



MEMORANDUM OF UNDERSTANDING
FOR THE EDUCATIONAL STABILITY OF CHILDREN
EXPERIENCING FOSTER CARE

BETWEEN

THE DELAWARE DEPARTMENT OF EDUCATION,
LOCAL EDUCATION AGENCIES,

AND

THE DELAWARE DEPARTMENT OF SERVICES FOR CHILDREN,
YOUTH AND THEIR FAMILIES

FOSTER CARE

Effective 4/24/2023



TABLE OF CONTENTS

I. [Title of Agreement](#) 3

II. [Parties Involved and Their Authority](#) 3

III. [Purpose of the Agreement](#) 3

IV. [Definitions](#) 4

V. [Roles and Responsibilities](#) 6

- [The Delaware Department of Education](#)
- [DSCYF](#)
- [LEAs](#)
- [Best Interest Meetings](#)
- [Best Interest Decision](#)
- [Immediate Enrollment in the School of Residence](#)
- [Disputes Relating to Best Interest Meetings](#)
- [Transportation](#)

VI. [Confidentiality](#) 15

VII. [Administration of the MOU](#) 16

VII. [Agreement Review](#) 17

IX. [Signatories](#) 17

X. Appendices 22

I. Title of the Agreement

This Agreement is the Memorandum of Understanding (MOU) for the Educational Stability of Children Experiencing Foster Care Between the Delaware Department of Education (DDOE), Local Education Agencies (LEAs), and the Delaware Department of Services for Children, Youth, and their Families (DSCYF).

II. Parties Involved and Their Authority

The parties to this MOU are the DDOE, LEAs, and the DSCYF (collectively known as the “Parties”);

The authority of the Parties involved is derived from the following statutes and regulations:

- A. Fostering Connections to Success and Increasing Adoptions Act of 2008
- B. Every Student Succeeds Act 2015
- C. Child Abuse Prevention and Treatment Act (CAPTA) as amended by P.L. 111-320, the CAPTA Reauthorization Act of 2010
- D. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g
- E. Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191)
- F. Child Welfare, Chapter 3, Title 31 of the Delaware Code
- G. Department of Services for Children, Youth and Their Families, Chapter 90, Title 29 of the Delaware Code
- H. Education, Title 14 of the Delaware Code
- I. Best Interest Determination Process for School Placement – Students in Foster Care, 14 DE Admin. Code § 903
- J. District and School Based Intervention Services, 14 DE Admin. Code § 609
- K. Consortium Discipline Alternative Programs for Treatment of Severe Discipline Problems, 14 DE Admin. Code § 611
- L. School Transportation, 14 DE Admin. Code § 1150

III. Purpose of the Agreement

This MOU among the DDOE, LEAs, and the DSCYF has been collaboratively developed for the following purposes:

- A. To address the provision of necessary supports for all students and families held in common by the participating entities served by the Parties;
- B. To establish consistent procedures to address when children experiencing Foster Care change residences resulting in a new school enrollment other than School of Origin and the written procedures for providing, arranging, and funding transportation for children who are experiencing Foster Care to remain in their School of Origin;

- C. To enhance communication and coordination so that educational and placement decisions regarding children and youth experiencing Foster Care are based on the Best Interest of the child; and
- D. To establish protocols for communication and transition to and from DSCYF programs (excluding Youth Rehabilitative Services (YRS) placements) and LEAs.

In addition, to meet the needs of the Parties hereto, the MOU will:

- 1. Define the responsibilities of each participating entity.
- 2. Establish joint training between the participating entities.
- 3. Establish liaison procedures for promoting communication and problem-solving.
- 4. Establish a system to oversee implementation of the MOU.
- 5. Encourage enhanced communication and coordination among participating entities via System of Care principles.

IV. Definitions

For the purposes of this MOU, the following words and terms have the following meaning unless the context clearly states otherwise:

