

**Department of Human Resources  
Social Services Administration  
311 West Saratoga Street  
Baltimore, Maryland 21201**

**DATE:** February 23, 2009

**POLICY DIRECTIVE #:** SSA 09-19

**TO:** Directors, Local Departments of Social Services  
Assistant Directors, Local Departments of Social Services  
Chiefs of Foster Care

**FROM:** Carnitra D. White, Interim  
Executive Director   
Social Services Administration

**RE:** School Enrollment and Decision-making for  
Children in State-supervised Care

**PROGRAM AFFECTED:** Out-of-Home Placement Services - Foster Care

**ORIGINATION OFFICE:** Resource Development Placement and Support  
Services

**BACKGROUND:** The Maryland State Department of Education (MSDE), in collaboration with the Department of Human Resources (DHR), passed regulations in 2008 that facilitate the enrollment process for children in state-supervised care in order to minimize disruptions to a child's educational well-being.

**ACTION REQUIRED OF:** All Child Welfare Services Staff

**REQUIRED ACTION:** Local Departments of Social Services will implement certain procedures regarding school enrollment and educational decision making pertaining to children in State-supervised care.

**ACTION DUE DATE:** **Immediate**

**CONTACT PERSON:** Kevin Keegan, Director  
Resource Development, and Placement and Support  
Social Services Administration  
(410) 767-7910

## **Purpose**

The Maryland State Department of Education (MSDE) recently implemented regulations to establish a uniform process for enrolling children in State-supervised care in Maryland's local school systems. The purpose of this policy is to explain the responsibility of the local department with respect to the following:

- a child's eligibility for enrollment
- the enrollment process
- the authority to enroll a child
- the authority to make educational decisions once a child is enrolled
- the responsibility of placement agencies to notify schools of changes in the child's placement
- the communication process between the local department and the local school system
- the dispute resolution process between the local department and the local school system

## **I. Definitions**

A. **"Child in state-supervised care"** – a child who is in the custody of, committed to, or otherwise placed by a placement agency such as DSS, DJS, DHMH or a child who is placed by any private agency licensed by SSA.

B. **"Receiving school"** – the school in which a child in state-supervised care is newly enrolled or seeks to enroll.

C. **"Sending school"** – the school in which a child in state-supervised care was enrolled prior to enrolling or seeking to enroll in a receiving school.

## **II. Eligibility**

Any child in state-supervised care is eligible for the protections offered in these regulations. COMAR 13A.08.07.01.

## **III. Uniform Enrollment Process**

### **A. Notice**

The placement agency caseworker must notify the school that a child is in state-supervised care for the protections afforded by the new regulations to be triggered. If a child needs to enroll in a new Maryland school because of the child's entry into out-of-home placement or a change in the child's placement, the placement agency caseworker must notify the new, or receiving, school of the child's status. This notice must be given to the receiving school prior to or at the same time as the change in the child's placement.

Notice of enrollment may also be given by the parent or foster parent.

### **B. Necessary Enrollment Documents**

Once notice is given to the receiving school, the following documents need to be presented to enroll the child:

1. Documentation that the person is authorized to enroll the child as identified in numbers (2 through 4) below.
2. Photo identification
3. Proof that the child is in state care. This can be shown by providing the school with:
  - the part of a court order establishing legal custody **OR**
  - a placement agency letter stating that the child is in state-supervised care (see Attachment 1 for a form letter that placement agencies can use)
4. Proof of residency. This includes a placement agency letter verifying the child's address, **PLUS** one of the following (the choice is made by the person taking the child to be enrolled):
  - A lease, rent receipts, deed, or property tax bill, **OR**
  - A gas & electric bill, water bill, cable bill, online computer services bill, noncellular telephone bill, **OR**
  - Documentation of residency required by the school district

ALSO, some schools may require that a child or guardian complete a form requesting the enrollment of the student.

If the above documents are provided, the receiving school must enroll the child immediately if possible, but no later than 2 school days after the enrollment documents are submitted to the school. COMAR 13A.08.07.03; 13A.08.07.03-1

### **C. School Records**

A school may not prevent a child from enrolling because it does not have the child's school records. Instead, the child's sending and receiving schools must work together to transfer the child's school records within one week.

- The receiving school where the child in state-supervised care is enrolling must, within 2 school days:
  - Send a written request to the sending school for the child's complete school records (and give a copy of the written request to the child or the child's representative).
- The child's sending school must:
  - Within 3 school days of getting notice from the receiving school, mail, fax, or e-mail the student's complete school record to the receiving school.

