop and implement a plan on how transportation will be provided, arranged, and funded to keep students in foster care in their school of origin when it is in the child’s best interest. Not every child in foster care requires transportation to remain in his or her current school. For some children, transportation can be provided at low or no cost. However, some will need transportation to a school or school district. Without a clear obligation on the child welfare or education agency to provide transportation, children can be deprived of school stability. Arrangements often are best made at the local child welfare agency and school district level, and a collaborative state plan can help ensure that happens. Local educational agencies also should be required to provide transportation back to their schools for children who leave foster care before the end of the school year, if it is in the children’s best interest to stay at that school.

We strongly urge you to include the recommendations noted above in the HELP Committee’s ESEA Reauthorization bill to promote the educational stability and success for children in foster care. It is the lifeline to a successful future for many of them.

We would appreciate the opportunity to discuss any or all of our comments with you in further detail and to provide specific language. For further information, please contact Bruce Nicholson, Senior Legislative Counsel (tel. (202) 662-1769; bruce.nicholson@americanbar.org).

Sincerely,

Thomas M. Susman  
Director  
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American Bar Association