- A. **Additional Transportation Costs** means the difference between what would normally be spent on transportation and the cost of transportation to the School of Origin, considering cost, distance, length of travel, whether the transportation means is developmentally appropriate for the child, and whether transportation can be provided for minimal or no additional costs.
- B. **Best Interest** means a determination on which decisions for a child's school placement are made based on the process outlined in 14 DE Admin Code § 903.
- C. **Dependency** - per 10 Del. C. § 901(8), "dependency" or "dependent child" means that a person:
 - 1. is responsible for the care, custody, and/or control of the child; and
 - 2. does not have the ability and/or financial means to provide care of the child; and
 - a. fails to provide necessary care with regard to: food, clothing, shelter, education, health care, medical care or other care necessary for the child's emotional, physical or mental health, or safety and general well-being; or
 - b. the child is living in the home of an "adult individual" who fails to meet the definition of "relative" in 10 Del. C. § 901(20) on an extended basis without an assessment by DSCYF, or its licensed agency; or
 - c. the child has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.
- D. **DFS Caseworker** means the caseworker assigned to the student experiencing foster care.
- E. **Education Decision Maker** means a person appointed by the Family Court to make appropriate inquiries and take appropriate action regarding all of the following: the child's educational stability or educational placement; all school discipline matters; transition planning for independent living; and education services and accommodations that will allow the child to meet state standards. All decisions shall be made in the best interests of the child.

- F. **Educational Surrogate Parent (ESP)** means a person who is appointed by the DDOE to represent a child in DSCYF custody who receives, or may need to receive special education services.
- G. **Family Court or court** means the Family Court of the State of Delaware.
- H. **Foster Care** means 24-hour substitute care for children living in an out of home placement and for whom the Social Security Act Title IV-E agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state tribal, or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.
- I. **Guardian** means a non-parent legally appointed by the court with the powers, rights, and duties which are necessary to protect, manage and care for a child.
- J. **Immediately** means as soon as possible or as that term may be further delineated when used in this document.
- K. **Interstate Compact for the Placement of Children (ICPC)** – establishes procedures for the placement of children across state lines.
- L. **Local Education Agency (LEA)** –means any administrative group providing oversight for the delivery of education and school transportation to children. The term LEA is inclusive of school districts, vocational technical school districts and charter schools.
- M. **LEA Foster Liaison** means the employee designated by an LEA to be the Point of Contact (POC) for DDOE and DSCYF to collaborate under this MOU to help ensure the educational stability of children experiencing Foster Care.
- N. **Office of the Child Advocate (OCA)** – means the Office of the Child Advocate as established and defined in Chapter 90A, Title 29 of the Delaware Code as a safeguard for the welfare of children in Delaware. Further:
1. The Court Appointed Special Advocate program provides legal representation to children through OCA. A **Court Appointed Special Advocate (CASA)** means a volunteer authorized and appointed through 29 Del. C. 9010A who is supervised by a CASA coordinator and who works in conjunction with the child’s attorney to represent the child’s best interests in child welfare proceedings.
 2. **Child Attorney** means an attorney authorized to practice law in Delaware, who is employed or contracted by OCA, or who volunteers for OCA, including deputy child advocates and attorneys who work in conjunction with CASAs.
- O. **Parent** means a biological or adoptive parent whose rights have not been terminated.
- P. **Relative Caregiver-** means an adult with whom the child resides and who by blood, marriage or adoption is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the child.
- Q. **School Days** are defined by the school calendar or business days in the summer.
- R. **School of Origin** means any of the following:
1. The school in which the child is enrolled at the time of entry into the custody of DSCYF.
 2. The school in which the child is enrolled at the time of any change in placement while in the custody of DSCYF.

3. The school identified for the next grade level in the same school district where the child in the custody of DSCYF is enrolled.

V. Roles and Responsibilities

A. The Delaware Department of Education will:

collaborate with DSCYF and LEAs to help ensure the educational stability of children experiencing Foster Care in accordance with the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, and the Individuals with Disabilities Education Act.

B. DSCYF will:

collaborate with DDOE and LEAs to help ensure the educational stability of children experiencing Foster Care through the provision of the following protections:

1. provide care, supervision and placement of children in court-ordered legal custody of the DSCYF, DFS;
2. plan with families for the safety, permanency and well-being of a child experiencing Foster Care, including the child's educational needs;
3. notify the child's LEA regarding any change in Foster Care placement in advance, when feasible, or Immediately (within 2 school days);
4. ensure the child continues attending the School of Origin unless a Best Interest meeting determines that a school change is in the child's Best Interest; and
5. fulfill the Best Interest meeting responsibilities as outlined in Subsection V.D. below.

