MEMORAMDUM OF UNDERSTANDING

Between

Local Education Agency (LEA): Lander County School District

And

State of Nevada: Division of Child and Family Services (DCFS)

Educational Procedures Agreement

To ensure the educational stability of children in foster care

This Memorandum of Understanding (MOU) is established and entered into between DCFS and the LEA to help ensure the educational stability and success of children in the foster care system and comport with all federal and state laws governing its provisions.

Authority:

Federal Law	2017 Nevada Law
• PL 110-351 Fostering Connections Act • PL 112-278 Uninterrupted Scholars Act (USA) • PL 114-95 Every Student Succeeds Act (ESSA)	• AB 236 (Educational Records) • AB 491 (Foster Child School Transportation)

Purpose:

The purpose of this MOU is to establish a collaborative process between the LEA and DCFS to ensure that children in foster care placements are provided the necessary services to support their ongoing educational stability as required in Federal and State Education and Child Welfare Laws.

Definitions:

- *School of Origin* – means the public school in which a child was enrolled at the time that the child was placed in foster care or the school in which a child who is in foster care is enrolled at the time of the most recent change in the placement of the child.
- *Best Interests Determination* – A DCFS ***Best Interests Determination*** form is used collaboratively by the LEA, DCFS and any other relevant parties to identify whether it is in the best interests of the foster child to remain in their ***School of Origin*** or, based upon a move to a new foster home, enrollment in the zoned school. If a dispute arises about the Best Interests Determination, DCFS will make the final decision regarding the child's school which will be subject to court approval if any party objects.
- *Foster Care*: Based on NAC 432B.017, the term "foster care" means any out-of-home placement of a child. The term includes:
- 1. The placement of a child into:
- (a) A family foster home, as that term is defined in NRS 424.013;
- (b) A group foster home, as that term is defined in NRS 424.015; or
- (c) Any other similar institution having the appropriate qualifications and facilities to provide the necessary and desirable degree and type of care to the child.
- 2. The placement of a child with a relative other than the relative who had a legal responsibility for providing a home for the child before the child was placed into the custody of the agency which provides child welfare services.
- 3. An independent living arrangement approved by the agency which provides child welfare services in accordance with NAC 432B.410, made by the agency which provides child welfare services for a child in the

custody of the agency which provides child welfare services pursuant to NRS 127.050 or 432B.550, or for whom the agency which provides child welfare services is responsible pursuant to NRS 432B.360.

- (Added to NAC by Div. of Child & Fam. Services by R221 97, eff. 6 5 98; A by R045 02, 7 23 2002)
- *Immediate Enrollment* – When it is determined that it is in the best interests of the child to change schools, ***Immediate Enrollment*** means the school's legal requirement to immediately enroll the child into the new school regardless if the new school has received all the child's educational records; school transfer records, immunization records or any other unmet educational or academic requirements. Enrollment for a child in foster care cannot be denied or delayed. The enrolling school shall immediately contact the school of origin to obtain relevant academic and other records and those records will be promptly transferred.

How Transportation Will be Provided, Arranged, and Funded

In addition to ESSA and Fostering Connections, the following state law, AB 491 (2017), provides guidance on addressing school transportation in the rural school districts. The LEA and DCFS will regularly monitor compliance with ESSA, the Fostering Connections Act, state law and this Memorandum of Understanding.

General: When a child's foster home placement is outside of the boundary of his/her school of origin, DCFS Office Education Liaison will notify the LEA within one school day and collaborate with the LEA to convene a best interest determination meeting (telephonic meeting is sufficient) within five (5) school days. If it is determined that remaining in the school of origin is in the student's best interest, the LEA and DCFS will collaborate under this understanding to establish the most cost-effective method of transportation available for the student within five (5) school days after the best interest determination is made. While the student's transportation plan is being finalized, DCFS and the LEA will immediately identify and provide temporary transportation for the child to ensure that there is no interruption or disruption in the child's educational programming.

No- or Low-Cost Options: The LEA will examine existing transportation options available to the student, including incorporating the student into an existing bus route, modifying an existing bus route, and other no-cost or low-cost options. Transportation will be provided by the LEA if a no-cost solution is available.

Additional Costs: LEAs must continue to pay what they would otherwise normally spend to transport a child to school. Only *"additional costs"* necessary to transport the child to the school of origin can be the subject of a funding agreement or dispute with the responsible child welfare agency. Moreover, if the LEA in which the school of origin is located can arrange or provide transportation at no or minimal cost, that LEA shall arrange, fund, and provide that transportation. Examples include adding an additional stop to an existing bus route.

