



State of Vermont

MEMORANDUM

TO: Superintendents, Principals, Special Education Directors, DCF Family Services
District Directors and Supervisors, Surrogate Parent Program Directors

FROM: Commissioner Richard H. Cate, Vermont Department of Education
Commissioner Stephen R. Dale, Vermont Department for Children and Families

DATE: September 13, 2007

Attached you will find a Memorandum of Understanding (MOU) between the Department of Education (DOE) and the Department for Children and Families (DCF). This MOU is intended to outline a uniform procedure by which children who are in the custody of DCF and are “state-placed” maintain an appropriate educational placement despite a change in foster home placement.

In essence, when a child is removed from his/her family home that child can be subjected to frequent changes in foster placements. As a result of these changes, the child can endure interruptions in educational stability. In order to minimize any instability the child’s DCF worker, in consultation with a planning team member and others, may determine that the child’s educational needs may best be met by enrolling the child in a school located in a district other than that of the child’s residence. Administrators of the proposed school may agree with the recommendation and enroll the child. However, in the event of a disagreement with the proposed recommendation, the DCF Commissioner will commence a review of the recommendation and reasons for the denial.

As part of the review by the DCF Commissioner, the DOE Commissioner may be asked to exercise the authority provided in 16 VSA §1075 (b) and (c), whereby a determination may be made by the DOE Commissioner as to the residence of the DCF custodial child *and* approve an alternative educational plan for the foster child.

Our hope and expectation is that education and human services personnel will enter into these considerations totally focused on the best interests of the students involved. In most instances, we believe that agreement will be reached. This protocol clarifies the procedures when agreement cannot be achieved.

MEMORANDUM OF UNDERSTANDING
BETWEEN

THE DEPARTMENT OF EDUCATION (DOE) AND THE DEPARTMENT FOR CHILDREN
AND FAMILIES (DCF) REGARDING EDUCATIONAL PLACEMENT AND
ALTERNATIVE EDUCATIONAL PLANS FOR CHILDREN IN DCF CUSTODY

This Memorandum of Understanding is entered into this 28th day of August,
2007 by and between the Vermont Department of Education and the Vermont
Department for Children and Families.

Whereas DCF and DOE recognize that students living in their own school district
(i.e., the school district of either parent(s) or a legal guardian), or wishing to attend
their own school district from a neighboring town are not considered “State-Placed”
students for purposes of reimbursement.

Whereas, both DCF and DOE believe that educational placement for a foster child
is an important tool in designing a plan that serves the best interests of a child;

Whereas, both DCF and DOE recognize that a child’s best interest may be promoted
by placement in a certain educational setting without regard to the child’s actual
residency or the residency of the biological parents;

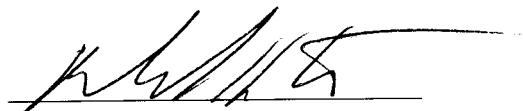
Whereas, maintaining connections with teachers, peers and other community
members and a foster child will, in some cases, promote the child’s immediate and
future welfare while the child resides out of the family home.

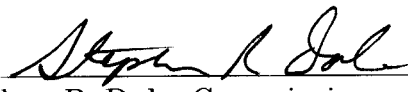
Now, therefore, the Parties, acting by and through the undersigned duly authorized agents, hereby agree as follows:

- (1) The DCF Commissioner may request that the DOE Commissioner exercise his authority pursuant to 16 V.S.A. §1075 (b) and (c) to determine the legal residence of a DCF custodial “state-placed” child and to approve an alternative educational plan for the foster child;
- (2) That these requests shall come directly from the DCF Commissioner to the DOE Commissioner;
- (3) That these requests shall contain a specific and detailed recommendation as to why the proposed educational plan is in the child’s best interests. DCF Commissioner shall provide any information that the DOE Commissioner considers necessary to assist him in his decision making.
- (4) That the DCF Commissioner shall make any such request to the DOE Commissioner only after local educational authorities have had the opportunity to consider the same request made by DCF as set forth in the Appendix of this Agreement.
- (5) That the DOE Commissioner shall make a final determination within 5 school days of receiving a request. The DOE Commissioner shall communicate a decision to the DCF Commissioner.
- (6) That any decision by the DOE Commissioner concerning a request made by the DCF Commissioner pursuant to this Agreement shall be final.

(7) This Memorandum of Understanding inures to the benefit of and is binding on the Parties and is intended for the sole and exclusive benefit of the Parties. Nothing in this Memorandum of Understanding shall give rise to or be deemed to give rise to any third party beneficiary rights, and in particular, but without limitation, this Memorandum of Understanding does not give rise to any third party rights to any child in DCF custody.

Dated this 28th day of August 2007, at Waterbury, Vermont.

By: 
Richard H. Cate, Commissioner
Vermont Department of Education

By: 
Stephen R. Dale, Commissioner
Vermont Department for Children and
Families

Appendix

Procedure for Educational Residency Determination for Children in DCF Custody

In exceptional cases, a DCF worker, in collaboration with a representative of a custodial foster child's coordinated services planning team, may determine that the child's educational needs can be best met by attendance at a public school located in a non-residential district which the child has previously attended, or may attend upon a return home, or at another public school if the previous options have been explored and determined inappropriate. This determination shall be based on the child's history, present circumstances and permanency needs. The recommendation of the DCF worker and team representative shall include input relating to the child's educational best interests from school officials associated with the proposed placement school, and the current educational placement. In making this recommendation consideration should be given to how attending the proposed school would advance the goals of the child's case plan in ways that could not otherwise be met by pursuing an education in the district where the child is residing.

1. The DCF worker shall request participation of educational officials of the proposed school district in which enrollment is sought. The request developed by the team should explain the nature and reasons for the request, including an explanation of why the child's needs can be best met by attendance at the proposed school. The request shall also contain a plan for transportation of the child by DCF to an educational placement outside the child's district of residence. DCF will pay for the child's transportation beyond available and existing means of transportation.

2. The DCF worker shall provide any additional information required by local school authorities to assist them in their consideration of the request.

3. The DCF worker should request an expeditious decision from local school officials regarding the request.

4. If the local educational officials grant the request, the DCF worker should enroll the child in the proposed school as soon as practicable, and notify the department of education of the alternative plan for the education of the child and the date of enrollment, in order to finalize the process for the commissioner's approval of reimbursement to the selected and agreed upon school district.

5. If the local educational officials deny the request, the DCF worker shall ask the reasons for the denial and make a caseworker note of the same.

6. The DCF worker, in consultation with the DCF supervisor, may seek immediate further review of the request. This review shall be commenced by contacting the DCF Commissioner's office.

7. In requesting further review, the DCF worker shall send to the DCF Commissioner the same materials presented to local school authorities, the child's current case plan and the reason for the denial by the local school officials. The DCF worker shall provide any additional information required by the DCF Commissioner.

8. The DCF Commissioner shall inform the DCF worker and DCF supervisor of the outcome of the review.