

# **Every Student Succeeds Act and Children in Foster Care**

*March 21, 2017*

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*American Bar Association, Center on Children and the Law*

# ABA Center on Children and the Law



- ❑ Goal to promote access to justice for children and families
- ❑ Nonprofit grant-funded program of the American Bar Association that uses the law to help child welfare and court systems work more effectively
- ❑ Informs and improves legal practice through technical assistance, training, research, and other efforts, making access to justice real for the nation's children and families

## **2017 Spring conferences coming up:**

[http://www.americanbar.org/groups/child\\_law/2017-conferences.html](http://www.americanbar.org/groups/child_law/2017-conferences.html)

- April 25-26: 5th National Parent Attorney Conference
- April 27-28: 17th National Conference on Children & the Law



LEGAL CENTER FOR

**FOSTER CARE & EDUCATION**

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**WWW.FOSTERCAREANDEDUCATION.ORG**

- Listserv, Training Materials, Webinars, Factsheets and Issue Briefs
- Searchable Database (includes state laws & policies)
- Facilitate Networks: National Working Group/Education Advisory Group
- Provide state and local technical assistance and support

The logo for the Education Law Center. It consists of a blue rectangular box with the words 'EDUCATION' and 'LAW CENTER' stacked vertically in white, sans-serif, all-caps font. The box is flanked by yellow horizontal bars above and below it.

**EDUCATION  
LAW CENTER**

# Voices of Former Foster Youth

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<https://vimeo.com/51964222>

STUART FOUNDATION

IMPROVING LIFE OUTCOMES FOR YOUNG PEOPLE THROUGH EDUCATION

*“Education was one of the few stabilities I had in my life. My hope would be that a family would fill that role, but for me, it was education. That was the greatest gift. Everything else was taken away from me, but education wasn’t.... It made the difference.”*

*Former Foster Youth*

*At event supported by NCSL and Excal Consulting Partners LLC. (March 2008)*

# Education Barriers Experienced by Children in Foster Care

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# Education Barriers Experienced by Children in Foster Care

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- ❑ Lack of placement stability = school instability
- ❑ Delayed enrollment
- ❑ Credit transfer issues & graduation requirements
- ❑ Children with special education needs are not identified or fail to receive services
- ❑ Disproportionate rates of suspension and expulsion
- ❑ Over-representation in alternative education programs
- ❑ Inferior on-site educational programs

# What the Research Shows

## Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care

January 2014

### Why Education Matters to Children in Foster Care

When supported by strong practices and policies, positive school experiences can counteract the negative effects of abuse, neglect, separation, and lack of permanency experienced by the nearly 400,000 U.S. children and youth in foster care. Education provides opportunities for improved well-being in physical, intellectual, and social domains during critical developmental periods and supports economic success in adult life. A concerted effort by child welfare agencies, education agencies, and the courts could lead to significant progress in changing the consistent and disheartening picture about educational outcomes for children in foster care the research portrays. The promising programs and interventions highlighted below represent innovative efforts to address a wide range of factors influencing the disparities in education outcomes. With cross-system collaboration, we are positioned to build on what is being learned, bring about change, and promote success for all children and youth in foster care.

### Fast facts from national and multi-state studies\*

Number of children and youth in foster care on September 30, 2012	399,546
Average number of living arrangements during first foster care stay	2.8
Number of foster children of school age	249,107
Likelihood of being absent from school	2x that of other students
Percent of foster youth who change schools when first entering care	56%-75%
Percent of 17-18 year olds in care who have experienced 5+ school changes	34%
Likelihood of 17-18 year old foster youth having an out-of-school suspension	2x that of other students
Likelihood of 17-18 year old foster youth being expelled	3x that of other students
Average reading level of 17-18 year olds in foster care	7th grade
Likelihood of foster youth receiving special education	2.5 - 3.5x that of others
Percent of foster youth who complete high school by 18	50%
Percent of 17-18 year old foster youth who want to go to college	84%
Percent of foster youth who graduated from high school who attend college	20%
Percent of former foster youth who attain a bachelor's degree	2 - 9%

\* All Fast Facts are referenced elsewhere in this document. These facts were compiled based on findings from multiple studies where a consistent picture is emerging that points to widespread deficits on a number of markers of educational progress or success. Data points represented here are either from national studies or multiple studies conducted in different states (in which case a range is provided for the data point).

