

MEMORANDUM OF UNDERSTANDING
SCHOOL STABILITY FOR STUDENTS IN FOSTER CARE

INTERGOVERNMENTAL AGREEMENT (IGA)

(IGA) Intergovernmental Agreement between the Byers School District located at 444. E. Front St., Byers, CO 80103 and the Arapahoe County Department of Human Services, located at 14980 E. Alameda Dr., Aurora, Colorado, 80012, on behalf of children/youth placed out of their home by the Arapahoe County Department of Human Services in a "foster home" regardless of the location of the placement.

WHEREAS, intergovernmental agreements to provide functions or services, including the sharing cost of such services or functions by political subdivisions of the State of Colorado, are specifically authorized by Section 29-1-203 C.R.S. and Article XIV, Section 18 of the Colorado Constitution

WHEREAS, ensuring school stability and academic success for children and youth in foster care is an important joint responsibility of child welfare and education agencies;

WHEREAS, Colorado's students in foster care experience much higher rates of school mobility and much lower rates of academic achievement than their peers, and less than one out of three Colorado students in foster care graduates high school within four years of entering ninth grade;¹

WHEREAS, the Fostering Connections to Success and Increasing Adoptions Act of 2008,² (Fostering Connections Act) and the Every Student Succeeds Act³ (ESSA) require child welfare agencies and education agencies to collaborate to ensure school stability and school attendance for all children and youth in foster care;

WHEREAS, the Fostering Connections Act and ESSA require that when a child or youth in foster care changes foster care placements, he or she remains in the school of origin with necessary transportation provided, or, if this is not in his or her best interest, that the child or youth is immediately and appropriately enrolled in a new school even without normally required records;⁴

WHEREAS, the Fostering Connections Act allows child welfare agencies to use Title IV-E funds for reasonable travel to the school of origin for eligible children and youth;⁵

WHEREAS, ESSA allows educational agencies to use Title I funds to pay for additional costs needed to transport children and youth in foster care to their school of origin,⁶

¹ Clemens, E. V. (2014). Graduation and Dropout Rates for Colorado Students in Foster Care: 5-Year Trend Analysis (2007-08 to 2011-12). Greeley, CO: University of Northern Colorado. Visit <http://www.unco.edu/cebs/foster-care-research/reports.aspx> for all available reports and <http://www.unco.edu/cebs/foster-care-research/needs-assessment-data/> for interactive data visualizations by topic.

² Fostering Connections to Success and Increasing Adoptions Act of 2008 (hereinafter "Fostering Connections Act"), Pub. L. 110-351, 122 Stat. 3949 (codified as amended in scattered sections of 42 U.S.C.). Sections of Fostering Connections relevant to this Agreement include, but are not necessarily limited to, 42 U.S.C. § 675(1)(G) and (4)(A).

³ Every Student Succeeds Act, Pub. L. 114-95, 129 Stat. 1802 (codified throughout 20 U.S.C.). Sections of ESSA relevant to this Agreement include, but are not necessarily limited to, 20 U.S.C. § 6311(g) and 20 U.S.C. § 6312(e)(5).

⁴ 42 U.S.C. § 675(1)(G) and 20 U.S.C. § 6311(g)(1)(E) and § 6312(e)(5)(B).

⁵ 42 U.S.C. § 675(4)(A). Throughout this document, "Title IV-E" refers to Title IV-E of the Social Security Act.

⁶ 20 U.S.C. § 6302(a) (Appropriating funds to local educational agencies for use in carrying out activities described in ESSA Title I, Part A (20 U.S.C. § 6312)). Throughout this document, "Title I" refers to Title I of the Elementary and Secondary Education Act, reauthorized in 2015 as the Every Student Succeeds Act.

~~WHEREAS, ESSA requires each local educational agency (LEA) to collaborate with the local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children and youth in foster care in their schools of origin, when in their best interest, will be provided, arranged, and funded for the duration of the time in foster care;⁷~~

WHEREAS, such transportation must be provided promptly and in a cost-effective manner and in accordance with Section 475(4)(A) of the Social Security Act (codified at 42 U.S.C. § 675(4) (A));⁸ and

WHEREAS, ESSA requires each local educational agency to designate a point of contact if the corresponding child welfare agency notifies it in writing that it has designated a point of contact,⁹ and in Colorado, educational agency points of contact, known as Child Welfare Education Liaisons (CWEL), are required in each local educational agency;¹⁰

THEREFORE, the undersigned Parties do hereby agree to the following:

I. PARTIES

This Agreement is made between the following agencies: Arapahoe County Department of Human Services ("Human Services") located at 14980 E. Alameda Drive, Aurora, CO 80012 and Byers Public School District ("School District"), District Code 32J, located at 444. E. Front St., Byers, CO 80103.

