

# Educational Stability Memorandum of Agreement

This Memorandum of Agreement (Agreement) is entered into by the Department of Human Services, \_\_\_\_\_ Department of Social Services (CWA) and \_\_\_\_\_ Public Schools (LEA), collectively referred to as the “Parties” and individually as “Party”. The Parties agree as follows:

## I. PURPOSE

The purpose of this Agreement is to establish joint procedures by which the Parties will support the educational stability, school enrollment, transportation, and opportunity for school success of students in foster care, consistent with the requirements set forth in federal and State laws and regulations.

## II. STATUTORY AUTHORITY

- A. Every Student Succeeds Act, 20 U.S.C §6301 (ESSA)
- B. Fostering Connections to Success and Increasing Adoptions Act, 20 U.S.C. §6312(c)(5) (Fostering Connections)
- C. Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA)
- D. Education Article §7-101(b)(2)(ii)
- E. Human Services Article §1-201(c)

## III. BACKGROUND

*Whereas*, ESSA, Fostering Connections, FERPA, and related State laws and regulations require public school systems and local departments of social services to work together to support the educational stability and success of children in foster care; and

*Whereas*, these laws provide that when a student is initially placed in foster care or changes out-of-home placements, the student may remain in the school of origin and receive transportation to that school, unless changing schools is in the student’s best interests; and

*Whereas*, if there is a determination that it is in the student’s best interests to change schools, the student is entitled to enroll immediately in the school serving the out-of-home placement’s geographic attendance area; and

*Whereas*, these laws also direct public school systems and local departments of social services to monitor and support the educational stability and success of students in foster care in other ways, including ensuring the prompt transfer of school records and the maintenance and sharing of school records in accordance with FERPA.

#### IV. DEFINITIONS

- A. **Academic school year** – The period beginning on the first day of school for students in August or September and ending with the last day of school for students in June.
- B. **Additional transportation costs** – The difference between what an LEA otherwise would spend to transport the student to the school serving the geographic attendance area of the out-of-home placement and what an LEA must spend to transport the student from the out-of-home placement to the school of origin.
- C. **Best interests determination** – The CWA’s decision regarding whether or not it is in the best interests of the student to remain in the school of origin or to transfer to a new school, taking into consideration the multiple factors specified in COMAR 07.02.11.12.
- D. **Child welfare agency (CWA)** – Includes a local department of social services created or continued in a county or in Baltimore City under §3-201 of the Human Services Article, the Montgomery County government under §3-402 of the Human Services Article, and a local department of juvenile services.
- E. **Enroll/Enrollment** – Attending classes and participating fully in school activities.
- F. **Foster care** –
  - a. 24 hour substitute care for children placed away from their parents or guardians and for whom the CWA has placement and care responsibility.
  - b. Foster care includes, but is not limited to, placements in foster family homes, homes of relatives through kinship care, group facilities, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.
  - c. Foster care does not include placement of a child in any of the following placements: a detention facility; a forestry camp; a training school; a State-owned and State-operated facility that accommodates more than 25 children; or any other facility operated primarily for the detention of children who are determined to be delinquent.
- G. **Immediate** – As promptly as possible, without delay.
- H. **LEA Foster Care Liaison and CWA Point of Contact (POC)** – The LEA and CWA staff people designated to work with the CWA and LEA, respectively, in connection with the identification, enrollment, and provision of support to students who are in foster care.
- I. **Local education agency (LEA)** – Any of the 24 local public school systems in the State.
- J. **Local zoned school** – School serving the catchment area of the student’s out-of-home placement.

- K. **Out-of-home placement** – Location where CWA places the child when in foster care.
- L. **School of origin** – The school the student attended prior to placement or change of placement in out-of-home care or the school in which the child was last enrolled. School of origin also includes feeder schools the student has not yet attended, but was zoned to attend, public prekindergarten, and public charter schools.