## National Working Group on Foster Care and Education (2014)

[http://www.fostercareandeducation.org/Database.aspx?EntryId=1937&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1937&Command=Core_Download&method=inline)

## Fast Facts from National Datasheet

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<b>Fast Facts from national and multi-state studies</b>	
Number of school aged foster children (Sept 30, 2012)	249,107
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*From January 2014 Fostering Success in Education: National Factsheet*



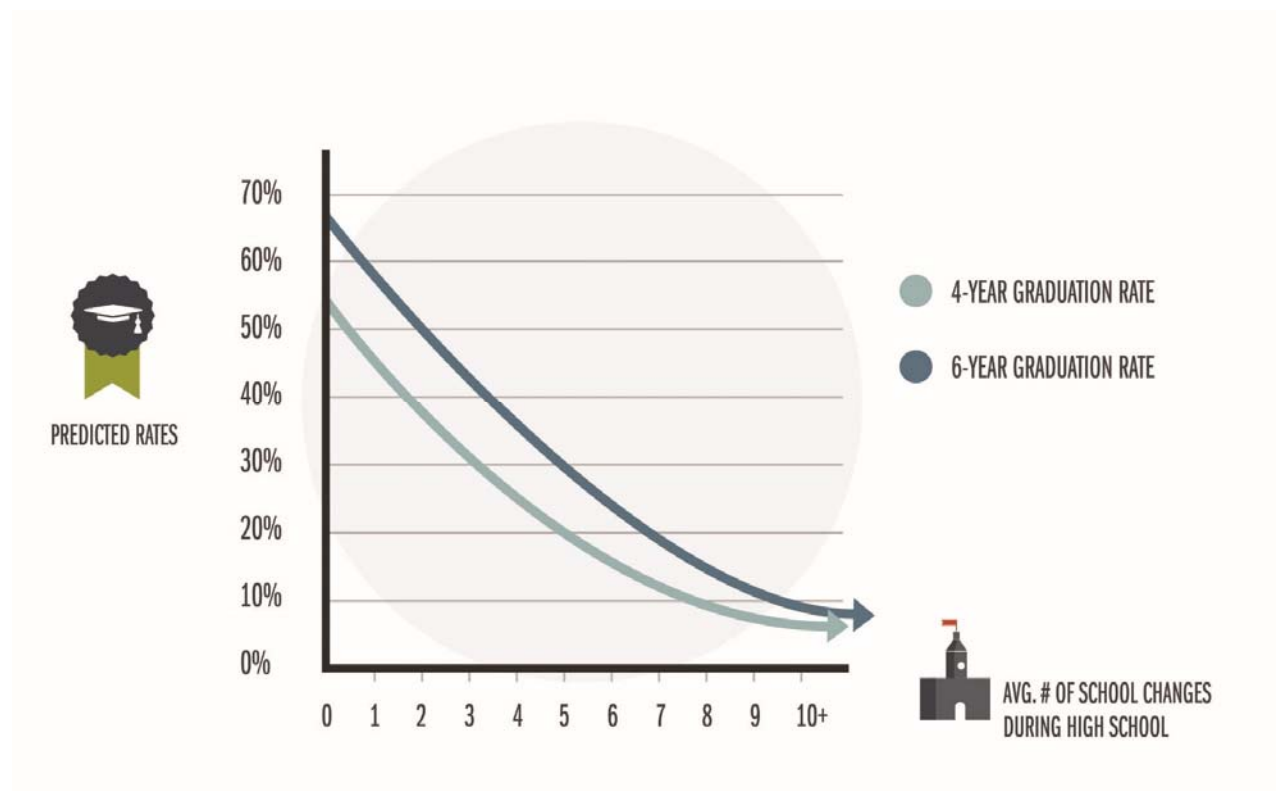
# Research Shows Poorer Outcomes Than Other Vulnerable Students

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- A recent California statewide study showed students in foster care:
  - Performed worse than their low-SES (socioeconomic status) peers, special education students, English Language Learners.
  - Were consistently more likely than the general student body to attend the lowest-performing schools.
  - Were more likely to be enrolled in a nontraditional school.
  - Were nearly four times more likely to attend a nontraditional school than both the low-SES and general student population.