II. TERMS AND EFFECTIVE DATE

The Agreement shall go into effect beginning July 1, 2018 and expire on June 30, 2019.

A. Form of Notice

Timely notice and communication between Parties is required upon several occasions outlined in this Agreement. Parties agree that prompt, efficient communication is necessary to achieve the purposes of this Agreement and therefore agree that, unless otherwise specified, electronic signatures are sufficient, and notices do not need to be sent in hard copy.

To facilitate effective communication, unless otherwise specified, notices must:

1. Be in writing (notice by phone call must be followed up with email); and
2. Be delivered via email, in accordance with section IX.C regarding secure transfer of personally identifiable information;

⁷20 U.S.C. § 6312(c)(5)(B).

⁸*Id.*

⁹20 U.S.C. § 6312(c)(5)(A). ¹⁰ § 22-32-138, C.R.S.

I. DEFINITIONS

“Additional costs” are costs of transportation that exceed what the local educational agency would otherwise pay to transport the student to school if the student were not in foster care.¹¹

“Best interest determination” refers to the outcome of a process facilitated by the County Department of Human Services, in accordance with 12 CCR 2509-4, 7.301.241, to determine whether it is in a child or youth’s best interest to remain in the school of origin or, alternatively, transfer to a new school.

“Caregiver” for purposes of this agreement, refers to any approved, non-professional adult who accepts the responsibility of transporting the student to school, including but not limited to a foster parent, kinship caregiver, custodial or non-custodial parent, non-custodial kin, older sibling, etc. The term is used broadly to describe persons who may be reimbursed for their mileage or public transit fares pursuant to this Agreement.

“Child in foster care” includes all school-aged children and youth in foster care, regardless of Title IV-E eligibility, including those attending a public preschool.¹²

“Foster Care” has the same meaning as defined by 45 CFR § 1355.20, which is “24-hour substitute care for children placed away from their parents or guardians and for whom the 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.”

“Immediate Enrollment” means attending and meaningfully participating in school by the date designated in the student’s best interest determination, in accordance with 12 CCR 2509-4, 7.301.241(D)(4).

“Local Educational Agency” (LEA) means the local public school district, charter institute, Colorado school for the deaf and the blind, and/or board of cooperative education services (BOCES). Individual schools are part of their respective LEAs.¹³

“Out-of-home placement” for purposes of this Agreement is interchangeable with “foster care.” See definition of “foster care.”¹⁴

“School of origin” means the current school in which the student was enrolled at the time of placement into foster care. If the student’s foster care placement changes, the school of origin is the school in which the student is enrolled at the time of the placement change,¹⁵ OR where the parents’ home address is if the youth hadn’t been attending school.

¹¹ U.S. Departments of Education and Health and Human Services, *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* at 17-18 (June 23, 2016) available at http://www.acf.hhs.gov/sites/default/files/obj/ed_hhs_foster_care_guidance.pdf (hereinafter, “Joint Guidance”).

¹² Joint Guidance at 8 (including preschoolers in scope of ESSA foster care provisions).

¹³ Local Educational Agency is defined in various areas of state and federal law. This Agreement utilizes the definition from 12 CCR 2509-1.

¹⁴ Both terms are used due to variations in state and federal law referring to the same population. Colorado law tends to use the term “out-of-home placement” while federal law uses “foster care.” ¹⁵ Joint Guidance at 11

~~“Student” for purposes of this Agreement includes all school-aged children and youth in foster care, regardless of Title IV-E eligibility or out-of-home placement type (see definition of “foster care” above), including those attending a public preschool. A school-aged child or youth is considered a “student” for purposes of this Agreement even if they have not been enrolled in or attending school.~~

IV. POINTS OF CONTACT AND DUTIES

A. Human Services Point of Contact

The primary point of contact for purposes of implementing this Agreement is:

Kala Slater, Administrative Support Supervisor
kslater@arapahoe.gov 303-734-4354

Human Services will have a designated point of contact for purposes of implementing this Agreement and affirms that he or she has sufficient authority, capacity, and resources to fulfill the following obligations of this agreement including:

- Coordinating with the corresponding School District point of contact to implement this Agreement
- Participating in the development and implementation of a local best interest determination process that meets the requirements of 12 CCR 7.301.241, including ensuring all required participants are invited and all required documentation is completed.
- Notifying the School District point of contact within 2 school days when a student who attends school in the School District has been placed in foster care or when there has been a foster care placement change. If transportation will be needed to maintain the student in the school of origin and/or when a school move is considered triggering a best interest determination process, this information shall be included in the notice.
- Scheduling the best interest determination meeting within 7 school days, whenever possible, from the placement.
- Notifying the School District point of contact within 1 school day of the outcome of a best interest determination for a student whose school of origin is within School District, including whether the determination triggers the need to collaborate an ongoing transportation services pursuant to this Agreement. To ensure timely and consistent communication, the Human Services point of contact will send this notice even if a School District representative attended the best interest determination.
- Notifying the School District point of contact within 2 school days when there has been a best interest determination that student in foster care will transfer into a new school within School District from *another* local educational agency.
- Providing professional development and training to Human Services staff on Fostering Connections and ESSA provisions; the school stability requirements of Volume 7 including 12 CCR 7.301.24(D), 7.301.241, and 7.301.242; and this Agreement.
- Serving as a secondary source, when possible, to provide educational records from the Human Services case file to a student’s new school.