Funding for Additional Costs of School Stability Transportation: DCFS can use Title IV-E funds as appropriate. LEA's written transportation plans must describe how school stability transportation will be ensured in the event of a dispute over which agency or agencies will pay any additional costs incurred and which agency or agencies will initially pay the additional costs so transportation is provided promptly during pendency of the dispute.

Other Cost/Funding: When other options are exhausted and transportation will require "additional costs," the following will be considered:

- The LEA and DCFS will assess whether the child's transportation costs may be covered by other state or local funds.
- DCFS will assess whether resources are available for the foster care provider to provide transportation to a bus stop on the LEA's existing bus route; or contract with a private entity such as a transportation service.
- The LEA and DCFS are jointly responsible for the additional costs of school stability transportation, unless DCFS and the LEA mutually agree otherwise.

Shared Transportation Funding Agreement: Pursuant to ESSA, DCFS will utilize Title IV-E funds as available and appropriate for the partial reimbursement of the LEA Transportation Department expenses to maintain foster students in their out of zone enrollments. Title IV-E funds are available to cover out of zone transportation costs for foster children who meet Title IV-E eligibility criteria. The Federal funds requested will be for 50% of the ***"additional costs"*** as submitted by the LEA. The offsetting 50% must be "matching" funds in the LEA budget that are not federal funds or utilized as matching funds for any other funding source. Due Dates: Invoice for the cost of, and back up for, out of zone transportation services for children in foster care needs to be received no later than the 15th of the month following the end of the service quarter being billed. The amount to be reimbursed quarterly shall be based on actual costs reported monthly by the LEA to DCFS and corresponding funds received by DCFS. DCFS shall absorb all administrative costs incurred through the processing of Title IV-E reimbursements to the LEA.

Transportation Funding Dispute Resolution: If any dispute arises between DCFS and the LEA related to the transportation of the child in foster care to the school of origin and is not resolved within 5 business days, matter should be submitted to the juvenile or family court with jurisdiction over the child for a resolution by court order within 5 business days. During any dispute between DCFS and the LEA regarding transportation, DCFS and the LEA must provide the child with transportation to the school of origin until the dispute is resolved.

Duration of Transportation:

1. Transportation will be provided for the duration of the child's time in foster care if it continues to be in the child's best interest. A redetermination that it remains in the youth's best interest to remain in their school of origin at the start of a new school year may be conducted collaboratively by the LEA, DCFS and any other relevant parties.
2. If a child is released from child welfare custody before the end of a school year, DCFS loses the authority to access child welfare funds, therefore loses the ability to continue to pay the costs of a non-custody child's transportation once released into their parents or legal guardian's care.
3. If a child is released from child welfare custody, the child's parents or legal guardian have the responsibility and authority to make the child's education decisions, including educational stability.

Educational Records

In January 2013, Family Educational Rights and Privacy Act (FERPA) was amended in the U.S. Department of Education through the enactment of the Federal Uninterrupted Scholars Act (USA). The USA made key revisions to FERPA that permits educational agencies to disclose a student's education records, without parental consent, to a caseworker or other representatives of child welfare agencies.

DCFS Request of Education Records:

The DCFS caseworker requesting the records, will provide proof of custody of the student with one of the following:

- *A written notification on DCFS Agency letterhead indicating that the agency has legal custody or is otherwise legally responsible for the care and protection of the child; or*
- *Court order.*

DCFS Use of Educational Records:

The manner in which DCFS may use a child's education records, including, without limitation, electronic education records maintained by the school and/or LEA:

- To ensure the child's education needs are met
  - Effectively implement a child's case plan
  - Maintain the child's educational stability
  - Provide services to address a student's educational needs
  - Monitor a child's educational outcomes and promote success

Student Confidentiality

Consistent with this MOU and with state and federal law, the LEA and DCFS shall protect confidential information from re-disclosure unless specifically authorized by state or federal law. The LEA and DCFS shall report any unauthorized releases of exchanged data to the other party, and cooperate in taking appropriate corrective action.

DCFS and the LEA acknowledge that each entity has a legal obligation to maintain the confidentiality and privacy of student records and information identifying a student or child being in foster care. Parties agree to maintain compliance with FERPA and with federal and state laws protecting the rights of children who are in the protective custody of a child welfare agency. DCFS and the LEA agree to safeguard all such information.

MOU Review and Revision

DCFS and LEA will agree to review and renew the MOU based on program needs and changing educational related state and federal mandates that impact children in foster care.

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And

State of Nevada: Division of Child and Family Services (DCFS)

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This MOU is agreed upon as written on (Date) 6/20/18 *by:*

Signature 6-20-18 Date

Russell Klein
Superintendent
Lander County School District

Signature 7.5.2018 Date

Reesha Powell
Child Welfare Deputy Administrator
State of Nevada Division of Child and Family Services