**If the child's sending school does not have or does not provide the school records to the child's receiving school and the placement agency has access to those records, the**

placement agency is required by law to provide the following records to the receiving school:

- immunization records;
- blood lead testing certificate, if applicable;
- IEP or Section 504 Plan, if applicable;
- birth certificate or other proof of age; and
- health records that are relevant to the child's education

COMAR 13A.08.07.03; 13A.08.07.03-2

#### **IV. Authority to Enroll a Child**

##### **A. When to Enroll a Child**

State regulations requires a caseworker to enroll a child within five days of an out-of-home placement unless factors outside the control of the local department of social services prevent enrollment. The best practice, however, is to seek to enroll the child as soon as possible to prevent disruption to the child's education.

##### **B. Who Can Enroll a Child**

The regulations authorize a child's caseworker to enroll a child. Although caseworkers have a clear responsibility to enroll, this does not prevent other responsible adults from enrolling, or assisting in enrolling, a child in school. Such adults include a child's:

- natural/birth parent
- adoptive parent
- guardian
- person acting as a parent who the child is living with, such as a relative or stepparent
- placement agency caseworker
- foster parent
- formal kinship care provider
- special education appointed parent surrogate
- education guardian
- residential child care program representative
- court-appointed special advocate (CASA)
- court-appointed attorney
- or the student, if s/he is 18 years old or older

COMAR 07.02.11.12; 13A.08.07.03-1

#### **V. Authority to make Educational Decisions Once a Child is Enrolled**

##### **A. Placement Agency Caseworkers Must Provide Information to the School About the Child's Educational Decision-Makers**

Within 10 days of enrollment, the placement agency caseworker must identify and provide contact information to the child's receiving school regarding who can make education

decisions for the child. The caseworker must identify both a primary decision-maker and a secondary decision-maker who can act if the primary is not available.

B. Types of Educational Decision-making. There are two types of educational decision-making: (1) general education decision-making and (2) special education decision-making.

**1. General education decisions** are ones that do not involve special education services. For example: field trip authorizations, parent-teacher conferences, signing report cards, guidance office matters, choice of academic programs and courses, career program courses, testing authorization, special programs authorization (such as sex education or armed forces recruiting), choice of magnet or other non-zoned schools, school health-related decisions, school discipline, sports and other extracurricular activities, and parental options under the No Child Left Behind Act. The following people are allowed to make general education decisions for a child in state care:

- natural/birth parent if s/he still has educational decision making authority
- placement agency caseworker
- the following, if designated by the caseworker:
  - guardian (or education guardian)
  - adoptive parent
  - person acting as a parent who the child is living with, such as a relative or stepparent
  - foster parent
  - formal kinship care provider
  - residential child care program representative
  - treatment foster care caseworker

**2. Special education decisions** are those that relate to the provision of special education services such as placement, identification, and evaluation. Only the following people can make special education decisions:

- special education appointed parent surrogate
- natural/birth parent
- adoptive parent
- guardian
- person acting as a parent who the child is living with, such as a relative or stepparent
- foster parent, if the foster parent has been granted limited educational decision-making guardianship by the court
- other person legally responsible for the child's welfare

A child's caseworker is **not permitted** to make special education decisions for the child.

## **VI. Placement Agencies Must Notify Schools of Changes in the Child's Placement**

If the child's placement changes during the school year and the child's address is still within the school boundaries, the placement agency caseworker is required to send a letter to the child's school providing it with the new address, contact information, and any other relevant information. COMAR 13A.08.07.03.

## **VII. Communication & Problem-solving**

### **A. Local DSS and School System Contacts**

To encourage direct communication, each local school system and each placement agency is required to identify a contact person to address issues of coordination, information sharing, decision-making, and problem-solving on behalf of children in state-supervised care. To find a local contact person, you can find the list in the "**Access to Education for Children in State-Supervised Care Handbook**" available online (the lists are at the end of the handbook): <http://www.dhr.state.md.us/ssa/pdfs/edubook.pdf>

### **B. Dispute Resolution**

If necessary to solve a problem with a child's enrollment or records transfer, each local school district has a **dispute resolution process** that can be used to address such disputes.

The regulations require that the school's dispute process must be completed within **20 school days** after the request for dispute resolution is filed.