## V. **DETERMINATION AND NOTIFICATION OF BEST INTERESTS DECISION**

### A. **Basic Procedure**

1. The CWA point of contact or caseworker will immediately notify the LEA Foster Care Liaison for the school of origin and also the LEA Foster Care Liaison of the local zoned school when a student is placed in foster care or a student's out-of-home placement changes.
2. This notification prompts the need for a best interests determination by the CWA in accordance with the provisions set forth below regarding whether the student will remain at the school of origin or whether the student will change schools.
3. For every student in an out-of-home placement, the presumption is that the student will remain in the school of origin so that the student may benefit from school stability and educational continuity.
4. The best interests determination must occur within five (5) business days of the student's placement in foster care or the change of the out-of-home placement.
5. The CWA shall seek the LEA's input in the best interests decision through the LEA Foster Care Liaison or other school of origin representative, such as a school counselor, classroom teacher, school social worker, school psychologist, pupil personnel worker, special education coordinator, coach, or other representative from an extracurricular activity in which the student is involved.
6. The CWA shall consider the student's preference in making the best interests decision, if appropriate.
7. The CWA shall make all reasonable efforts to include additional persons who are able to contribute relevant information to the best interests determination made under this section, unless doing so would create undue delay in placement. Individuals who have knowledge of the student may include, but not be limited to: the parent; current and prior custodians; the student's attorney; parent surrogate for educational decisions, if applicable; and any other significant person who has knowledge of the student.

8. Participation in the best interests determination process may occur through in-person meetings, phone calls, teleconferences, emails, or other electronic means.
9. The student shall remain enrolled in the school of origin until a best interests determination is made. The transportation of the student to the school of origin during that time period is the responsibility of the CWA.

**B. Factors to Assess to Determine the Student's Best Interests for School Placement**

In determining the student's best interests for school placement, the CWA shall, in consultation with the LEA, consider the factors set forth in COMAR 07.02.11.12, and as set forth in the **Best Interests Determination Form, School Enrollment of Student in Out of Home Placement (Best Interests Form)**, which is attached hereto.

**C. Documentation and Notification**

1. The caseworker shall document the best interests determination on the Best Interests Form and include a copy in the student's case file in the statewide automatic child welfare information system. Additional documentation in the case file should include the best interests factors considered, participants involved in the collaborative process, and the school placement decision.
2. Documentation of the best interests determination shall be maintained in both the CWA case file and the LEA student record.
3. Once the CWA makes the best interests determination, the CWA POC must notify the LEA Foster Care Liaison in the LEA serving the school of origin and the LEA serving the local zoned school (if different) of the decision.

**D. Best Interests Determinations Made by the LEA Prior to December 10, 2017**

1. If the LEA determined prior to December 10, 2017, that it was in the student's best interests to continue to attend the school of origin, the decision will remain in effect until the CWA determines that it is no longer in the student's best interests to attend the school of origin.
2. The LEA and CWA will follow the transportation procedures set forth in Section VII of this Agreement.

**VI. SCHOOL ENROLLMENT IF IN THE STUDENT'S BEST INTERESTS TO ENROLL IN THE SCHOOL SERVING THE OUT-OF-HOME PLACEMENT'S GEOGRAPHIC ATTENDANCE AREA**

- A. After receiving notification from the CWA that it is not in the best interests of the student to remain at the school of origin, the LEA Foster Care Liaison of the local zoned school will alert the new school of the pending enrollment of the student.
- B. The CWA caseworker, or another person who is authorized to enroll the student, must enroll immediately the student in the local zoned school serving the out-of-home placement.
- C. The LEA serving that area must enroll the student immediately, even if the student does not have the entire school record at the time of enrollment. Only the following documentation is required at the time of enrollment:
  - 1. Documentation that the child is in foster care, including:
    - (a) The parts of the most recent court order establishing legal custody or a letter on the letterhead of the placement agency that has custody of the child explaining that the child is in foster care; and
    - (b) A written statement of the address of the out-of-home placement. The written statement need not be in the form of a lease, utility bills, etc.
  - 2. Identification of the person who is authorized to enroll the student, including:
    - (a) Documentation that identifies the person as a CWA caseworker, or someone else authorized to enroll a child; and
    - (b) Photo identification.
- D. The local zoned school is responsible for promptly obtaining the student's education record from the school of origin. The CWA shall promptly present any additional required documentation after enrolling the student.

**VII. TRANSPORTATION TO THE SCHOOL OF ORIGIN IF THE STUDENT REMAINS ENROLLED IN THE SCHOOL OF ORIGIN**

- A. The LEA will provide transportation to the student's school of origin during the academic year for the duration of the student's time in an out-of-home placement, as long as the CWA finds that it continues to be in the student's best interests to attend the school of origin. The LEA shall establish the most appropriate and cost-effective transportation for the student to remain enrolled there.