C. LEAs will:

collaborate with DDOE and DSCYF to help ensure the educational stability of children experiencing Foster Care through the provision of the following protections:

1. ensure that a child experiencing Foster Care has the benefit of the presumption to remain in the child's School of Origin or to be Immediately enrolled in a school based on the child's placement;
2. ensure that a child experiencing Foster Care is enrolled in school (based on the results of the Best Interest meeting) Immediately (within two school days) of referral to the new school even if DSCYF is unable to produce records, or the sending school has not yet transferred the records, such as previous academic records, medical records, proof of residency, and other documentation.
3. ensure that all parties understand the dispute resolution process for Best Interest meetings for children experiencing foster care; and
4. fulfill the Best Interest meeting responsibilities as outlined in Subsection V.D. below.

D. Best Interest Meetings

Best Interest meetings shall be conducted in accordance with 14 Del. C. § 202A and 14 Del. Admin. Code § 903.

A student in DSCYF custody must remain in the school of origin unless a determination is made that it is not in the student's best interest to attend such school.

1. Best Interest meetings shall occur:
 - a. when a child is placed into Foster Care;
 - b. when there is a change in Foster Care placement;
 - c. when the child exits the custody of DSCYF; or
 - d. at least once per year for a child for whom none of the above have occurred.
2. When there is a change in Foster Care placement, even if remaining in the same school, the DFS Caseworker must notify the LEA Foster Liaison in advance, when feasible, or Immediately (within 2 school days) and request a Best Interest meeting. If the foster care placement change is out of state via an Interstate Compact for the Placement of Children, the DFS Caseworker will notify the LEA Liaison and initiate the withdrawal of student.
3. The Best Interest meeting must occur within five (5) school days based on the School of Origin's instructional calendar or seven (7) business days in the event of a summer recess.
4. The DFS caseworker and LEA Foster Liaison shall be responsible for the coordination of the date, time, and method for the best interest meeting using available technology, however, in person attendance is preferred.
5. The LEA Foster Liaison shall:
 - a. invite needed educationally related participants; and
 - b. invite the special education administrator or designee from the student's school of residence based on the address of the DSCYF custody placement at the time of the meeting, and the student's School of Origin, and the Educational Surrogate Parent when applicable to participate in the Best Interest meeting if the student is eligible for or receiving special education services.
6. The DFS Caseworker shall:
 - a. invite the parent(s) or legal guardians or Relative Caregiver, foster care parent(s), child attorney or CASA, and Education Decision Maker, as applicable; and invite the student to attend when it is determined to be developmentally appropriate by the DFS Caseworker.
7. The Best Interest Determination Form (approved by the DOE) will be used in the determination of Best Interest. (See Appendix D)
8. Refer to the Consortium Discipline Alternative Program (CDAP) Guide (Appendix E) when the student is enrolled in a CDAP.
9. When there is a need to request an additional Best Interest meeting for exigent circumstances, that request can be made by the School of Origin Liaison, School of Residence Liaison or DFS Caseworker using the Request for Additional Best Interest Meeting Form.

E. Best Interest Decision

1. The determination of a child's Best Interest will be made by a representative of

DSCYF, a representative of the child's School of Origin, and a representative of the child's school of residence based on the address of the DSCYF custody placement at the time of the determination except when the Best Interest meeting is being held because the child is exiting the custody of DSCYF. The determination will be documented on the Best Interest Determination form attached hereto as Appendix A and will provide the factors considered and the rationale.

- a. In some cases, there might not be a school of origin. For example, the student was being homeschooled.
 - b. If no agreement is reached by the School of Origin Liaison, School of Residence Liaison and DFS Caseworker for changing the school placement from the School of Origin to the student's school of residence, based on the address of the DSCYF custody placement at the time of the meeting, then the student shall remain in the School of Origin pending finalization of any applicable dispute resolution process, as outlined in Subsection V.G. below.
2. When a Best Interest Meeting occurs as the result of the child exiting the custody of DSCYF, the Best Interest determination is made by the Parent or Guardian, a representative of the school in which the child is enrolled, and a representative of the child's school of residence based on the address of the Parent or Guardian at the time of the determination. The determination will be documented on the Best Interest Meeting form and will provide the factors considered and the rationale.
- a. If no agreement is reached by the School of Origin Liaison, School of Residence Liaison and Parent or Guardian, the Parent or Guardian is the final decision maker.

