

Please note: This document is an example of an Interagency Agreement that Local Education Agencies (LEA) may use in establishing collaborative transportation procedures between the LEA and Health and Human Services (Children and Family Services).

INTERAGENCY AGREEMENT

Transportation Procedures to Ensure School Stability for Foster Students

Section 1. Parties

The parties to this Interagency Agreement are: the Local Education Agency (“LEA”) and Marin Health and Human Services Department – Children Family Services (“CFS”).

Section 2. Intent

It is the intent of the parties that this Agreement function as the procedures governing how transportation to maintain foster students in their school of origin when it is their best interest will be provided, arranged, and funded for the duration of the time in foster care, as required by Every Student Succeeds Act (“ESSA”) (114 P.L. 95, 129 Stat. 1802).

Section 3. Definitions A. **Foster Student**

Education Code section 48853.5 defines a foster child as “a child who has been removed from his/her home pursuant to Section 309 of the Welfare and Institutions Code, and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his/her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code.”

B. Resource Family

A Resource Family is defined as the approved home based foster child caregiver(s); including relatives, non-related extended family, and community members.

C. School of Origin

The school of origin is the school in which the child was enrolled before entering foster care. If a child’s foster care placement is changed, the school of origin is the school where the child was enrolled when the placement changed.

D. School of Residence

The school of residence is the school in which the child would be enrolled based on the resource family's place of residence.

E. Best Interest Determination

Under federal and California law, a child in foster care shall remain or enroll in his/her school of origin, unless a determination is made that it is not in the child's best interest to attend the school of origin. Factors to consider when determining if maintaining school of origin enrollment is in the foster student's best interest include: the appropriateness of the current educational setting; the proximity of the placement; duration of enrollment, time of placement change, type of transportation available, traffic patterns, flexibility in school schedule, and the student's maturity and behavioral capacity.

F. Additional Cost

Additional costs are the difference between what LEA would otherwise spend to transport a student to his/her assigned school based on existing transportation options currently available within the LEA, and the cost of transporting a child in foster care to his/her school of origin.

Section 4. Best Determination Procedure A. Notice of Request to Participate in Best Interest Determination

CFS will notify the LEA within one (1) business day upon learning that a student attending a school within the LEA has been placed in foster care or will be moved to a foster home placement that is located outside of the geographical boundaries of the LEA and that a best interest determination must be made.

B. Best Interest Determination

Pursuant to ESSA section 1111 (g)(l)(E)(i), a child in foster care shall remain or enroll in his/her school of origin, unless a determination is made that it is not in the child's best interest to attend the school of origin. The best interest determination is based on all factors relating to the child's best interest, including the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement. The best interest determination shall be made and agreed upon by the LEA representative, CFS representative, the foster student, and the educational rights holder within two (2) business days of the child attaining foster student status or changing foster placements. If the student has an IEP, the IEP team has ultimate authority to determine placement of student based upon identified needs.

C. Notice of Final Best Interest Determination

The best interest determination and an explanation thereof shall be memorialized in writing by CFS and provided to LEA, the foster student, and the educational rights holder as quickly as possible, after the best interest determination has been agreed upon. If the foster student is remaining or enrolling at his/her school of origin, this notice triggers the need to the parties to collaborate under this Agreement to establish the most cost-effective transportation procedures available for the student, considering the best interests of the student. If the foster student or foster parent waives the student's right to remain or enroll at the school of origin and is transferring to a new school, CFS, the school of origin (or prior LEA) and new LEA shall coordinate to ensure that the foster student immediately enrolls in the new school in accordance with Education Code section 48853.5 and section 49069.5.

Section 5. Duration of Transportation

Transportation to and from the school of origin and the foster placement will be provided for the duration of the child's time in foster care as long as it continues to be in the child's best interest. Pursuant to Education Code section 48853.5 (E), if a child exits foster care before the end of a school year, LEA shall allow the former foster child who is in kindergarten or any of grades 1-8, inclusive, to continue his/her education in the school of origin through the duration of the academic school year, as long as it continues to be in the child's best interest. Pursuant to Education Code section 48853.5 (3) (A), if the jurisdiction of the court is terminated while a foster child is in high school, the local educational agency shall allow the former foster child to continue his or her education in the school of origin through graduation. CFS and LEA are not responsible for funding the additional costs of transporting a former foster student to and from his/her school of origin.

Section 6. Transportation for Foster Students Already Provided through Other Laws

Foster students may already have transportation plans provided through other laws or entitlements, such as an Individualized Educational Program ("IEP") pursuant to the IDEA, the McKinney-Vento Homeless Assistance Act ("McKinney-Vento"), or Section 504 of the Rehabilitation Act of 1973 ("Section 504").

The LEA will assess whether the foster student is entitled to transportation services under another law or entitlement within one week of receiving notice of the final best interest determination. If the student is eligible for transportation under another law or entitlement, as described above, LEA will provide, arrange and fund the entire cost of the transportation.

Section 7. Transportation for Foster Students Placed at Resource Family Homes A. Assessment of Transportation Options

Within as quick a timeline as possible, and not to exceed one week of the final best interest determination, LEA and CFS will collaboratively assess all transportation options for maintaining the foster student at his/her school of origin and determine the best available transportation option. LEA and CFS shall consider the appropriateness of the options considering the student's age, experience, and behavioral capacity. LEA shall give CFS and the child's educational rights holder written confirmation of the best available transportation mode agreed upon by both parties as quickly as possible upon making the transportation determination.

If the LEA is able to provide the most appropriate transportation option to the foster student, *without incurring additional costs*, as defined in this Agreement, LEA will provide, arrange, and fund the entire cost of the transportation.

B. Additional Costs

If the appropriate available transportation option will cause LEA to *incur additional costs*, as defined in this Agreement, the LEA will submit a written Transportation Plan to CFS within one (1) school day of making the transportation determination. The Transportation Plan shall identify the additional costs incurred by the LEA. CFS agrees to reimburse the LEA for costs of transportation to and from the school of origin for foster students placed at Resource Family Homes and other approved placements in accordance with the rates established by the California Department of Social Services.

Section 8. Potential Modes of Transportation

Potential modes of transportation for transporting foster students to and from a school of origin include, but are not limited to: existing school bus routes; public transportation; carpooling; altering or adding a school bus route; mileage reimbursement for parents of other students; mileage reimbursement for student to transport themselves; contracted transportation provided by individuals or organizations that are age-appropriate, specialized transportation agents with appropriate licensing for working with young children.

Section 9. Cost Dispute

In case of dispute, CFS and LEA agree to work together in good faith in an attempt to resolve the matter. The Marin County Office of Education ("MCOE") agrees to act as a facilitator to resolve any disputes among the parties. Prior to filing of any complaint with an executive agency or court of competent jurisdiction, the party alleging a violation of this Agreement shall provide

