Memorandum of Agreement (MOA)

Between
The Office of the State Superintendent of Education (OSSE),
The District of Columbia Public Schools (DCPS),
And
The District of Columbia Child and Family Services Agency (CFSA)
Related to the Provision of Specialized Educational Services for Children and Youth Committed to the Child and Family Services Agency

I. INTRODUCTION AND PURPOSE

The Office of the State Superintendent of Education ("OSSE"), the District of Columbia Public Schools ("DCPS"), and the District of Columbia Child and Family Services Agency ("CFSA"), enter into this Memorandum of Agreement (MOA) regarding specialized educational services for children and youth placed in out of state placements by CFSA.

Through collaboration and coordinated activities by OSSE, DCPS, and CFSA, the purpose of this MOA is to improve educational outcomes for foster children and youth by requiring continued coordination and involvement by representatives of OSSE, DCPS and CFSA, as appropriate; monitoring the delivery of specialized educational services to ensure a free appropriate public education ("FAPE") is provided to students eligible under the Individuals with Disabilities Education Act ("IDEA") (20 U.S.C. § 1400 et seq.) and/or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), ("Section 504"); and facilitating the transition of children and youth between school settings to improve outcomes and promote further schooling. Additionally, the purpose of this MOA is to ensure compliance with local law applicable to children of compulsory school age.

This MOA applies to foster children and youth who are District of Columbia residents and are:

- Placed in a foster home or group home setting outside of the District of Columbia and are enrolled in a public school outside of the District of Columbia; or
- Placed in a foster home or group home setting outside of the District of Columbia and enrolled in a public school outside the District of Columbia; or referred for a more restrictive nonpublic school placement by the LEA of enrollment; or
- Placed by CFSA in residential treatment facilities (RTCs) or psychiatric residential treatment facilities (PRTFs) outside of the District of Columbia.[1]

The parties of this MOA agree that each participating agency is responsible for the duties and obligations set forth herein.

[1] This MOA does not apply to students who are CFSA wards and who maintain a school enrollment within the District of Columbia.

II. Parties To This Agreement

A. OSSE

OSSE is the District of Columbia State Education Agency with responsibility for performing the functions of a state education agency (SEA) under applicable federal and local laws, including grant-making authority, oversight and SEA functions for standards, assessments, and federal accountability requirements for elementary and secondary education (D.C. Official Code § 38-2601 *et seq.*). In accordance with Part B of the IDEA, OSSE is responsible for ensuring that a free appropriate public education is made available to eligible children with disabilities, and that all such programs administered by other District of Columbia agencies, are under OSSE's general supervision and meet District of Columbia educational standards. (20 U.S.C. § 1412 (a) (11)). In accordance with Section 504, OSSE also is responsible for ensuring that a free appropriate public education is made available to and for paying for educational services for all District of Columbia wards attending schools outside of the District of Columbia.

B. DCPS

DCPS is a local educational agency (LEA) in the District of Columbia with responsibility for serving all District of Columbia children of compulsory school age who enroll in DCPS. DCPS is the LEA for children and youth placed in Residential Treatment Centers, Psychiatric Residential Treatment Facilities, and non-public schools by CFSA. DCPS is not the LEA for students placed in a foster care home and enrolled in a public school in another jurisdiction. The responsible LEA is the LEA in which the student becomes enrolled while in the care of CFSA.

C. CFSA

CFSA is the child welfare agency for the District of Columbia, which is responsible for protecting child victims and children at risk of abuse or neglect. CFSA's duties include, among other things, investigating abuse of neglect reports, assessing and treating children and families within its care, and providing child protective services, foster services, and post-permanency services. *See* D.C. Code § 4- 1303.01a, 4-1303.03. In executing its duties and responsibilities, CFSA may place children/youth in temporary settings outside the District of Columbia. During such placement, children/youth may be enrolled in a school in that jurisdiction but the child/youth remain District of Columbia residents.