F. Immediate School Enrollment

1. When a determination is made that remaining in the School of Origin is not in a child's Best Interest:
 - a. The LEA Foster Liaison of the new school will ensure the child is enrolled in the new school (based on the determination made in the Best Interest meeting) Immediately (within 2 school days) after the DSCYF staff has provided registration materials (including IEP, if applicable).
 - b. The new school will accept a DSCYF letterhead statement as proof of residency of a child experiencing Foster Care with the placement address identified.
 - c. The new school will accept registration materials from DSCYF via fax or email.
 - d. The LEA Liaison of the new school will notify the DFS Caseworker if there are any anticipated barriers to the student starting school. For example, alternative placement decisions, Special Education placement decisions, or discipline decisions.
 - e. The new school will Immediately contact the school last attended to obtain relevant academic and other records.
 - f. The School of Origin will Immediately transfer the child's relevant academic and other records to the new school.

- g. The new school shall Immediately apply full credits and is encouraged to accept partial credits to benefit the student pursuant to 14 DE. Admin. Code § 505.10.
 - h. The LEA of the new school will host subsequent Best Interest meetings in accordance with 14 DE. Admin. Code § 903.
2. The DFS Caseworker will:
- a. When necessary, provide or arrange for transportation to the school, determined in the Best Interest Meeting, until LEA transportation is established.
 - b. Provide the school with any information DSCYF has regarding the last school of attendance, grade, credits, and whether the child is receiving special education services at the time of enrollment and DFS placement summary.
 - c. Provide the school with proof of legal custody, with any court order appointing the child's legal representative, and an authorized list of contacts and those authorized to pick the child up, including making the school aware of any No Contact Orders.
 - d. Request the assignment of an Educational Surrogate Parent (ESP) for any child experiencing Foster Care who receives or may need special education services and is eligible for an ESP under state or federal law.
 - e. Attend any Best Interest meeting scheduled for the child.

G. Disputes Relating to Best Interest Meetings

When a dispute arises over a best interest determination for a student experiencing Foster Care, the student shall remain in the School of Origin pending finalization of the dispute resolution process.

1. Dispute Resolution Process

- a. A request for dispute resolution over a best interest determination shall be in writing, state the basis for the request, and shall only be made by:
 - i. LEA Foster Liaison;
 - ii. DFS Caseworker;
 - iii. Parent or Guardian;
 - iv. Child, by and through the Child Attorney; and
 - v. Education Decision Maker pursuant to appointment by the Family Court.
- b. The request for dispute resolution shall include:
 - i. The name and contact information of the requesting party, including the relationship to the student, phone number, E-mail, and mailing address;
 - ii. The name of the school in which the student's enrollment is sought by the requesting party;
 - iii. The basis for seeking the student's enrollment in that school;

- iv. A copy of the completed Best Interest Determination Form attached hereto as Appendix A and any other documents, emails or records that were part of the decision-making process;
 - v. The facts and issues in dispute; and
 - vi. The date of the request.
- c. The request for dispute resolution may be deemed incomplete if the request does not include the contact information of the requesting party or is not dated.
 - d. The request for dispute resolution must be submitted within five (5) school days of the date of the best interest decision and must be submitted to the Secretary of Education of the DDOE.
 - e. The request for dispute resolution, and any related documentation, may be sent by regular mail, E-Mail or facsimile to the Secretary of Education with the subject line "Student in Foster Care Dispute." The request may also be hand delivered.
 - f. The Secretary of Education or his or her designee shall notify the LEA Foster Liaisons, DFS caseworker, and the disputing party that dispute resolution was initiated.
 - g. The Secretary of Education, or his or her designee, shall review the facts and issues in dispute, confer with relevant parties, and review documentation relevant to the best interest determination.
 - h. Within ten (10) business days of receipt of the request for dispute resolution, the Secretary of Education, or his or her designee, shall issue a written decision informing the party requesting dispute resolution whether the best interest determination is upheld or overturned.
 - i. A copy of the Secretary of Education's decision shall be provided to the LEA Foster Liaisons, DFS caseworker, and the requesting party.
 - j. The student shall be enrolled and provided all appropriate educational services in the school determined by the Secretary of Education, or his or her designee.

H. Transportation

The Parties agree that transportation to maintain a child experiencing Foster Care in the child's School of Origin when in the child's Best Interest shall be provided in a cost-effective manner and in accordance with section 675(4)(A) of the Social Security Act. Transportation for a child experiencing Foster Care who enrolls in the school of residence based on the current address of the DSCYF placement is determined by 14 DE. Admin. Code § 1150 (12).

The Parties may amend Subsection V.H. of this Agreement based on changes to relevant and applicable federal and state law and regulations and rules or guidance issued by the United States Department of Education and the United States Department of Health and Human Services.