- Coordinating necessary transportation for students as described in this Agreement, including ~~through development of any Human Services policies or practices necessary to implement these~~ procedures.
- Participating in good faith in the dispute resolution process outlined in this Agreement in the event of disagreements regarding transportation.

B. School District Point of Contact

The primary point of contract for purposes of implementing this Agreement is:

Tom Turrell, CWEL
Turrell.tom@byers.k122.us 303-822-5292

School District will have a designated point of contact for purposes of implementing this Agreement and affirms that he or she has sufficient authority, capacity, and resources to fulfill the following obligations of this agreement including:

- Coordinating with the corresponding Human Services point of contact to implement this Agreement.
- Ensuring participation of an individual from School District who knows the student when Human Services facilitates a best interest determination pursuant to 12 CCR 7.301.241. The participant should be someone who “is knowledgeable about the child and able to provide feedback on significant relationships that the child may have formed and how changing Schools would impact his or her academic, social, or emotional well-being such as a teacher, counselor, coach, or other meaningful person in the child’s life.”¹⁶
- Developing and implementing a transportation plan when transportation is needed to maintain the student in the school of origin. School District will notify the Human Services point of contact of this plan and the date of the implementation, two day prior to going into effect.
- Developing and implementing a “need to know basis” confidentiality policy to meet the educational needs of students in foster care while also protecting privacy of sensitive information; documenting best interest determinations and foster care status on behalf of School District to the extent required to meet students’ educational needs.
- Providing professional development and training to School District staff on ESSA provisions, this Agreement, and the educational needs of students in foster care.
- Facilitating the prompt transfer of educational records for students in foster care who enter or exit a school within School District.
- Facilitating immediate enrollment for students in foster care who enter a school within School District.
- Immediately requesting education records from the school of origin for students in foster care who enter a school within School District.¹⁷
- Ensuring that students in foster care are promptly enrolled in School District’s free lunch program.¹⁸
- Ensuring that the school and School District waive all school fees for students in out-of-home placement, including but not limited to any general fees, fees for books, fees for lab work, fees for participation in in-school or extracurricular activities, and fees for before-school or after-school programs.¹⁹

¹⁶ Joint Guidance at 13, 1720 U.S.C. § 6311(g)(1)(E) (requiring receiving school to immediately initiate records transfer). ¹⁷ 42 U.S. § 1758(b)(5) (establishing categorical eligibility for free lunch for students in foster care). ¹⁸ § 22-32-138(7), C.R.S. ¹⁹ Joint Guidance at 14.

- Facilitating data sharing with Human Services consistent with FERPA, the IDEA, and other ~~privacy laws and policies.~~
- Coordinating necessary transportation for students as described in this Agreement, including through development of any School District policies or practices necessary to implement these procedures.
- Participating in good faith in the dispute resolution process outlined in this Agreement in the event of disagreements regarding transportation.

C. Seamless Coverage of Obligations

While the duties described above are expected to be fulfilled by the designated point of contact, the duties are obligations of the respective parties. School District and Human Services shall ensure adequate staff time to meet the obligations of this agreement. School District and Human Services shall ensure seamless coverage during times such as staff vacancies or leave.

V. BEST INTEREST DETERMINATIONS

When a school move is considered as a result of a change in foster care placements, Human Services shall facilitate a best interest determination in compliance with 12 CCR 7.301.241. A copy of this section of rule is attached as Appendix A.

A. Responsibility for Determining Best Interest

Human Services is the entity responsible for determining whether it is in a student's best interest to remain in their school of origin, with input from School District.²⁰ Consistent with 12 CCR 7.301.241 and the point of contact duties outlined in this Agreement, Human Services shall engage School District in this process, and School District shall provide meaningful input from a representative who knows the student.

It is presumed to be in a student's best interest to remain in the school of origin with transportation provided. Therefore, if no school move is ever considered, a best interest determination is unnecessary. If School District believes a school move should be considered, and Human Services has not already initiated the best interest determination process, then the School District point of contact may send a written request for a best interest determination to the Human Services point of contact. Human Services must then facilitate a best interest determination process; scheduling the best interest determination meeting within 7 school days of the receipt of the request, whenever possible.