[www.stuartfoundation.org](http://www.stuartfoundation.org) - Invisible Achievement Gap

# Colorado Research Shows Link Between Mobility and Graduation



# Blueprint for Change: Education Success for Children in Foster Care

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- ❑ 8 **Goals** for Youth
- ❑ **Benchmarks** for each goal indicating progress toward achieving education success
- ❑ National, State, and Local **Examples**

[www.fostercareandeducation.org/AreasofFocus/BlueprintforChange.aspx](http://www.fostercareandeducation.org/AreasofFocus/BlueprintforChange.aspx)

# Blueprint for Change: Goals for Youth

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**Goal 1: Remain in the Same School**

**Goal 2: Seamless Transitions Between Schools**

**Goal 3: Young Children Are Ready to Learn**

**Goal 4: Equal Access to the School Experience**

**Goal 5: School Dropout, Truancy, and Disciplinary Actions Addressed**

**Goal 6: Involving and Empowering Youth**

**Goal 7: Supportive Adults as Advocates and Decisionmakers**

**Goal 8: Obtaining Postsecondary Education**

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# ESSA and Foster Care

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# What We Do: ESSA Related Activities

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- ❑ Lead effort to spread information about the new foster care provisions
- ❑ Work with US Departments of HHS and Education on guidance materials, webinars, and support to field
- ❑ Support state and local level implementation efforts (points of contact; transportation; best interest decisions)
- ❑ Develop tools to support training and front line implementation
- ❑ Convene data experts to address cross agency sharing

# Key Themes for Implementation

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- This law, paired with the **2008 Fostering Connections to Success and Increasing Adoptions Act**, envisions *dual-agency* responsibility for supporting educational stability success for students in foster care.
- There are **short timelines for implementation**, so advocacy from child welfare and education communities is needed immediately.
- This law presents an **important step forward**, but **state and local action is essential to ensure adequate protections** for students in foster care.

# Overview of the Foster Care Provisions

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- ❑ **School Stability Protections** (remaining in same school; best interest determinations; immediate enrollment; transportation when needed)
- ❑ **Staff resources** at state and local education agencies (and child welfare agencies)
- ❑ **Removal of “awaiting foster care placement”** from the McKinney Vento Act.
- ❑ **Required disaggregate data collection and reporting** by SEAs
- ❑ **Other**
  - **Charter school** grantees
  - **Family Engagement** grantees



# School Stability Protections

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- Remaining in the same school:
  - Youth in foster care are enrolled or remain in their school of origin, unless a determination is made that it is not in their best interest.
  
- Best interest determinations:
  - Based on factors, including the appropriateness of the current educational setting, and the proximity to the school in which the child is enrolled at the time of placement.
  - Transportation *cannot* be a factor.
  
- Immediate enrollment, if 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**, even without normally required records.
  - The enrolling school must contact the previous school to obtain academic and other records.

# School Stability Protections

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- Transportation when necessary for youth to remain in school of origin:
  - By December 10, 2016 LEAs must collaborate with child welfare agencies to:
    - Develop and implement clear written procedures for how transportation will be provided, arranged, and funded.
    - Ensure that children needing transportation promptly receive transportation.
  - Procedures must ensure:
    - Youth who need transportation to school of origin promptly receive it in a cost-effective manner
    - If there are additional costs LEAs will provide it if they are reimbursed by the child welfare agency, the LEA agrees to pay the costs, or the LEA and child welfare agency agree to share the costs

# Staff Resources: Points of Contact

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- SEAs must designate a POC within their agency to work with child welfare agencies who will oversee implementation of the SEA responsibilities.
  - SEA POC may *not* be the same person as the State Coordinator for homeless children and youth under the McKinney-Vento Act.
  
