

MEMORANDUM OF UNDERSTANDING
Between
SOUTH DAKOTA DEPARTMENT OF EDUCATION
And
SOUTH DAKOTA DEPARTMENT OF SOCIAL SERVICES
2016

1.0 Parties:

This Memorandum of Understanding (MOU) is between the Department of Education, hereinafter referred to as “DOE” and the Department of Social Services, hereinafter referred to as “DSS.”

2.0 Objective:

The objectives of the MOU are to establish a framework and procedures for placement of children in foster care in local education agencies (LEA) programs and to outline the collaborative efforts of both agencies to ensure these children receive their education.

Activities under the MOU shall be performed in accordance with the federal Every Student Succeeds Act (ESSA).

3.0 Responsibilities and Coordination of Services Procedures:

Each agency will identify personnel at the state level responsible for liaison with the other agency. Designated personnel will be the point of contact (POC) for their local agencies. These personnel will recommend operational procedures and priorities defining services and scope. They will also resolve problems or issues in accordance with the dispute resolution process outlined in this MOU. The POC will recommend necessary policy clarification and procedures to carry out the terms of this MOU, consistent with state law and administrative rules for DOE and DSS.

DOE will assume the responsibility for notifying LEAs of the content of this agreement, as well as assist and provide consultation to LEAs and local Child Protection Services (CPS) agencies in developing needed procedures or mechanisms to carry out the terms of this MOU. DSS agrees to notify the

local CPS agency of the content of this agreement as well as assist and provide consultation when needed.

DSS and DOE will provide any training necessary for implementation of this MOU. This includes training for LEAS and the local CPS agency. Costs of that training will be the responsibility of the agency providing the training. This training may include instructions and technical assistance that may be provided in training sessions on an as needed basis.

When a child is placed in foster care, the child shall remain in the school of origin (SOO) unless it is not in the child's best interests. The factors to be considered for determining the best interests of the child include but are not limited to the appropriateness of the current school setting; the proximity of the SOO to the child's placement; the child's preference regarding school placement; if appropriate, parents' preference regarding school placement; the child's attachment to the SOO; the placement of siblings at a school and the availability of the needed services at the SOO.

It will be the responsibility of DSS to provide the DOE with a complete and accurate excel data file that lists by individual, all of the children that have been placed in foster care from July 1st of each year through September 30th of the same year. This excel file shall be submitted to the DOE POC no later than October 10th of each year. A second excel file will then be submitted to the DOE POC, which will include any child that is placed in foster care from July 1st through May 31st no later than June 10th. The data elements to be included in both excel files are: first name, last name, date of birth, gender, race/ethnicity, resident district name, resident school name, SD My Life ID.

The local CPS agency responsible for placement of the child shall make the decision of whether the child remains in the SOO in collaboration with the LEAs. The local POC for both the LEAs and the local CPS agency when time allows, meet prior to placement of the child to determine, using the factors described above, whether the child shall remain in the SOO or shall attend another school. In the case of a child with a disability, relevant staff involved in services for that child shall participate in the decision regarding placement. If it is determined that the child shall be removed from his SOO to another school, the child shall be enrolled in the receiving school immediately and the SOO shall forward the child's records to the receiving

school immediately. The absence of the child's records will not prevent the immediate enrollment in the receiving school.

When the LEAs and local CPS are unable to agree on the educational placement for the child, the local CPS agency will make the final decision subject to the dispute resolution procedures outlined in this MOU.

If the child is on 504 plan or IEP, the receiving school will provide Free Appropriate Public Education (FAPE) with comparable services immediately upon enrollment. In the case of an intrastate transfer, FAPE will be provided until the IEP team adopts the existing IEP or properly develops a new IEP. In the case of an interstate transfer, FAPE will be provided until an evaluation is completed, if required or a new IEP is developed. When a child is placed in foster care, timely and expedited evaluations and eligibility determinations are encouraged and comparable services must be provided if not at the SOO. For those children on IEPs or 504 plans, continued placement at the SOO applies as long as the child remains in foster care. LEAs are encouraged to allow the child to remain at the educational placement until the end of the academic year, even if the child is no longer in foster care and is no longer entitled to attend the school under existing attendance and residency laws.

As soon as it is anticipated that a child will be placed in foster care, the POC of the local CPS agency responsible for placement of the child, shall immediately notify the POC of the SOO and, if applicable the POC of the receiving school to determine the school that the child shall attend. When the school placement is determined, the POC of the local CPS agency will notify in writing both schools of the child's attendance center and the child will be immediately enrolled in that attendance center if the school is not the SOO.