1. Applicability of Transportation Procedures

- a. Subsection V.H. of this Agreement does not apply if:

- i. The location of a child’s placement does not entitle the child to transportation benefits under 14 DE. Admin. Code § 1150.12.1;
 - ii. The Best Interest determination is made to change a child’s school to a school other than the child’s School of Origin; or
 - iii. The School of Origin is a non-public school.
- b. A child who exits Foster Care during a school year is entitled to continue to receive transportation services to the School of Origin until the end of that school year, which may include summer school.
- c. For the purpose of Subsection V.H. of this Agreement, it is expected that the LEA and the child’s DFS Caseworker or foster parent(s) shall make every effort to provide and fund transportation for the child’s participation in school-based extracurricular activities, such as interscholastic athletics, clubs, after school tutoring, and work-based learning. If an LEA provides transportation for participation in school-based extracurricular activities, the DOE **will not** reimburse the LEA for Additional Transportation Costs incurred as a result of providing such transportation.

2. Arranging and Providing for Transportation to the School of Origin

- a. When a child enters Foster Care or a child’s Foster Care placement changes, the DOE, the DSCYF, and the LEA for the child’s School of Origin shall collaborate about establishing the most cost-effective means of transportation available for the child.
- b. The DSCYF shall arrange and provide for transportation to the child’s School of Origin until LEA transportation is established. In some instances, it might take up to 5 business days to establish transportation based on location in the State.
- c. LEAs shall coordinate and promptly provide transportation.
 - i. LEAs shall consider the needs of children experiencing Foster Care when establishing transportation routes and arrangements.
 - ii. LEAs must cooperate to ensure compliance with Subsection V.H. of this Agreement.
 - iii. The Superintendent or Head of School or his or her designated school Transportation Supervisor for the child’s School of Origin is responsible for arranging the transportation of the child between the School of Origin and the foster placement. Transportation arrangements are coordinated based on transportation benefits under 14 DE. Admin Code § 1150 (12.0).
 - iv. In determining a child’s means of transportation, cost, distance, length of travel, whether the transportation means is developmentally appropriate for the child, and whether transportation can be provided for minimal or no additional costs must be considered.
 - (A) The means of transportation may include school buses, taxis, public transportation (for children in Grades 9 – 12 with DART passes), transportation by the child’s foster parent, or other source as determined by the LEA’s Superintendent or Head of School or his or her designated school Transportation Supervisor.

(B) Existing transportation routes and options or arrangements shall be used to the extent available and practical.

(C) LEAs must consider the following transportation strategies:

- (1) Extend the routes of existing school buses to operate within the LEA.
- (2) Extend the routes of existing school buses that operate outside of the LEA for schools that operate county-wide programs.
- (3) Coordinate with another LEA that may provide county-wide transportation.
- (4) Coordinate with the LEA or state where the child's placement is located to provide transportation that could meet transportation that would go to the School of Origin.
- (5) Offer transit passes or reimbursement.
- (6) Bid, if required, for the use of local school bus, van, or taxi services.

(D) When transportation services other than school buses are used, Superintendents and Heads of School or their designated school Transportation Supervisors, must ensure that any contracted services agreements satisfy the LEA's operational and insurance requirements and monitor the services for compliance.

- d. For the purpose of reimbursing an LEA for Additional Transportation Costs, the DDOE shall make the final determination as to whether a means of transportation is the most cost-effective means of transportation available.
- e. This Agreement shall not be construed to preclude the DSCYF from choosing to provide and fund transportation to the School of Origin.

3. Additional Transportation Costs

- a. Subject to appropriations from the General Assembly, DDOE agrees to reimburse an LEA for Additional Transportation Costs incurred as a result of providing a child with the most cost-effective means of transportation available, as determined by the DDOE.
 - i. If the LEA provides the most cost-effective means of transportation available and meets transportation benefits under 14 DE. Admin Code §1150 (12.0), DDOE will reimburse the LEA for Additional Transportation Costs incurred.
 - ii. An LEA may choose to provide another means of transportation that is not the most cost-effective. However, the LEA is responsible for funding the difference between the means the LEA chooses and the means that the DDOE determines to be the most cost-effective. The DDOE will only reimburse the LEA for the amount of the most cost-effective means of transportation.
 - iii. An LEA may choose to provide additional transportation benefits outside those outlined under 14 DE. Admin Code § 1150(12.0). However, the LEA is responsible for those cost differences between the most cost-effective method meeting 14 DE. Admin Code § 1150(12.0) benefits and the additional benefits

the LEA granted. Additional benefits LEAs may be financially responsible for include:

(A) Transportation provided to an alternate location other than the school of origin. (Examples: DAPI, work-based learning, etc.)