D. POINTS OF CONTACT

All Parties will identify the specific individuals responsible for implementing the obligations defined within this MOA, by September 30, 2013, for school year 13-14, and by August 1 of the start of each subsequent school year that this MOA is in effect. This information will be reviewed and updated as necessary using a Point of Contact Addendum Notification to ensure that internal and external stakeholders are provided with relevant program and contact information. Each agency shall publish the Point of Contact Addendum Notification along with

the most current MOA. This information will be available on the OSSE website. A Point of Contact Addendum Notification shall be dated, numbered and attached to the most current MOA and published on OSSE's website at the beginning of each school year.

III. COMPULSORY EDUCATION AND ENROLLMENT

A. Length of Time for Educational Services

Every parent, guardian, or other person, who resides permanently or temporarily in the District during any school year and who has custody or control of a minor who has reached the age of 5 years or who will become 5 years of age on or before September 30th of the current school year, shall place the minor in regular attendance in a public, independent, private, or parochial school, or in private instruction during the period of the each year when the public schools of the District are in session. This educational obligation of the parent, guardian, or other person having custody of a child subject to this MOA shall be consistent with the District of Columbia compulsory education requirements (D.C. Official Code § 38-202 (a)), the IDEA and Section 504.

B. Enrollment in School

CFSA shall coordinate with resource parents, birth families, and where applicable, educational decision makers, for children and youth in foster care to ensure school enrollment.

IV. SERVICE DELIVERY AT SCHOOLS OUTSIDE THE DISTRICT OF COLUMBIA

A. OSSE shall:

1. Ensure a free appropriate public education (FAPE) is provided to children/youth with disabilities who are CFSA wards and placed outside of the District of Columbia , consistent with appropriate federal and local laws and the terms of this MOA, by contracting with DCPS as the entity to provide oversight on behalf of OSSE.

2. Schedule meetings with DCPS and CFSA not less than once a year, and more often as needed, to discuss the delivery of educational services and coordination of activities consistent with this MOA.

3. Take appropriate action, as needed, when issues arise with regard to the service delivery at a school outside the District of Columbia that DCPS has not resolved and will engage CFSA, as needed, to resolve the matter.

4. Be responsible for paying authorized tuition service fees upon CFSA's verification of ward status for each billing period.

B. DCPS shall:

Serve as, on behalf of OSSE, the oversight body for children and youth attending schools outside of the District of Columbia subject to this MOA, as follows:

1. Ensure that the District of Columbia meets its child find obligations under the IDEA or Section 504, with assistance from CFSA as appropriate, which shall include periodic access to District of Columbia students to determine whether any District of Columbia students are suspected of having a disability and/or should be evaluated.
2. Obtain and review student records, at least annually, including without limitation, an Individualized Education Program (IEP) or Section 504 Plan, for compliance with applicable law and records to determine that the student is receiving all educational services to which the student is entitled as designated on the student's IEP or Section 504 plan.
3. Provide assistance to a school outside the District of Columbia, as requested by that school, parent, educational decision maker, or CFSA regarding the implementation of IDEA or Section 504. If the assistance does not resolve the issue that a student may be experiencing at school (after appropriate attempts), contact OSSE for additional assistance and action, as applicable.
4. Upon notification that the student may need a more restrictive environment in order to receive a free and appropriate public education (FAPE), DCPS shall attend a meeting with school officials and other appropriate representatives , to discuss a change of location or placement as the case may be. All documents related to this matter shall be provided to OSSE in the event a recommendation for a more restrictive (nonpublic school) setting is made, in accordance with OSSE policies and procedures.
5. Contact OSSE and CFSA when issues arise that cannot be resolved or at any time as deemed appropriate.

C. CFSA shall:

1. Ensure all school age children in foster care who are placed outside of the District of Columbia are appropriately enrolled in schools as required by local law and notify OSSE and DCPS of the enrollment within five business days of a filing of a neglect petition.
2. Notify DCPS, in writing, not less than thirty (30) days prior to a child/youth's return to a home environment in the District of Columbia. In cases where prior written notice is not possible, notify DCPS and OSSE within one (1) business day of a child's/youth's return to the District of Columbia.