A best interest determination meeting is not required when a change in school is considered due to the child's IEP needs. In addition, the best interest determination process does not overrule any recommendations through the IEP process.

In some instances, the juvenile court may exercise its jurisdiction to make a best interest determination, which may or may not be consistent with a determination already made by Human Services. In these instances, the juvenile court's orders are the final determination.

B. Timing and Outcome of Best Interest Determination

The best interest determination must be made prior to a change in schools.

The outcome of a best interest determination can be:

- (1) It is in the student's best interest to remain in the school of origin, and a transportation plan is not necessary;
- (2) It is in the student's best interest to remain in the school of origin, and transportation plan is necessary; or
- (3) It is in the student's best interest to change schools. The new school and date for transfer must be identified.

A determination that it is in a student's best interest to change schools shall include the date when it is best for him or her to transfer, with the student continuing to attend the school of origin until that date. When a school move is necessary, it is assumed to be in a student's best interest to transition at natural academic junctures.

Human Services and School District agree to coordinate as outlined in this agreement to maintain students in their schools of origin unless it is determined not to be in their best interest to do so and until the designated date for transfer. Agreed upon transportation plans will continue through seasonal breaks, to include summer, until the child returns home, there is a placement change or there is a request for a subsequent best interest determination meeting. When a child exits out-of-home placement, they retain school stability protections, including transportation to the school of origin, for the duration of the academic semester or term. This continuity aims to support permanency, prevent re-entry, and support educational outcomes.

VI. IMMEDIATE SCHOOL ENROLLMENT

Human Services point of contact will notify School District point of contact within 1 school day of a determination that it is in a student's best interest to transfer into a school within School District. This notice shall include the date designated for transfer.

School District will ensure the student is immediately enrolled, which means attending and meaningfully participating in school by the date designated in the student's best interest determination, in accordance with 12 CCR 2509-4, 7.301.241(D)(4). Enrollment cannot be denied or delayed because documents normally required for enrollment (proof of age, proof of residency, vaccination records) have not been submitted.²¹ School records, including an IEP, are never required for enrollment, but an enrolling school must immediately contact the school of origin to obtain relevant records.²²

When a student transfers out of School District, School District will support that student's transition by ensuring prompt transfer of records to the new school. Records transfer must not be delayed due to any fees or fines the student may owe.

²¹ 20 U.S.C. § 6311(g)(1)(E); Joint Guidance at 20.

²² *Id.*

VII. PROVISION AND ARRANGEMENT OF TRANSPORTATION

Human Services and School District share the goal and obligation of providing prompt, cost-effective transportation to maintain students in their schools of origin. To achieve this, parties agree to the following terms and procedures.

A. Duration of Transportation

Transportation obligations begin on the day a student is placed out-of-home. It is presumed to be in a student's best interest to remain in the school of origin, so no formal best interest determination is needed to trigger parties' transportation obligations. However, School District may request a best interest determination as described in Section V of this Agreement.

Transportation will be continuously provided for the duration of the student's time in foster care unless and until it is determined not to be in the student's best interest. If a student exits foster care before the end of a school year, the transportation arrangement will be maintained through the end of the school year to maintain the student's educational stability.²³

B. Interim/Short-Term Transportation – Arrangement and Order of Preference

Children and youth in foster care must remain in the school of origin unless and until it is determined to be in their best interest to attend a new school. In recognition that initial placement into foster care and changes in foster care placements often occur with little notice, Human Services is responsible for arranging short-term transportation to ensure school attendance immediately following a placement change. Human Services and School District agree to the following to provide short-term transportation services to a student's school of origin while longer-term decisions and arrangements are made. Transportation may be a combination of methods as necessary for the individual situation.

These short-term preferences also apply when circumstances change during an existing placement and the previously arranged transportation plan can no longer be followed.

Order of preference for short-term transportation:

1. *Caregiver*. The preferred immediate transportation option is for the student's caregiver or another appropriate adult (such as non-custodial parents, kin, a mentor, or a CASA volunteer) to provide transportation with mileage reimbursement. Any care provider who provides transportation shall have a valid driver's license and maintain auto liability insurance pursuant to Colorado Revised Statutes.
 - Human Services caseworker will coordinate with caregiver to arrange transportation under this option.
 - If caregiver transportation is an option, Human Services and School District will cost share responsibility for the costs of caregiver mileage reimbursement to the school of origin. The Human Services caseworker is responsible for arranging this with the caregiver.

²³ Federal guidance encourages agencies to "make every effort to continue to ensure transportation is provided through the end of the school year" in which a child exits foster care. Joint Guidance at 17. See also § 22-32-116 (entitling non-resident students to remain in their school until the end of the academic term, or year for elementary and 12th grade students).