(B) Providing transportation from different pick-up and drop-off locations on a daily, weekly or rotating basis except when under the order of DSCYF for a trial reunification, the following criteria is met, then Additional Transportation Costs will not be the responsibility of the LEA:

(1) LEA provides transportation to or from school to the parent's residence that is within the school of origin's attendance area and is eligible for transportation benefits under transportation benefits under 14 DE. Admin Code § 1150 (12.0) while using existing school bus routes that would service the parent's legal residence.

b. LEAs shall track Additional Transportation Costs and timely report them to the DDOE for review.

- i. LEAs shall follow the tracking and reporting timeline established by the DDOE in order to be reimbursed for Additional Transportation Costs.
- ii. The process of and timeline for tracking and reporting additional transportation costs shall be established in time and manner by the DOE.

4. Implementation and Effectiveness of Transportation Procedures

The DOE will convene a group of representatives from the DSCYF, the DDOE, and LEAs periodically, but no less than once per year, to monitor the implementation and effectiveness of Subsection V.H. of this Agreement. In addition, the implementation and effectiveness of this transportation subsection of the Agreement may be discussed during the DDOE's monthly meetings with the LEA's Transportation Supervisors.

5. Disputes Relating to Transportation

Disputes concerning the DDOE's determination of the most cost-effective means of transportation available and reimbursement for Additional Transportation Costs shall be resolved as follows:

- a. LEAs shall make all attempts to resolve disputes with DDOE Pupil Transportation team.
- b. If an LEA is unable to resolve a dispute with the DDOE Pupil Transportation team, the LEA may request a hearing before the Secretary of Education or the Secretary's designee.
- c. Requests for a hearing shall be submitted to the Secretary of Education in writing within 30 days of the receipt of the DDOE's most cost-effective means determination or decision not to reimburse Additional Transportation Costs.
- d. Hearings shall be conducted in accordance with the DDOE's Hearing Procedures and Rules.
- e. The Secretary or the Secretary's designee's decision shall be final and not subject to further appeal.
- f. During the pendency of any dispute, the LEA for the child's School of Origin shall provide transportation.

VI. Confidentiality

Each party will comply with the relevant local, state and federal laws and regulations that govern privacy and confidentiality related to children and families. However, each party will provide information to each other that is not confidential, or which is otherwise permitted to be disclosed under the applicable law to be disclosed, in order to ensure the successful support of children and families.

Some of the applicable privacy and confidentiality laws, and some of the provisions of those laws are as follows:

A. Educational Records

14 Del. C. § 4111 provides that all educational records in public and private schools are confidential. Education records and personally identifiable information can only be released in accordance with DDOE regulations. DDOE has adopted the Federal Family Educational Rights and Privacy Act and its implementing regulations with two exceptions which are not applicable.

B. Family Educational Rights and Privacy Act (FERPA)

Generally, schools must have written permission from the Parent, Guardian or eligible student in order to release any information from a student's education record. However, FERPA, 20 U.S.C. 1232g, and the corresponding regulations, 34 CFR Part 99, allows schools to disclose educational records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

1. School officials with legitimate educational interest;
2. Other schools to which a student is transferring;
3. Educational authorities conducting audit, evaluation, or enforcement of education programs;
4. Appropriate parties in connection with financial aid to a student;
5. Organizations conducting certain studies for or on behalf of the school;
6. Accrediting organizations;
7. To comply with a judicial order or lawfully issued subpoena;
8. Appropriate officials in cases of health and safety emergencies; and
9. Parents/Guardians/Relative Caregivers of a dependent student.

For students experiencing Foster Care, the Uninterrupted Scholars Act permits educational agencies and institutions to disclose a student's educational records, without parental consent, to a caseworker or other representative of a State or local child welfare agency authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with the State law, for the care and protection of the student. 20 U.S.C. § 1232g(b)(1)(L).