While a dispute is being resolved, the student has the right to:

- Remain enrolled in and attend school, and
- Receive educational services, including special education services.

To find out about the dispute resolution process in a school district, call the school's Public Information office, the Office of the Director of Student Services, or the Superintendent's Office.

COMAR 13A.08.07.03-4; 13A.08.07.04

## **VIII. Helpful Materials**

MSDE & DHR have developed an education rights handbook ("**Access to Education for Children in State-Supervised Care Handbook**") to answer common questions & concerns about the education rights and needs of children in state-supervised care:

<http://www.dhr.state.md.us/ssa/pdfs/edubook.pdf>

The **regulations** for the education of Maryland children in state care can be found in the Maryland Code of Regulations (COMAR) at: [www.dsd.state.md.us/comar](http://www.dsd.state.md.us/comar) (the regulations are COMAR 13A.08.07.01 - .05)

**Attachments**

Attachment 1 – Sample Placement Agency Letter Confirming Child is in State-supervised Care

Attachment 2 – MSDE Fact Sheet 79 – Transfer of Educational Records for Students in State-supervised Care

Attachment 3 – MSDE Fact Sheet 82 – Enrollment of Students in State-supervised Care

Attachment 4 – Summary of DSS responsibilities for the educational needs of children in care

**Attachment 1**

**SAMPLE PLACEMENT AGENCY LETTER  
CONFIRMING CHILD IS IN STATE-SUPERVISED CARE**

AGENCY LETTERHEAD

Dear Educational Provider:

This letter is intended to identify (child's name) (DOB) as a foster child in the state's legal custody as of (date of commitment hearing.)

(Child's name) is placed with (foster parent or group home provider's name), at (address.) The contact for emergencies is (name of contact), who can be reached at (phone number.)

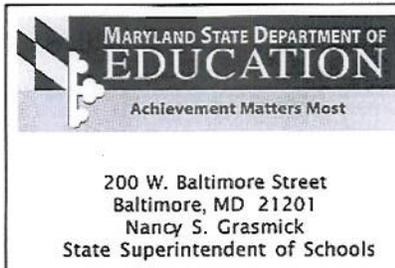
Please contact me if there are any changes or if you have further questions or concerns.

Sincerely,

(Caseworker's name)  
(Caseworker's phone number)  
(E-mail)

(Supervisor's name)  
(Supervisor's phone number)  
(E-mail)

## Attachment 2



## TRANSFER OF EDUCATIONAL RECORDS FOR STUDENTS IN STATE-SUPERVISED CARE

Fact Sheet  
**79**

February 2007

### ***Where are the requirements for transferring educational records for children in State-supervised care?***

State law and regulations were enacted to facilitate the prompt enrollment in school of children in State-supervised care by expediting the transfer of their educational records. These requirements are set forth in sections 8-501 through 8-506 of the Education Article, Annotated Code of Maryland, and Code of Maryland Regulations (COMAR) 13A.08.07.

### ***Who is a child in State-supervised care?***

This is a child who is in the custody of, committed to, or otherwise placed by a placement agency. A placement agency is the local department of social services, the Department of Health and Mental Hygiene, the Department of Juvenile Services or a private placement agency that is licensed by the Social Services Administration.

### ***What does the placement agency need to do?***

The placement agency, or the placement agency's designee, must provide written or verbal notice to the receiving school that the student will be enrolling. Notice of enrollment can be given either before or at the time of placement or modification of the placement of the child.

### ***What is the receiving school required to do after being notified of the child's enrollment?***

Within two days after receiving notice of enrollment, the receiving school must do the following: (1) inform the sending school of the child's enrollment; (2) request the child's educational records from the sending school; (3) provide a copy of the request for records to the child or the responsible adult acting on behalf of the child; and (4) inform the child or the responsible adult of the rights conferred in sections 8-501 through 8-506 of the Education Article.

### ***What is the sending school required to do after being notified of the child's enrollment?***

The sending school must immediately inform the receiving school of the grade level in which the child was last enrolled and whether the child has a 504 plan or an Individualized Education Program (IEP). This information is to be provided orally.

Within three school days of receiving notice of enrollment, the sending school must send by mail or transmit electronically to the receiving school the following items: (1) a complete withdrawal or transfer record of the child; (2) the child's academic records; (3) the child's discipline records; (4) the child's immunization records; and (5) the most recent 504 plan or IEP and assessment, if applicable. The placement agency representative or school employee may hand carry a copy of the official educational records.