3. Notify DCPS and OSSE, in writing, within five (5) business days of a change in the student's address or educational placement, including new school enrollment.
4. CFSA's Office of Well Being will be the main point of contact with and provide coordination with DCPS and OSSE. The child's assigned social worker will work with the Office of Well Being to ensure that children are enrolled in school and will bring any issue concerning the delivery of educational services to the attention of DCPS and OSSE through CFSA's Office of Well Being.
5. Work cooperatively with DCPS and OSSE, as appropriate, to identify another school placement for the student if the school of enrollment is failing to provide a free appropriate public education.

V. SERVICE DELIVERY AT RTCs and PRTFs

A. DCPS shall:

Be responsible as an LEA for students placed by CFSA in a RTC, PRTF, or attending a non-public school, as follows:

1. DCPS shall be responsible for ensuring that children and youth receive a free and appropriate public education (FAPE) in the least restrictive environment.
2. DCPS shall be responsible for convening all Individual Education Program (IEP) or Section 504 meetings (including without limitation annual review of the IEP or Section 504 plan), eligibility meetings (including without limitation the triennial evaluation of the student), and any other meetings necessary to ensure timely and appropriate delivery of services to the student.
3. If any issues arise with regard to the appropriate provision of FAPE, DCPS will engage with OSSE and CFSA to try to resolve the matter.
4. DCPS and CFSA will communicate regularly regarding a youth in RTC, PRTF placement and shall jointly plan for the return of the youth to the community as deemed appropriate.
5. Upon notification from the RTC/PRTF that a youth is expected to be discharged, DCPS shall convene an IEP Team or Section 504 meeting with the student, CFSA representative, facility staff and other appropriate representatives including parents to address an appropriate transition back to the community and/or another location. DCPS will convene this meeting not later than thirty (30) days before the projected date of discharge. In the event that DCPS is not notified of the discharge within thirty (30) days, DCPS, OSSE, and CFSA will work cooperatively to ensure an appropriate educational placement is identified prior to the child/youth's return from the RTC/PRTF.
6. When a youth who is high school age is moved to a new school, and before the start of every school year, DCPS shall conduct a transcript analysis and provide a copy of the analysis to CFSA and OSSE within five (5) school days.

B. CFSA shall:

1. In the event CFSA places a child in a RTF/PRTF the CFSA shall coordinate with DCPS and the facility staff to ensure that all District of Columbia students who are suspected of having a disability receive an evaluation and services, as appropriate.
2. Provide DCPS with enrollment forms and a copy of the ward letter within five (5) business days of placement of a student into a RTC or PRTF. Continue to provide funding for residential services when placement is initiated by CFSA in accordance with established CFSA regulations.
3. Provide documentation to DCPS if a student is no longer a ward of the District of Columbia within five (5) business days of a court order or other event ending the child's custody in CFSA's care and invite DCPS to the student's discharge planning meeting.

VI. RECORDS

A. All student educational records shall be shared, consistent with requirements imposed by federal and District of Columbia law, among CFSA, DCPS and OSSE to ensure compliance with the MOA. Within thirty (30) days of the effective date of this MOA, the parties will develop specific data sharing protocols that ensure timely and appropriate service delivery. On a monthly basis, CFSA shall provide DCPS and OSSE with a routine report listing all foster children and youth attending a school outside of the District of Columbia, RTCs, and PRTFs. This information shall be maintained in appropriate data systems at CFSA and DCPS as well as in the Student Longitudinal Data System (SLED) and Specialized Education Data System (SEDS). The list will include, but not be limited, to the following:

   1. Student name, date of birth, home/residence address, student District of Columbia unique student identification (USI), if available;
   2. Evidence of student's legal residency in the District of Columbia (e.g., court order of commitment with CFSA);
   3. Name of student current educational placement and date of placement;
   4. Foster parent(s) name, home address, phone numbers and e-mail address (if one is available); and
   5. Availability of educational records, including IEP/504 plan documents.

B. DCPS shall be responsible for the maintenance of the educational records for all students subject to this MOA in the appropriate database or data system as identified in the data sharing protocols under VI(A).