- LEAs must designate a POC for children in foster care
  - *If* the child welfare agency notifies the LEA, in writing, that it has designated a POC within the child welfare agency for the LEA.

# Removal of “awaiting foster care placement” from McKinney Vento

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- ❑ One year after enactment (December 10, 2016), the phrase **“awaiting foster care placement”** will be deleted from the definition of “homeless child or youth” in the McKinney-Vento Homeless Assistance Act.
- ❑ In states that define or describe “awaiting foster care placement” in statute, the phrase will be deleted in two years (December 10, 2017).

# McKinney Vento and Children in Foster Care

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- “Children who are currently eligible for McKinney-Vento services because they are awaiting foster care placement should have a seamless transition to receiving services under Title I, and there should be no gaps in their transportation coverage.”
- “It is important to note that children awaiting foster care placement may still be covered under the McKinney-Vento Act if they qualify under another definition of homeless, such as being doubled-up or living in a shelter.”

DCL December 5<sup>th</sup>, 2016

# Data and Reporting: State Report Card

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- SEAs must annually include the following disaggregate information on children and youth in foster care in their State report cards:
  - Student achievement on academic assessments
  - Performance on other academic indicators
  - High school graduation rates

# Other

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## ❑ Charter Schools:

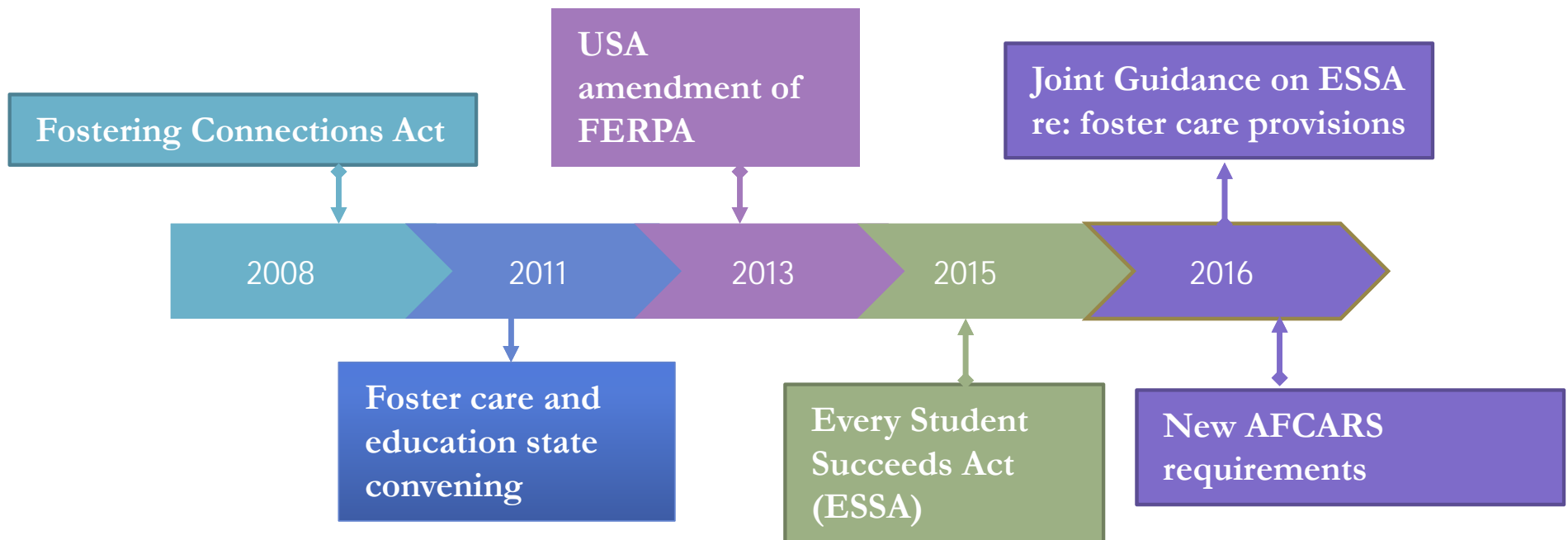
- SEAs or entities receiving charter school grants under Title IV Part C of the ESSA must work with charter schools on **recruitment and enrollment practices to promote inclusion of all students**, including by **eliminating any barriers to enrollment** for youth in foster care and unaccompanied homeless youth.