2. *Public Transportation.* If public transportation is an appropriate option, the student may take public transportation to school.
 - o The Human Services caseworker will work with the caregiver and student to identify a public transportation route.
 - o Human Services and School District will cost share the responsibility for the costs of public transportation, including the fares for an adult chaperone if necessary, to the school of origin for the first seven school days.
3. *Third-Party Private Provider.* Identified third-party providers may provide school Transportation
 - o Human Services point of contact will select and arrange short-term transportation with the provider.
 - o Human Services and School District agree to cost share the additional costs as described in Section VIII.
4. *Human Services or School District Staff.* Identified employees of Human Services and/or School District may provide school transportation. Any School District Staff providing transportation for a student shall have passed criminal background checks of at least a seven year period. Any School District Employee with a record indicating felony violations, questionable character or possible security risk shall not be allowed to provide transportation to students under this Agreement. Any staff who provide transportation shall have a valid driver's license and maintain auto liability insurance pursuant to Colorado Revised Statutes.

C. Ongoing Transportation – Arrangement and Order of Preference

School District is responsible for arranging ongoing transportation. Consistent with the duties described in Section IV, the Human Services point of contact will notify the School District point of contact within two school days when a student who already attends school in the School District has been placed in foster care or when there has been a foster care placement change. The Human Services point of contact will indicate in this notice and/or follow up communication if the student will need transportation to their school of origin under this Agreement.

Human Services point of contact will also notify the School District point of contact within two school days should other circumstances change requiring revision to the transportation plan.

Within two school days of being notified of the need for transportation, the School District point of contact will determine whether there is an existing transportation route that the student can take to the school of origin or, alternatively, whether the student is eligible for transportation under the IDEA or the McKinney-Vento Homeless Assistance Act.

School District will promptly develop an ongoing transportation plan. Transportation may be a combination of methods as necessary for the individual situation. The School District point of contact will notify the Human Services point of contact within two days of any changes to the current transportation plan.

Additional costs of ongoing transportation will be shared by Human Services and School District as detailed in Section VIII.

Order of preference for ongoing transportation:

1. *School District Route.* If there is an existing school district transportation route, including routes that can be modified, the School District point of contact will arrange for the student to begin riding on the existing route as soon as possible. The School District point of contact will notify the Human Services point of contact *and* the foster parent/kinship caregiver of the route information. If transportation under this option is already required under the McKinney-Vento Act or IDEA, it does not pose an "additional cost."
2. *Transportation Already Addressed through Other Means.* School District will assess whether the student is entitled to transportation services under another statute. School District will provide transportation funded by the School District if the student is eligible under the McKinney-Vento Act or the IDEA; because this transportation is already required, it does not pose an "additional cost."
3. *Drop-off to Meet School District Route.* This option is available when the student can be dropped off, whether by a caregiver or another provider, to meet an existing school district route, including routes that can be modified. School District point of contact will coordinate with Human Services point of contact to determine if this is an option.
4. Caregiver. As described above.
5. Public Transportation. As described above.
6. Third Party Transportation.

VIII. FUNDING OF TRANSPORTATION

A. Mileage Reimbursement Rates and Eligibility

Rates When using personal vehicles, Human Services employees and School District employees shall be reimbursed for mileage at the rates established by their respective agency. These employees shall and maintain automobile and liability insurance at the levels required by their respective agency policy for transporting minors.

The rate for caregiver mileage reimbursement shall be the same as is provided through the Federal Standard Mileage Rate.

Mileage to be reimbursed includes the door-to-door actual miles necessary to take the student to school, less the provider's normal commute (if any).

Each Party shall provide the other Party with notification of their respective mileage reimbursement rates and any changes thereto in a timely manner.

Indemnification The School District shall indemnify and hold harmless the County and its elected and appointed officials, officers, employees, and agents from and against any and all losses, damages, liabilities, claims, suits, actions, or awards, including costs, expenses and attorney's fees, incurred or occasioned as a result

of the acts or omissions of the School District, or its principals, employees, agents, or subcontractors arising out of or in any way connected with the performance of services under this Agreement. The School District's obligation to indemnify pursuant to this paragraph, and to provide any extended insurance coverage where applicable, shall survive the completion of the scope of services, and shall survive the termination of this Agreement.

B. Cost-Sharing and Maximization of Federal Funds

In general, 80% of Human Services' expenses pursuant to this agreement will be reimbursed by the Colorado Department of Human Services. It is the intent of Human Services and School District to share the remaining non-reimbursable costs (20%) of transportation equally and to maximize availability of federal dollars. Except as otherwise provided in this Agreement, Human Services and School District agree to each cover 50% of the additional costs of transportation to maintain Students who are in out-of-home placement in their schools of origin. "Additional costs" are costs of transportation that exceed what the LEA would otherwise pay to transport the student to school if the student were not in foster care.