(over)

## Attachment 2

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***What schools are required to comply with these requirements?***

All public schools and noncollegiate educational institutions affiliated with a residential child care program or treatment facility that has an MSDE-approved educational program. This includes certain educational programs in Department of Juvenile Services facilities and certain non-public schools.

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***How are concerns about the records transfer process handled?***

Each local board of education is required to have a dispute resolution process in place to handle controversies over the record transfer requirements.

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***What are the requirements of this dispute resolution process?***

Each local board of education establishes the requirements. At a minimum, the process must set forth the requirements for filing a request for dispute resolution, a deadline for filing the request, and reasonable time frames for completion of the other aspects of the dispute process. The dispute resolution process must be completed within 20 school days after the request for resolution is filed.

During a dispute, the child shall remain enrolled in the receiving school and receive appropriate educational services, including the implementation of an existing 504 plan and IEP.

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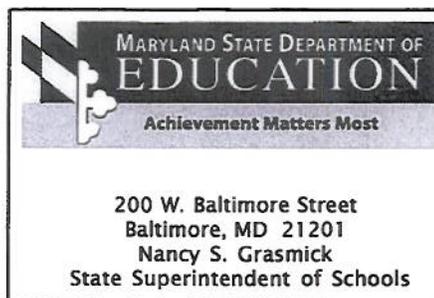
***What kinds of assurances do the schools have to make regarding compliance with the records transfer law?***

Each local school system will certify annually that it is in compliance with the records transfer law. Among other things, this includes assurance that notice of the law's requirements has been provided to principals, teachers, other school personnel, children in State-supervised care, responsible adults acting on behalf of those children and other interested parties.

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***How else can I learn more?***

For more information, contact the Student Services and Alternative Programs Branch at 410-767-0295.



## CHILDREN IN STATE-SUPERVISED CARE: ENROLLMENT AND EDUCATIONAL DECISIONS

Fact Sheet

**82**

April 2009

### ***Who is a child in state-supervised care?***

This is a child who is in custody of, committed to, or otherwise placed by the local Department of Social Services, Department of Health and Mental Hygiene, Department of Juvenile Services, or private placement agency licensed by the Social Services Administration.

### ***What regulations govern enrollment and educational decision-making?***

The Code of Maryland Regulations (COMAR) 13A.08.07 clarifies who has the authority to enroll these children in school and to make educational decisions on their behalf.

### ***What documents does the school need to enroll the child?***

- Documentation that the person is authorized to enroll the child
  - Photo identification of person authorized to enroll the child
  - Form requesting enrollment, if such a form is required by receiving school.
- In addition to the above, the school may **not** require more than the following:
- Proof the child is in state-supervised care (recent court order establishing legal custody or placement agency letter on letterhead stating the child is in state-supervised care and proof of residency of the child.

### ***What documents show satisfactory proof of residency?***

A letter from the placement agency verifying the address of the child's residence and one of the following (chosen by the person authorized to enroll the child): lease, rent receipts, deed, property tax bill, gas & electric bill, water bill, cable bill, online computer services bill, noncellular telephone bill, or the documentation of residency required by the receiving school.

### ***When must a school enroll the child?***

If required enrollment documents are produced, school must enroll child immediately, if possible, but no later than 2 school days from receipt of documentation.

### ***Can the child enroll in a new school without school records and who can enroll the child?***

Yes, the child can enroll without school records. Schools must work together to coordinate the transfer of school records for children in state-supervised care. See Fact Sheet 79 for more information. The child can be enrolled by the child's placement agency caseworker, natural/birth parent, adoptive parent, guardian, person acting as a parent with whom the child lives (i.e. relative, stepparent), foster parent, formal kinship care provider, special education appointed parent surrogate, education guardian, residential child care program representative, court-appointed special advocate (CASA), court-appointed attorney, or the student if 18 years old.

### ***How are concerns about enrollment/decision-making handled?***

Each local board of education is required to establish a dispute resolution process to handle controversies about the enrollment and record transfer requirements. The process must specify requirements and deadline for filing a request, reasonable timeframes for completion of the dispute process. The process must be completed within 20 school days after the request is filed. During the process the child shall remain in the receiving school and receive appropriate educational services, including exiting 504 plan and LEP.