## ❑ Family Engagement Grants:

- Any statewide organization... applying for a Family Engagement in Education Program grant must include in their application “a **description of the applicant’s demonstrated experience in providing training, information, and support** to State educational agencies, local educational agencies, schools, educators, parents, and organizations **on family engagement** in education policies and practices that are effective for ...children and youth in foster care, ...
- provide assurances that they will “use not less than 65 percent of the funds received [ ] to serve local educational agencies, schools, and community-based organizations that **serve high concentrations of disadvantages students**, including...children and youth in foster care.”

# Federal Policy Highlights

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## Timeline of Federal Activities:

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- Law Passes- Dec 2015
  - Joint Federal Guidance and Dear Colleague Letters released- June 2016
  - HHS letter – July 2016
  - Final ESSA Regulations- November 2016
  - Dear Colleague Letter- - December 7, 2016
- \*\*IMPLEMENTATION DATE for FOSTER CARE PROVISIONS– December 10, 2016.\*\***



## ESSA Joint Federal Guidance

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- In June 2016, guidance from the U.S. Departments of Education and Health and Human Services about implementation of the foster care provisions of the Every Student Succeeds Act (ESSA) was issued.
- Also in June two Dear Colleague Letters were also jointly released, **reinforcing the December 10, 2016 implementation deadline** for the foster care provisions and **making compliance a condition of FY 2016 Title I Grant awards.**

<http://www2.ed.gov/policy/elsec/leg/essa/index.html>

# HHS Letter- July 2016

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- ❑ Bringing attention to child welfare agencies to ESSA and the joint guidance
- ❑ Strongly encouraging local and state child welfare agencies to designate POCs
- ❑ Instructs Title IV-B/IV-E agencies to work closely with LEAs to ensure transportation to maintain school stability
- ❑ Reminder to agencies that school stability transportation costs can be included in foster care maintenance payment and is an allowable foster care administrative cost for IV-E eligible children.

# ESSA Regulations- November 2016

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<http://www2.ed.gov/policy/elsec/leg/essa/essaaccountstplans1129.pdf>

- Reinforce the responsibility of the SEAs to:
  - Ensure that children in foster care **promptly receive transportation**, as necessary, to and from their schools of origin
  - Ensure that LEAs collaborate with child welfare agencies to develop and implement clear written transportation procedures that describe **how disputes over cost will be addressed**.
  - Ensure that LEAs' local transportation procedures describe which agency or agencies will initially pay the additional costs so **that transportation is provided to children in foster care during the pendency of any funding disputes**.

# DCL Issued on December 7, 2016

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- ❑ Emphasizes the requirement to implement the foster care provisions as a condition on Title I FY 2016 grant awards
- ❑ Restates the requirements created in the regulation for disputes and pendency of disputes
- ❑ Encourages SEAs to support LEAs:
  - Develop transportation procedures template or model agreements
  - Issue joint guidance about what should be included in transportation procedures
  - Share promising examples of cost sharing
  - Develop transportation procedures for Title I, Part A monitoring

# How Else Can School Districts Help?

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- Support new foster care points of contact in your district; share ideas and strategies to support vulnerable students
- Make your foster care POC aware of resources that are available to help  
\*\*\***NEW TOOLKIT** from Legal Center for Foster Care and Education\*\*\*  
[http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2080&Command=Core\\_Download](http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2080&Command=Core_Download)
- Encourage the foster care POC to connect with any state or local child welfare connections you have made

# Road Map of Opportunities

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## **FOSTERING CONNECTIONS & ESSA IMPLEMENTATION**

- How to expedite development of state level guidance and local transportation procedures, and share best practices and develop tools?
  - **State Level Collaboration**
  - **Points of Contact**
  - **Best Interest Decisions**
  - **Local Collaboration and Transportation Plans**
- How do we monitor implementation and progress over long term