Transportation services and the cost share agreements shall end at the end of each academic semester after the child welfare case has closed.

Cost sharing when the School District does not have a prior cost - Description: Student changes foster care placements and needs transportation to the school of origin. The student did not previously have any district provided transportation and there are no pre-existing bus routes.

$$\text{Total cost of transportation} \times 0.8 = \text{amount to be reimbursed by CDHS}$$

$$\text{Total cost} \times 0.2 \times 0.5 = \text{cost share amount for each entity}$$

Cost sharing when the district has prior costs - Description: Prior to the change in foster care placement, the school district was providing transportation. The cost share shall be a split of the difference in cost between what the district was paying prior to the change in foster care placement and the cost of providing transportation to the school of origin after the change in foster care placement.

$$\text{Cost to be split} = \text{total cost of transportation} - \text{districts prior obligation}$$

$$\text{Cost to be split} \times 0.8 = \text{Reimbursement by CDHS}$$

$$\text{Cost to be split} \times 0.2 \times 0.5 = \text{cost share amount for each entity}$$

The School District shall submit invoicing for the total cost of transportation expended by the School District for eligible children/youth on a monthly basis. Human Services will submit expenditures to CDHS for reimbursement. Human Services shall reimburse the School District the 80% expended plus the School District applicable cost share amount. If Human Services incurs the cost of transportation, Human Services will reimburse the School District only the applicable cost share amount. The Parties may submit monthly invoices that itemize any Additional costs incurred during the preceding month. Invoices must include the child's name, Trails Case ID number, dates of service and itemize the "ordinary" as well as "additional" costs for transportation for that child. Invoices shall be sent to the primary point of contact for each Party. The Parties agree to reimburse each other for their proportionate share of Additional costs.

Invoice to Human Services: Invoices are due on the 5th of each month except when the 5th is on a Saturday or a Sunday in which case the report is due the following Monday, or if Monday is a holiday, on the following business day by Close of Business. The Contractor agrees that any invoices not submitted to the County within 60 days of the date that the Contractor rendered services to the County will not be paid by the County. The County will process payment. If the Contractor disagrees with any remittance made by the County, the Contractor agrees to send written notice of the disagreement and the reasons for the disagreement to the Arapahoe County Department of Human Services Finance and Administrative Services Division no later than 30 days after the issuance of the remittance. The County agrees to respond to the notice of disagreement within 30 days after receipt of the notice. If the Contractor fails to send written notice of the disagreement within 30 days after the issuance of the remittance, the Contractor agrees to waive any claim against the County concerning the invoice or the remittance. Payment of the invoices by the County will be made within twenty five (25) days of the receipt thereof.

Title IV-E and Title I funds are the primary sources of federal child welfare and education funds, respectively, that can be applied to transportation costs to maintain students in foster care in their schools of origin.²⁴ Title IV-E funds are available only for eligible children and youth, and these funds require a 50% state or local match. Approximately 50% of the children and youth in foster care served by Human Services are IV-E eligible. Title I dollars are a set amount and do not require a match, and these funds may be utilized for any student in foster care. However, School District incurs more Title I-eligible expenses than it receives in Title I dollars. Thus, it is anticipated that Human Services and School District will have to utilize state and local funds to meet transportation obligations.

Under the following terms, it is mutually beneficial to Parties to utilize state and local dollars strategically to maximize the overall federal contribution to Colorado's transportation costs for students in foster care. In order to provide transportation services in a cost-effective manner, Parties agree to take the measures outlined below.

1. Title IV-E Match-Eligibility. Human Services and School District agree to utilize, to the extent possible, funds that are eligible for a federal Title IV-E match toward the transportation costs for IV-E eligible students.

IX. CONFIDENTIALITY

A. Confidentiality of Child Welfare Information

Human Services and School District understand and agree that not all information relevant to a student's best interest determination is permissible or appropriate to be shared with School District staff. In order to protect family privacy, Human Services may not be able to disclose certain factors impacting the best interest determination, including but not limited to content of or progress on parents' treatment plans, details of students' mental health needs, sensitive family information etc. Human Services and School District agree that the primary role of School District in the best interest determination process is to provide information and insight about the student and schools.

²⁴ Throughout this document, "Title IV-E" refers to Title IV-E of the Social Security Act, and "Title I" refers to Title I of the Elementary and Secondary Education Act, reauthorized in 2015 as the Every Student Succeeds Act

B. School District Use of Sensitive Information

Notwithstanding the safeguards above, School District and its employees will inevitably learn information of a sensitive nature as a result of participating in the best interest determination process and in the ongoing work of supporting children and youth in foster care.