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***Who can make general educational decisions for the child?***

The child's natural/birth parent if she/he still has education decision-making authority, placement agency caseworker, or the person designated by the case worker. Such people may include the guardian, education guardian, adoptive parent, person acting as a parent with whom the child is living (i.e. relative, stepparent), foster parent, formal kinship care provider, residential child care program representative, or treatment foster care caseworker.

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***What are general education decisions?***

General education decisions are ones that do not involve special education services, including field trip authorizations, parent-teacher conferences, signing report cards, guidance office matters, choice of academic/career programs/courses, testing authorization, special programs authorization (i.e. sex education, armed forces recruiting), choice of magnet or other non-zoned schools, school health-related decisions, school discipline, sports and other extracurricular activities, and parental options under the No Child Left Behind Act.

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***Who can make special education decisions for the child?***

Only the following people can make special education decisions: natural/birth parent, special education appointed parent surrogate, adoptive parent, guardian, person acting as a parent who the child is living with (such as relative or stepparent), foster parent (if the foster parent has been granted limited educational decision-making guardianship by the court), or other person legally responsible for the child's welfare. A child's caseworker is **not** permitted to make special education decisions for the child.

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***How will the school know the identity of the child's educational decision-maker?***

Within 10 days of enrollment, the placement agency caseworker must identify and provide contact information to the child's new school about who can make education decisions for the child. The caseworker must identify a primary decision-maker and a secondary who can act if the primary is not available.

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***How will the school know if the child changes to a different residential placement?***

If the child's placement changes during the school year and the child's address is still within the school boundaries, the placement agency caseworker is required to send a letter to the school with the new address, contact information, and other relevant information.

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***What schools are required to comply with these requirements?***

All public schools and noncollegiate educational institutions affiliated with a residential child care program or treatment facility that has an MSDE-approved educational program. This includes certain educational programs in Department of Juvenile Services facilities and certain non-public schools.

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***What kinds of assurances do schools have to make regarding compliance with the regulations?***

Each local board of education will certify annually to the State Superintendent of Schools that it is in compliance with the enrollment and educational decision-making regulations, and that it has provided notice of the requirements to principals, teachers, other school personnel, children in state-supervised care, responsible adults acting on behalf of those children and other interested parties.

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***Who can I contact for help with educational issues for the child and for more information?***

Each local school system and each placement agency is required to identify a contact person to address issues on behalf of children in state-supervised care. The "Access to Education for Children in State-Supervised Care Handbook" online at <http://marylandpublicschools.org/MSDE/newsroom/publications> can provide additional information.

Attachment 4

**Summary of DSS Responsibilities  
for the Educational Needs of a Child in State-supervised Care**

- **Consider educational harm to a child who is moved from a placement.** In making a permanency plan, DSS should consider placing the child in the local jurisdiction where his/her parent/guardian resides. The child should only be moved to another jurisdiction if there is a compelling reason to do so. The child's permanency plan must contain assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled. Md. Code, Family Law 5-525; COMAR 07.02.11.11, 07.02.11.13
- if a change in schools is necessary, **enroll a child within five days** of an out-of-home placement (unless factors outside the control of the local department of social services prevent enrollment). COMAR 07.02.11.12
- **Provide the child's receiving school with the following information:**
  - that the child is in state-supervised care
    - this notice must be given **prior to or at the same time a child's placement is changing**. COMAR 13A.08.07.03
  - any of the child's special needs. COMAR 07.02.11.12
  - contact information for the parent/guardian, foster parent, caseworker, and caseworker's supervisor to the school. COMAR 07.02.11.12
  - identity and contact information of person(s) authorized to make educational decisions for the child (both a primary and secondary decision-maker). DSS must provide this **within 10 calendar days** of the child's enrollment. COMAR 13A.08.07.03-3
  - if the child's placement changes during the school year and the child's address is still within the school boundaries, provide the child's school with the new address & contact information. COMAR 13A.08.07.03-2
  - if the child's sending school does not have or does not provide the school records to the child's receiving school where the child has enrolled and DSS has access to those records, it is required to provide those records to the school in order to best help the school and child. COMAR 13A.08.07.03-2
- **Request an evaluation of the child's needs if it is believed that the child may have special educational needs.** COMAR 07.02.11.12
- **Keep records relating to a child's education.** A child's permanency plan should include information about:
  - the child's educational provider
  - the child's grade level performance
  - the child's school record
  - the child's immunizations
  - any other relevant education information

COMAR 07.02.11.13