# Road Map of Opportunities

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## **DATA**

- ESSA data requirements- ensure effective implementation
- Enhancing Current State Level Data Sharing Efforts
  - How do we report on these outcomes?
  - How do we track and monitor these state level Outcomes?
  - How do we systematize getting information to local jurisdictions, with support on how to use data?
- Address local data collection and information sharing efforts and how to use data to drive decisions

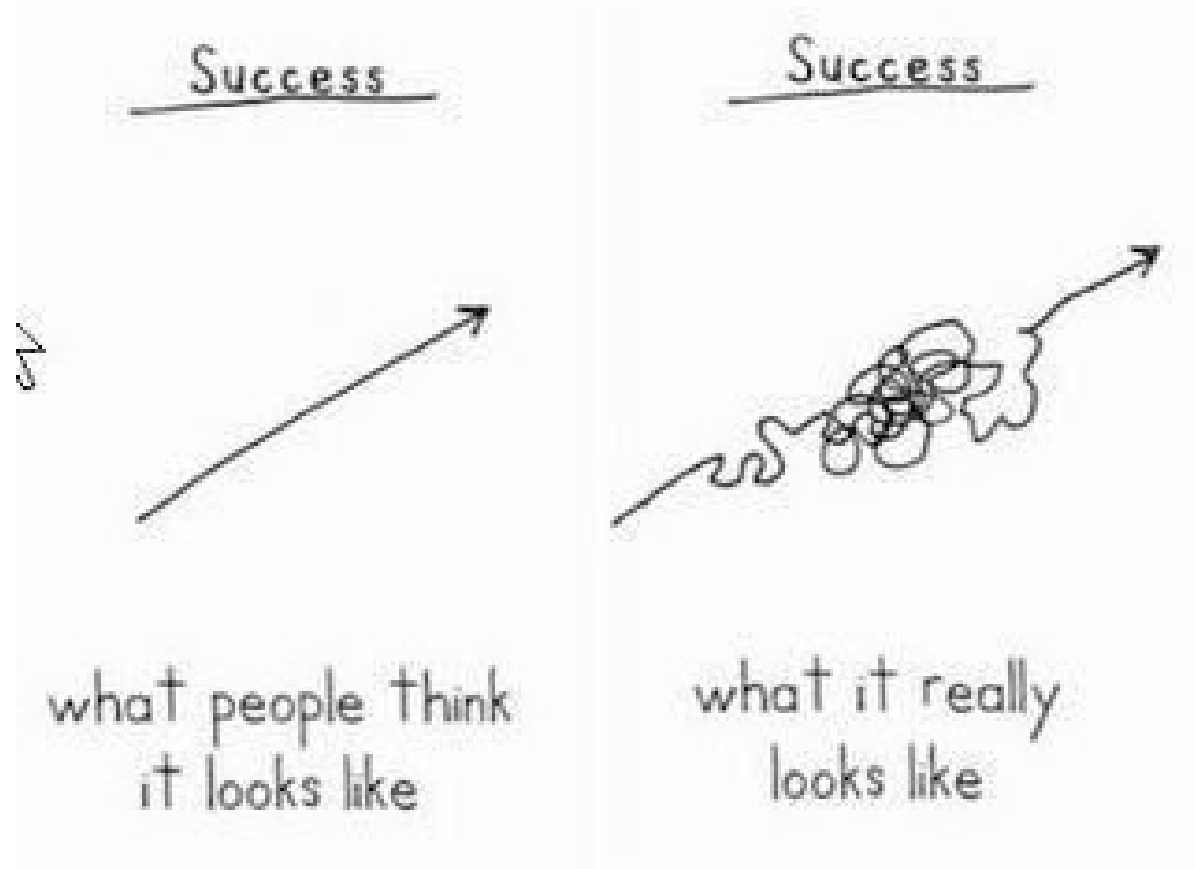
▣ Colorado research video:

[https://youtube/5PR-L\\_8qgvY](https://youtube/5PR-L_8qgvY)



# Conclusion

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# Contact Us

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