Issues regarding transportation of a child in foster care to the attendance center shall be determined by the POCs of the local CPS agency and LEAs. The costs associated with transportation will be determined in collaboration among the local CPS agency and LEAs. Transportation should be cost effective. Factors to be considered include but are not limited to reasonableness of costs including distance from home to school, length of time involved in travel, and appropriateness of mode of travel considering age and developmental level of child. Transportation does not require door

to door travel for the child. Dropping off at the nearest bus stop; public transportation, parent transportation and special education transportation pursuant to an IEP may all be options depending on the needs of the child and the factors to be considered.

It is the responsibility of the LEA and the local CPS agency to develop a plan to provide transportation, even if the child is no longer living within the boundaries of the LEA, but is attending the SOO. Regular transportation costs for a child in foster care to attend their SOO, will be paid by CPS. If there are additional costs outside of the regular transportation costs, the LEA and CPS agency will enter into a written agreement to share the additional costs. Disputes regarding transportation shall be subject to the dispute resolution procedures outlined in this MOU.

Responsibilities of the POC for the LEAs and local social services agencies.

1. Coordinate with POCs in related agencies;
2. Coordinate and plan the development of local processes for determining the best interests of children in foster care with respect to educational placement;
3. Ensure that determinations regarding best interests and transportation are documented in writing;
4. Facilitate the immediate transfer of all academic records and enrollment in the receiving school and
5. Coordinate and develop local processes for determining the transportation needs of children in foster care and implementation of processes.

4.0 Definitions:

- (1) “Cooperative Educational Service Unit (Co-op)” a unit created by two or more school districts meeting the standards of SDCL 13-5-31 Cooperative educational service units.
- (2) “DSS” – the agency who administers the South Dakota child protection program.
- (3) “DOE” – the agency responsible for administering special education programs.

- (4) “ESSA” – Every Student Succeeds Act 20 USC 6301 et seq.
- (5) “FAPE” – free appropriate public education.
- (6) “504 plan” - A plan developed pursuant to section 504 of the rehabilitation act. 29 USC 701 et seq.
- (7) “Foster care” – twenty-four-hour substitute care for children placed away from their parents and for whom a child welfare agency has placement and care duties. Includes tribal agencies if they have placement and care duties. 42 USC 621.
- (8) “IDEA” – Individual with Disabilities Education Act of 2004.
- (9) “IEP” – individual education program.
- (10) “Interagency Agreements/Obligation of Noneducational Public Agency” – ARSD 24:05:14.
- (11) “Local Education Agency” – an agency approved or accredited by the South Dakota Board of Education.
- (12) “Point of contact” – a person within an agency who is the contact person for the agency for a particular purpose or need.
- (13) “School District” – a local education agency or an educational cooperative which meets the standards of ARSD 67:16:37.
- (14) “School of origin” – the school in which a child is enrolled at the time of placement in foster care. 20 USC 6301 et seq.

5.0 Dispute resolution

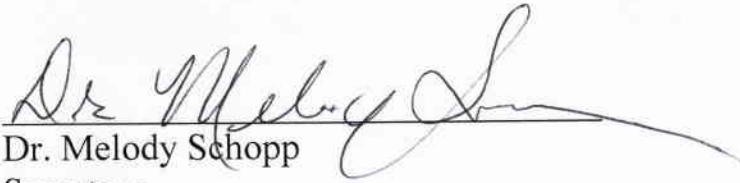
1. All attempts will be made to resolve disputes at the lowest level.
2. When disputes cannot be resolved by designated department representatives, a written explanation of the dispute shall be sent to the DOE Foster Care Liaison, Title and the DSS Program Specialist for Child Protection Services. These individuals, in consultation with each other shall review the issues and make a determination as to how the dispute should be resolved. The decision will be shared in writing with each level involved within twenty (20) calendar days of receipt of request for the determination and will include reasons for the decision.
3. If they are unable to reach resolution, they will refer the issue to the DOE Director of Educational Services and Support and the Director of Child Protection Services who within 30 calendar days will jointly make a final determination and notify LEAs and the local CPS agency in writing.

6.0 Arrangements for Periodic Review of the MOU.

This MOU shall be reviewed at least every three years and evaluated as to the need for modifications or amendments by mutual determination of the involved agencies.

The terms of this memorandum of understanding (MOU) shall begin on this 10th day of December, 2016 and shall remain in effect until modifications are deemed necessary and mutually acceptable changes are negotiated.

Agreed to this 30 day of December, 2016.



Dr. Melody Schopp
Secretary,
Department of Education



Lynne A. Valenti
Secretary,
Department of Social Services