In recognition that education records are more accessible to a wider audience than child welfare records, School District will adopt practices and/or policies to allow it to utilize sensitive information to serve a student in foster care's educational needs without unnecessarily creating and maintaining "educational records" subject to disclosure pursuant to the Family Educational Rights and Privacy Act.

X. DISPUTE RESOLUTION

A. Funding of Transportation Pending Dispute

In order to meet the educational stability needs of children and youth, and to comply with Fostering Connections and ESSA, Human Services and School District agree to participate in the Best Interest Determination meetings and accept the outcome of such meeting as well as to provide and fully fund transportation as outlined in Section VIII above pending resolution of disputes.²⁵

If Human Services and School District disagree regarding the transportation plan(s) of an individual student, or group of students, the transportation provided shall be the first option in the order of preferences that is supported by at least one party to this Agreement.

B. Dispute Resolution Procedures

Disputes regarding best interest determination shall be handled in a manner that promotes the child/youth's safety and stability and will follow the procedures as referenced in Appendix A, 12 CCR 2509-4, 7.301.241, D.8

Disputes regarding transportation plans of the student shall be handled as follows:

As soon as it is apparent that a disagreement exists and dispute resolution is necessary, the School District and Human Services points of contact shall notify their respective administrators of the dispute. The administrators shall attempt to come to an agreement within 5 school days. If an agreement still cannot be reached, parties agree that the County Deputy Director and the School District's Assistant Superintendent will decide the outcome, including any amounts owed between parties for transportation provided pending the resolution.

List of Appendices:

Appendix A: 12 CCR 2509-4, 7.301.241 (School Stability/Best Interest Determination Rule)

²⁵ See 34 C.F.R. 299.13(e)(1)(ii) (2016) (requiring clear written procedures for how transportation will be provided and funded pending dispute resolution).

Appendix A

School Stability Rule Excerpt: 12 CCR 2509-4, 7.301.241 and 7.301.242

7.301.241 Education Requirements for Children/Youth in Out-of-Home Placement [Rev. eff. 2/1/17]

- A. Documentation shall be entered into the state automated case management system to address compliance with all requirements in this Section, 7.301.241, including designation of responsibilities.
- B. County departments shall coordinate with the local public school, school district, and/or Board of Cooperative Education Services (collectively, "local educational agency" or "LEA") to ensure educational stability for each school-aged child/youth, including those attending public pre-school, in out-of-home placement.
- C. Each placement of a child/youth shall take into account the appropriateness of the current educational setting and the proximity to the school in which the child/youth is enrolled at the time of placement, referred to as the "school of origin." See Section 7.301.24, E.
- D. It is presumed to be in a child/youth's best interest to remain in the school of origin. If transportation is necessary to maintain the child/youth in the school of origin, this shall be provided in accordance with Section 7.301.24, E.

The county shall make a best interest determination prior to any school move resulting from a change in placements unless remaining in the school of origin poses a specific, documented threat to the child/youth's safety. The best interest determination process is as follows:

1. The best interest discussion and determination shall occur as an in-person meeting when warranted and possible. When an in-person meeting is not warranted or not possible, or for participants unable to attend the meeting, the county department shall consult participants by other means, such as phone or email.
2. The county department shall invite the following people to participate in the best interest determination. If a participant is unavailable or cannot be located, the county shall document the various ways in which attempts were made to engage that participant.
 - a. Child/youth, as described below,
The county department of human services shall determine the child/youth's wishes in a developmentally appropriate way and include the child/youth in the meeting to the extent appropriate and possible for the child/youth's individual needs. If it is inappropriate or not possible for the child/youth to participate in the meeting, the county department shall document the reason and ascertain the child/youth's wishes through other means.

b. Parents,

For purposes of this subsection 7.301.241, the term "parents" includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary provisions of Title 19 of the Colorado Revised Statutes or the parent of an emancipated minor.

c. Caseworker or appropriate designee,

d. Guardian ad litem, if one is appointed,

e. Representative from the school of origin who knows the child/youth, as determined by the LEA,

f. Educational surrogate parent, if any, and

g. Others as relevant and appropriate as determined by the county, which may include but are not limited to future caregiver, court appointed special advocate (CASA), current caregiver, representatives from potential new school, support person for the child/youth.

3. Best interest determination meetings may be incorporated into family engagement meetings. The county department shall protect the family's confidentiality by including school personnel only in the portion of the meeting regarding the child/youth's educational needs, unless members consent to their ongoing participation in the meeting.
4. The best interest determination shall address whether it is in the child/youth's best interests to either:
 - a. Remain in the same school, or
 - b. Attend another appropriate school.

The potential new school(s) to consider may include any school in which the child/youth may enroll pursuant to state law and LEA policy, including but not limited to C.R.S. § 22-1-102 (defining residence of child), C.R.S. § 22-32-116 (defining exception to exclusion of non-residents), or C.R.S. § 22-20-107.5 (defining residence of child who receives special education). The county department need not consider every possible school; rather the county should identify which school or schools they are considering so the attributes of the specific schools can be considered.

