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Dispute Resolution Procedures

Foster Care

DEFINITIONS

BEST INTEREST DECISION MAKING: Using child-centered criteria for determining which educational setting is best for a particular child or youth. Decisions should be made on a case-by-case basis. The cost of transportation should not be considered.

DEPARTMENT OF SOCIAL SERVICES (DSS): A department within Missouri government that oversees Missouri Children's Division

DEPARTMENT OF SECONDARY AND ELEMENTARY EDUCATION (DESE): The state agency with primary responsibility for elementary and secondary education

EDUCATIONAL DECISION-MAKER: Child's placement provider unless noted otherwise

FAMILY SUPPORT TEAM: Comprised of the parent(s), legal counsel for the parent(s), placement provider, Children's Division (or contracted case management agency assigned to the case), guardian ad litem, volunteer advocate for the child, and/or other individuals as appropriate or needed

FOSTER CARE: 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare 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. (45 C.F.R. § 1355.20(a)

LOCAL EDUCATIONAL AGENCY (LEA): Public elementary and secondary school districts and other elementary and secondary schools operated at public expense and under a publicly appointed or elected board.

MISSOURI CHILDREN'S DIVISION (CD): The state agency that retains the legal custody of children who are in alternative care. This agency is under the Department of Social Services (DSS)

PARENT: Legal, putative, and/or biological parent to the child

SCHOOL OF ORIGIN: The school of origin is the school in which a child is enrolled at the time of placement in foster care. An SEA and its LEAs must ensure that a child in foster care enrolls or remains in his or her school of origin unless a determination is made that it is not in the child's best interest. (ESEA section 1111(g)(1)(E)(i)). If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of the placement change

SCHOOL OF RESIDENCY: Student resides and is domiciled within the district with a parent, military guardian or court-ordered legal guardian

STATE EDUCATIONAL AGENCY (SEA): The state agency with primary responsibility for elementary and secondary education in a state (in Missouri, the Department of Elementary and Secondary Education).

OVERVIEW

In a case where a dispute occurs regarding the determination of best interest or the provision of other educationally related services for a child or youth in foster care, the following process must be used:

1. Level I of the appeal is to the Superintendent or Designee;
2. If the dispute is unresolved at the first level, the final appeal (Level II) is to the Department of Elementary and Secondary Education (DESE).

If a dispute arises over the Best Interest Determination, the child or youth shall remain in his or her school of origin, while the dispute is being resolved, to minimize disruptions and reduce the number of moves between schools.

The LEA must collaborate with Children's Division and the aggrieved parties to resolve the complaint or dispute at the local level before it is sent to DESE.

Disputes may only be filed by the educational decision-maker or parent. The two parties may not use the school district dispute resolution process to resolve disagreements amongst themselves.

The Dispute Resolution Process

If the educational decision-maker or parent disagrees with the Best Interest Determination (BID), the LEA shall inform them in a language and format understandable, of their right to appeal the BID. They shall also be provided the following:

1. The contact information for the LEA foster care point of contact.
2. An explanation of the Best Interest Determination.
3. A step-by-step description of how to dispute the BID (Level I procedure).
4. A statement ensuring the student shall remain in the school of origin, receiving all appropriate educational services, until the dispute reaches its final resolution.
5. Timelines for resolutions of the dispute at each level.
6. 6. Notice of the right to appeal to the SEA if the local-level resolution is not satisfactory.

LEVEL I: LEA Superintendent or Designee

1. Initiating the Level I Dispute

To dispute a decision related to BID for a child in foster care, an educational decision-maker or parent must request a dispute resolution in writing by submitting a dated appeal letter specifying the school in which enrollment is sought and the basis for seeking enrollment. The submission of the appeal letter by email or delivered to a building in the BID district initiates the dispute. If submitted by email, the subject "Foster Care Appeal" should be in the subject line. The appeal letter must include the requestor's name and contact information.

The educational decision-maker or parent must submit the appeal letter within ten (10) days of receiving from the LEA written notice of the right to dispute the decision. Regardless of how the appeal letter is submitted, the school or LEA shall ensure the LEA's superintendent or designee receives it immediately.