C. The Parties shall comply with all applicable laws and regulations, including the federal and District of Columbia laws and regulations governing the privacy of education, child welfare and mental health records, as well as information protected by the Health Insurance Portability Accountability Act (HIPAA). *See e.g.*, D.C. Official Code §§ 4-1303.06 (governing child welfare records); D.C. Official Code § 7-241 *et seq.* (providing for data sharing act among District agencies); D.C. Official Code § 7-1201.01 *et seq.* (governing mental health

privacy); Pub. L. No. 104-191, 110 Stat. 1936 (1996)) and (45 C.F.R. Parts 160 and 164) (HIPAA and implementing regulations); 20 USC § 1232g and 34 CFR Part 99 (FERPA and implementing regulations governing the privacy of student records); and 5-E DCMR § 2600 et seq. (governing student records).

VII. Domicile Status for Youth

OSSE and CFSA shall work together to maintain records relating to the child's classification as a resident of the District of Columbia. The document(s) shall include confirmation that the student(s) is a bona fide resident when designated as an independent student to ensure eligibility for student financial aid when applying for state, federal grants and/or loans to attend post-secondary educational institutions.

RESOLUTIONS OF DISPUTES

Disputes among the parties, shall be brought to the attention of respective agency directors of OSSE, CFSA and DCPS.

The Parties will work cooperatively to resolve the dispute. Any dispute that is not resolved cooperatively among the parties shall be referred to the City Administrator for resolution.

DURATION OF MOA

VIII. The period of this MOA shall be continuing from the date of execution unless terminated in writing by one or more of the Parties.

IX. AUTHORITY OF MOA

This MOA is entered in pursuant to the authority granted under D.C. Official Code § § 38-172 (a-b); 38-174(c); D.C. Official Code §§ 38-2602(b)(11),(12) and (15); ; and 38-2602.01 and Part B of the Individuals with Disabilities Education Act (IDEA), (20 U.S.C. § 1412 (a)(12)).

X. RIGHTS OF PARTIES

A. Changes to the MOA/Designation of Representatives

Any party may request to modify the terms of this MOA. Any modification (other than a Point of Contact Notification as noted above), revision or amendment to this MOA shall be mutual agreement and incorporated as written amendment signed by the Parties.

B. Responsibility for the Acts of the Parties

No employee or agent of a Party to this MOA shall be deemed to be an employee or agent of another Party to this MOA and shall have no authority, expressed or implied, to bind any other

Party except as expressly set forth herein. Each Party to this MOA shall be responsible for its acts and those of its employees, agents and subcontractors, during the duration of this MOA.

C. Notice and Obligations Relating to Contested Matters

Any Party to this MOA named as a Respondent in a contested matter (such as a due process complaint, state complaint or court action under the IDEA, or Section 504), that involves services provided to a student under this MOA, shall deliver to the other Parties, within five (5) days of notice of any such proceeding, a copy of any document relating to such matters. Each party shall provide all relevant documents and identify and produce witnesses to address the matter.

XI. TERMINATION

Any Party may terminate this MOA by giving the other Parties at least sixty (60) days written notice. If such notice is given, the MOA shall terminate on the date specified in the written notice, and the liabilities of the Parties hereunder for further performance of the terms of the MOA shall cease, but the Parties shall not be released from the duty to perform the MOA up to the date of termination.

XII. CONSTRUCTION

The MOA is in no way to be construed as limiting or diminishing the responsibilities of the participating agencies under federal or District of Columbia law. In all instances, this MOA is to be construed to comply with the requirements for federal and District of Columbia law. This MOA shall not be construed to create rights in any third parties. Whenever used herein, as the context may require the use of the singular shall include the plural, and the use of any gender shall be applicable to all genders.

XIII. EFFECTIVE DATE

This MOA shall be effective upon execution by all signatories.

XIV. The Parties execute this MOA as follows:

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION:

Emily Durso 9.12.13

Interim State Superintendent **Date**

Emily Durso

CHILD AND FAMILY SERVICES AGENCY

Brenda Donald 9.10.13

Director **Date**

Brenda Donald

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

MR for Kaya Hend

Chancellor **Date** 9.17.13

Kaya Henderson