If it is determined to be in the child/youth's best interest to attend a new school, the best interest determination shall also include the date when the child/youth will change schools. The child/youth shall remain in the school of origin until this date. It is presumed to be in a child/youth's best interest to be in the least restrictive environment and to transfer at natural transitions such as the beginning of the school year or academic term.

5. The county department shall make the best interest determination in collaboration with the LEA and other participants and in consideration of the following non-exhaustive factors, as relevant:
 - a. Child/youth's wishes,
 - b. Child/youth's safety,
 - c. How the school of origin can meet the child/youth's academic and non-academic needs (including special education, extra-curricular activities, social, emotional, and other needs). In considering the child/youth's needs, the county department shall give special weight to whether the child/youth has a meaningful and appropriate relationship with an adult at the school of origin,
 - d. How the potential new school could meet the child/youth's academic and non-academic needs, including special education, extra-curricular activities, social, emotional, and other needs,
 - e. How the decision impacts the child/youth's permanency goal(s), and
 - f. The length of travel and impact on the child/youth.
 - g. The cost of transportation is not a permissible consideration in determining the child/youth's best interest.
6. If the county determines that it is not in a child/youth's best interest to remain in the same school, the school district shall immediately, on the date designated in the best interest determination, enroll the child/youth in a new school, even without records normally required for enrollment, pursuant to the Every Student Succeeds Act, 42 U.S.C. § 675(1)(G)(ii). In order to facilitate transfers at natural academic transitions whenever possible, "immediately" means the date designated in the best interest determination, not necessarily the date the determination is made.
7. The county department shall inform the parent(s), guardian ad litem, and educational surrogate parent, if any, of the best interest determination within one business day of making the determination. The notification shall serve as the first day in the dispute resolution time frames described in Section 7.301.24, D, 8.
8. Disputes regarding best interest determinations shall be handled in a manner that promotes the child/youth's safety and stability, as follows:

If the parent(s), guardian ad litem, and/or educational surrogate parent, if any, is a party to an accompanying court case and disagrees with the county department's best interest determination, he or she must file a motion with the juvenile court to seek judicial resolution. Such a motion must be filed within three business days of the notice of the county's determination. If the county receives such a motion, the child/youth shall remain in the school of origin pending dispute resolution, unless remaining in the school poses a

specific, documented threat to the child/youth's safety. If such parties indicate their agreement to a school move, the county need not delay the move pending the three-day appeal period.

- E. County departments and LEAs shall collaborate to ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner. County departments and LEAs shall collaborate to develop systems-level transportation plans, including how transportation will be provided, arranged, and funded for the duration of time the child/youth is in foster care. Transportation plans may be developed at the local and/or regional levels.
- F. County departments shall document efforts to ensure the child/youth meets the state compulsory attendance requirements.
- G. Procedures for special education evaluations when children are in out-of-home care:
 - 1. If a child/youth is suspected to have a disability affecting his or her education, the caseworker shall make a written referral for a special education evaluation to the designated representatives of the child/youth's school district of jurisdiction, which is the district where the child is a resident for educational purposes, before a non-emergency placement in a residential child care facility.
 - 2. Upon any placement of a child/youth with a disability or suspected of having a disability into a residential child care facility, the caseworker shall make a verbal notification within five working days and a written notification within fifteen calendar days to the school district of jurisdiction after the placement.
 - 3. Educational costs of placements are not reimbursable to the county department until after notice of the placement is given to the school district of jurisdiction.
 - 4. If the special education evaluation results in a determination that the child/youth is disabled pursuant to Section 504 of the Rehabilitation Act and/or the Individuals with Disabilities Education Act, which means that the child/youth qualifies for disability accommodations and/or special education services, the county and district of jurisdiction shall meet to determine if the educational needs of the child/youth can be met in the placement or the Core Services program.
 - 6. If the child/youth is not eligible for disability accommodations and/or special education services, the county may be responsible for educational costs.

7.301.242 Procedures for Maintaining Education Records [Rev. eff. 4/1/12]

For children/youth in out-of-home placement, the county department shall maintain records within the case file and/or in the fields available in the education section of the automated system that include, but are not limited to, identification of:

- A. School name and address at the time of removal from the home.
- B. Current school name, address, and telephone number.
- C. Grade or classroom designation.
- D. Most recent end-of-term grades or other school district approved progress reporting method if grades are not issued.
- E. Educational needs including, but not limited to, special education and summaries of the efforts of the county department to address the needs.
- F. Educational plans based on individual needs, including an IEP.
- G. Educationally based evaluations.