Schools may disclose, without consent, "directory information" including a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees and awards received, dates of attendance, and the most recent previous educational agency or institution attended by the student. 20 U.S.C. § 1232g(a)(5)(A). Directory information does not include student identification numbers

or Social Security numbers. However, schools must give public notice of the categories of information which it has designated as “directory information” and allow Parents/Guardians/Relative Caregivers and eligible students a reasonable period of time after such notice has been given for a Parent/Guardians/Relative Caregiver to inform the school that any or all information designated should not be released without prior consent. 20 U.S.C. § 1232g(a) (5)(B).

C. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

The reporting of child abuse is not precluded by HIPAA. 42 U.S.C. §1320d-7(b). HIPAA does not preempt State law where "the provision of State law, including State procedures established under such law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention." 45 CFR 160.203(c).

VII. Administration of the MOU

A workgroup (MOU Workgroup) will be established under the Child Protection Accountability Commission (CPAC) Education Subcommittee including a representative from the Department of Education, the DFS Treatment Program Manager, one (1) Foster Care Liaison from each county, one (1) representative of DFS from each county and one OCA representative, will meet to review the implementation of this MOU. This committee will establish agreed upon data points that can be monitored and evaluated in determining the impact of the MOU and create changes as necessary. This committee will meet at least twice per year.

Based on the recommendations of this workgroup, each Department will provide training to the appropriate staff to help ensure all are familiar with the requirements and supports needed to implement this MOU.

VIII. Agreement Review

This Agreement shall be effective immediately upon the written signatures of all parties and will remain in effect until a new agreement is signed. This Agreement shall be reviewed by the MOU Workgroup and reauthorized at least every five (5) years by the DOE, the DSCYF, and LEAs. Renegotiation of any portion of this Agreement may occur at any time for good cause, upon the written request of any of the parties. The Parties will amend this Agreement based on changes to relevant and applicable federal and state law and regulations and rules. This Agreement may be terminated by any of the parties upon thirty (30) days’ written notice.

IX. Signatories

This document was signed by all parties and became effective 4/24/2023. Signatures are on file with the Department of Education.

Cabinet Secretaries

Dr. Mark Holodick Department of Education	Date
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Josette DelleDonne Manning, Esq. Department of Services for Children, Youth, and their Families	Date
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Local Education Agencies

Dr. Matt Burrows Appoquinimink	Date
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Lincoln Hohler Brandywine	Date
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Dr. Christine Alois Caesar Rodney	Date
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Robert S. Fulton Cape Henlopen	Date
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Dr. Vilicia Cade Capital	Date
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Dr. Dan Shelton Christina	Date
------------------------------	------

Dr. Jeffrey D. Menzer Colonial	Date
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Charity H. Phillips
Delmar

Date

Dr. Jay F. Owens, Jr.
Indian River

Date

Dr. Steven V. Lucas
Lake Forest

Date

Dr. Shawn Larrimore
Laurel

Date

Dr. Kevin Dickerson
Milford

Date

Dr. Joseph Jones
New Castle County Votech

Date

Dr. Amelia Hodges
Polytech

Date

Dorrell Green
Red Clay Consolidated

Date

Dr. Corey Miklus
Seaford

Date

Dr. Susan Brown
Smyrna

Date

Dr. Kevin Carson
Sussex Technical

Date

Heath B. Chasanov
Woodbridge

Date

Charter Schools

Mercedes Alonso, Executive Director
Academia Antonia Alonso

Date

Dr. Michele Marinucci, Head of School
Academy of Dover

Date

Heidi Greene, Head of School
Campus Community School

Date

Rachel Valentin & Dr. LaRetha Odumosu, Executive Directors
Charter School of New Castle

Date

Reginald Johnson, President
Charter School of Wilmington

Date

Anthony Pullella, Commandant
Delaware Military Academy

Date

Evelyn Edney, School Leader
Early College High School at DE State University

Date

Aaron Bass, Chief Executive Officer
East Side Charter

Date

Salome Thomas-El, Head of School
Edison (Thomas) Charter

Date

Dr. Lilyana Auster, Commandant
First State Military Academy

Date

Courtney Fox, Head of School
First State Montessori Academy

Date

Madeline Weckel, Head of School
Freire Charter

Date

Catherine Dolan, Head of School
Gateway Lab School

Date

Dr. LaRetha Odumosu, Executive Director
Great Oaks Charter

Date

Sally Maldonado, Head of School
Kuumba Academy

Date

Margaret Lopez-Waite, Chief Executive Officer
La Americas ASPIRA Academy

Date

Ned Southworth, Head of School
MOT Charter

Date

Lisa Ueltzhoffer, Interim Head of School
Newark Charter

Date

Elias Pappas, Head of School
Odyssey Charter

Date

Edward J. Emmett, Jr., Director
Positive Outcomes Charter

Date

Denise Stouffer, Head of School
Providence Creek Academy

Date

Eric Anderson, Head of School
Sussex Academy of Arts and Sciences

Date

Lisa Coldiron, Head of School

Date



Appendix A

Meeting Date: _____

Best Interest Determination Form (Foster Care)