- B. For students whose out-of-home placement is in a group facility, the CWA will advise the LEA if transportation to school is provided and funded by the facility.
- C. Within two (2) school days of learning that, pursuant to the best interests decision, a student in foster care will remain enrolled in the school of origin, the LEA will advise the CWA of the transportation plan for the student.
- D. The LEA will arrange and implement the student's transportation to the school of origin within five (5) school days of learning of the best interests decision.
- E. The LEA will examine existing transportation options available for the student, including incorporating the student into an existing bus route, modifying an existing bus route, use of public buses, use of transportation routes provided through other school systems, and private transportation services.
- F. The LEA will assess whether the student is entitled to transportation services under another entitlement, including as a related service under Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act, or some other locally funded program. If the student is entitled to receive transportation services through another entitlement, the LEA will provide and fund such transportation services.
- G. When the LEA has exhausted all appropriate no-cost options and transportation of a student to the school of origin will require "additional costs," the CWA will assess and notify the LEA if resources are available for foster parents or other custodians to provide transportation with mileage reimbursement or other adult ride share to the LEA or to a stop on an LEA existing route.
- H. The LEA will verify to the CWA that the transportation plan for a particular student is the most appropriate and cost-effective by completing the **Transportation Plan Form, Attending School of Origin from Out of Home Placement (Transportation Plan Form)**, which is attached hereto.
- I. If the CWA determines that it is more cost effective for the CWA to arrange and implement transportation, and it chooses to assume such responsibility, the CWA will notify the LEA in writing of its decision. The LEA will document the arrangement on the Transportation Plan Form, which is attached hereto, and include the written notification from the CWA. The CWA will request reimbursement from the LEA for monies that the LEA would have otherwise spent on transportation.
- J. In the five (5) school days during which the LEA is developing and implementing a transportation plan for the student to attend his or her school of origin, interim

transportation will be provided by the CWA. Interim transportation should be addressed during the best interests determination.

- K. The CWA will reimburse the LEA for any additional costs incurred for the transportation of each student to that student's school of origin provided that the LEA produces a receipt proving such additional costs associated with each student, indicating clearly the period of time each student was transported to that student's school of origin.
- L. The CWA will reimburse the LEA within thirty (30) calendar days of receipt of a proper invoice and supporting documentation.
- M. The CWA will provide a contact for billing purposes, including a name, address, telephone number, and email address to ensure that invoices are directed to the proper individual and are paid promptly.
- N. The LEA's superintendent or designee may allow a student who exits foster care (through adoption, guardianship, or reunification with a parent) before the end of an academic year and relocates to a home outside of the school of origin's catchment area to remain in the school of origin until the end of the academic year if requested by the student's parent or guardian, and so long as transportation is provided by the parent or guardian, or the LEA or CWA agrees, in writing, to provide and pay for the student's transportation.

## **VIII. INFORMATION SHARING AND CONFIDENTIALITY**

Consistent with the requirements of FERPA, the LEA will provide information to the CWA relating to the school enrollment and school performance of students in foster care, including information relating to attendance, grades, and school disciplinary action. Such information sharing ensures that each student's educational needs are met and also improves the academic outcomes for these students. Pursuant to FERPA, the CWA has the authority to access the student's information without obtaining consent from the student in question or the student's parent. The CWA will re-disclose information only to the extent necessary to address the student's educational needs as provided in FERPA. Pursuant to §1-201(c) of the Human Services Article, all information shared between the Parties is strictly confidential and shall not be re-disclosed, divulged, nor made known to any other party, without appropriate authorization. Violation of this provision is subject to prosecution.

**IX. TERM OF AGREEMENT**

This Agreement shall be effective on the date it is fully executed and shall be effective for five (5) years from that date. The Parties may agree to modify the Agreement at anytime by written consent.

**X. AMENDMENTS OR MODIFICATIONS**

Each Party expressly reserves the right to alter, vary, modify or waive any provision of the Agreement provided that such alteration, variation, modification, or waiver shall be valid when reduced to a writing which has been duly signed by each and every signatory to the original of this Agreement or the successor in office.

**XI. TERMINATION**

Either Party may terminate this Agreement on sixty (60) calendar days advance written notice to the other.

**Authorization by LEA:**

\_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
(Printed Name) (Title)

**Authorization by CWA:**

\_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
(Printed Name) (Title)