Students attending their school of origin during the dispute process will be entitled to receive transportation. Transportation will be provided pursuant to the local transportation procedures developed collaboratively between the LEA(s) and local child welfare agencies.

2. LEA Decision

The superintendent or superintendent's designee will arrange for a personal conference to be held with the educational decision-maker or parent, the student (if appropriate), and the child's case manager or point of contact. The superintendent must have all documentation from the Best Interest Determination meeting. The conference will be arranged within ten (10) days of the LEA's receipt of the appeal letter and will take place as expeditiously as possible.

Within five (5) days of the conference, the superintendent or superintendent's designee will inform the educational decision-maker or parent and all parties who attended the conference with the superintendent of the decision in writing, using the contact information provided in the appeal letter. The written decision provided to the educational decision-maker must include:

1. A copy of the complete Level I appeal packet.
2. The decision rendered at Level I by the superintendent or designee and an explanation of the decision.
3. Instructions regarding how to file a Level II dispute, including the name, phone number and email address of the SEA foster care point of contact.

*Please make sure all documentation is dated.

If the educational decision-maker or parent disagrees with the Level I decision and wishes to appeal to Level II, the educational decision-maker or parent shall inform the LEA superintendent or designee of the intent to appeal to Level II within five (5) days of receipt of the LEA's Level I decision. If the educational decision-maker does not appeal within five (5) days, the child shall be enrolled and provided all appropriate educational services in the school determined by the LEA.

Level II: SEA

1. Initiating the Level II Dispute

If the student's educational decision-maker or parent disagrees with the decision rendered by the LEA's superintendent at Level I, he/she may appeal the decision to the SEA point of contact. To appeal to Level II, an educational decision-maker or parent must request an appeal in writing by submitting a dated appeal letter, which must include:

- The school in which enrollment is sought and the basis for seeking enrollment in that school.
- The name and contact information (phone, email, and mailing address) for the educational decision-maker or parent.
- Best Interest Determination meeting notes and reports.
- A copy of the previous appeal letter submitted by the educational decision-maker or parent.
- A copy of the decision rendered by the LEA at Level I.

The letter must be submitted in writing to the SEA foster care point of contact, with the subject "Foster Child Appeal". The letter must also be submitted to the LEA superintendent via email or delivered to any building in the LEAs district, to the attention of the superintendent. The appeal letter must be submitted to both the SEA and LEA superintendent within five (5) days of receiving the Level I appeal decision from the LEA.

The LEA has an additional five (5) days, from its receipt of the educational decision-maker or

parent's appeal, to submit its response to the appeal letter to the SEA foster care point of contact, via email with the subject "Foster Child Appeal". Documents submitted by either party after the applicable deadlines will not be considered.

The student shall remain in the school of origin until the dispute reaches its final resolution. The student shall be provided with all appropriate educational services for which the student is eligible during the dispute process. Students attending their school of origin during the pendency of the dispute will be entitled to receive transportation pursuant to the local transportation procedures developed collaboratively between the LEA(s) and local child welfare agencies.

2. SEA Decision

The Level II decision will be made by a three-person panel including the SEA foster care point of contact, another SEA staff member, and a representative of the state child welfare agency. The panel shall make a final decision within thirty (30) days of receipt of the dispute.

**Although the standard procedure allows thirty (30) days for a response, every effort will be made to resolve the complaint in the shortest possible time. The SEA foster care point of contact will forward the final written decision to the educational decision- maker or parent and the LEA superintendent. The written decision must include:

1. A copy of the complete Level II packet.
2. The decision rendered at Level II and an explanation of that decision.

The LEA must implement the SEA's decision in full, immediately.

The SEA shall maintain a record of all disputes related to children in foster care. **For every type of dispute regarding a child in foster care, the LEA and local child welfare agency must make every effort to resolve the dispute collaboratively at the local level. Documented patterns of excessive disputes to the SEA from particular LEAs and/or local child welfare agencies will be reviewed by the SEA and State child welfare agency and appropriate measures will be taken to ensure compliance by both agencies.** All parties are encouraged to seek assistance from the Foster Care Point of Contact at the State Educational Agency (SEA) and the Education Coordinator at the State Child Welfare Agency (or similar personnel) prior to any dispute.