Student's Name: _____ Student ID: _____

Current School/District: _____ Current Grade: _____

Determination:

- The student shall remain in the school in which the student was enrolled at the time of placement.
Name of School: _____
- Based on the best interest determination, a change in school placement is needed. The student will be immediately enrolled in the school of current residence.
Name of School: _____

The student shall remain in the school they were attending at the time of placement unless the responses to the following questions provide evidence that a change of placement is in the student's best interest.

What is the student's permanency plan (check all that apply)?

- Reunification
- Termination of Parental Rights/Adoption
- Guardianship
- Permanent Guardianship
- Another Planned Permanent Living Arrangement (APPLA)

What is the expected date for achieving the permanency plan? _____

Education:

How many schools has the student attended in last 3 years? _____

- How many this year? _____
- How have the school changes affected the student emotionally, socially, academically, and/or physically?

- Are there any safety considerations related to school placement?

- How does the child feel about any upcoming moves?

- What school(s) does the student's siblings attend?

Academics & School Activities:

- How is the student performing academically?

- What are the student's academic/career goals? Does either school have programs and/or activities that uniquely meet these needs or interests?

- Would changing the student's school affect his/her ability to:
 - Earn full academic credits or pass classes needed for promotion? How?

- Complete or appropriately progress in the career pathway/CTE courses?

- Participate in sports or other extracurricular activities? How?

Advance to the next grade? How?

Graduate on time? How?

Describe the student's ties to the current school, including significant relationships and involvement in activities.

Would the timing of a school transfer coincide with a logical transition, such as after testing, at the end of the school year or an event that is significant to the student?

Specialized Instruction:

Does the student have an IEP (circle one)? YES NO
 If yes, what related services are required and to what extent can each school meet those needs?

Does the student have a 504 plan (circle one)? YES NO
 If yes, what accommodations are needed?

Does the student participate in other specialized instruction? (i.e. gifted/talented program, bilingual, career & technical program)

Transportation:

- Length of time to school of origin: _____ Distance (in miles): _____
 - How would this impact the student?

- Length of time to school of residence: _____ Distance (in miles): _____
 - How would this impact the student?

Placement Preference:

- What school does the student prefer? Why? How was this information attained?

- Which school do the birth parents/guardians or Education Decision Maker prefer? Why?

- Which school does DFS prefer? Why?

- Which school do the foster parents prefer? Why?

Supporting Documentation:

Attach all documents that were used to make this determination of best interest. (The following checklist is a sample of documents that may be considered and is not intended to be exhaustive.)

- Report cards
- Progress reports
- Achievement data (test scores)
- Attendance
- IEP or 504 Plan
- E-mails or correspondence from individuals consulted
- Discipline records
- EdInsight Comprehensive Student Report

Signature Page

Determination:

- The student shall remain in the school in which the student was enrolled at the time of placement.
- Based on the best interest determination, a change in school placement is needed. The student will be immediately enrolled in the school of current residence.

The views of all parties in attendance will be taken into consideration and the final decision will be made by the representative of the school of origin, the representative of the school of residence and the DSCYF representative. *If these three parties cannot agree, the child will remain in the School of Origin.* (14 DE Admin. Code 903)

Participants	Printed Name (Title and/or relationship to student)	Signature	Agreement with determination? (Circle & initial)	
			Yes	No
*Representative of the school of origin (REQUIRED)			Yes	No
*Representative of the school of residence (REQUIRED)			Yes	No
*Representative of DSCYF (REQUIRED)			Yes	No
Student			Yes	No
*Birth parent(s), guardian(s), Relative Caregiver			Yes	No
*Education Decision Maker			Yes	No
School of origin special education representative, if applicable			Yes	No
School of residence special education representative, if applicable			Yes	No
Other:			Yes	No
Other:			Yes	No

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*A dispute resolution process is in place for parties who do not agree with the determination decision. Please ask the Foster Care Liaison for more information.

Appendix B

Consortium Discipline Alternative Programs (CDAP) Guide

