

**EVERY STUDENT SUCCEEDS ACT  
LETTER OF AGREEMENT**

This Agreement, made the 28th day of June, 2021, is between the County of York (“County”), whose principal place of business is 28 East Market Street, York, PA 17401, with York County Office of Children, Youth and Families (“CYF”) to serve as Contract Administrator and repository of the Original Signed Contract, and **Spring Grove Area School District** whose principal place of business is **100 East College Avenue, PA, 17362** (“District”).

**I. Purpose.** The purpose of this Agreement is to establish the allocations between the County and the District for transportation costs related to educational stability for children in Foster Care as defined by the Every Student Succeeds Act (“Act”) where District is the “District of Origin”, as defined in Section III.

**II. Term.** It is understood between the Parties that the initial term of this Agreement is specific to school year 2021-2022. It is also agreed by the Parties that the Act took effect on December 10, 2016, which established the obligations contemplated by this Agreement. Therefore, the initial term of this Agreement has an effective date of July 1, 2021 and shall continue through June 30, 2022. Upon completion of the initial term of this Agreement, this Agreement shall automatically renew and continue on a yearly basis for subsequent, consecutive periods of one year each, unless terminated in accordance with the provisions of this Agreement or until either Party shall provide the other Party with written notice of intent not to renew this Agreement; such notice must be given not less than ninety (90) days prior to the end of the initial term, or any of the renewal terms, thereafter. Each renewal term hereof shall be subject to, and inclusive of, all terms, covenants and agreements of this original Agreement, except as may be amended, specifically, by agreement of the parties, in writing.

**III. Definitions.**

**A. “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.

- B. “District of Origin”** - The district of origin (“DOO”) is the School District in which a child is enrolled at the time that placement in foster care is initiated. If a child’s foster care placement changes to a location outside of the DOO, the DOO would then be considered the School District in which the child is enrolled at the time of the placement change.
- C. “District of Residence”** - The district of residency (“DOR”) is the School District in which the child resides while in foster care if that School District is outside the boundary of the DOO.

#### **IV. Identification of Transportation Needs and Best Interests Determination.**

**A.** CYF will notify the DOO and DOR no later than two (2) school days of a child being placed in Foster Care either in writing, orally or via email. CYF shall also submit to the DOO and DOR a placement letter within forty-eight (48) hours of the child being placed in foster care.

**B.** Within three (3) school days of the placement of the child in Foster Care, or the change in the child’s Foster Care placement, the DOO, DOR and the CYF caseworker assigned to the child placed shall conduct a Best Interest Determination meeting for the purpose of deciding if the child will continue to attend school in the DOO or be enrolled in the DOR. The factors to be considered in making the Best Interests Determination shall include:

- i. Appropriateness of the current educational setting and proximity of placement;
- ii. Preferences of the child;
- iii. Preferences of the child’s parent(s) or education decision-maker(s);
- iv. The child’s attachment to the school, including meaningful relationships with staff and peers;
- v. Placement of the child’s sibling(s);
- vi. Influence of the school climate on the child, including safety;
- vii. The availability and quality of the services in the school to meet the child’s educational and socio-emotional needs;
- viii. History of school transfers and how they have impacted the child;
- ix. How the length of the commute would impact the child, based on the child’s developmental stage; and

- x. Whether the child is an English Learner and is receiving language services, and, if so, the availability of those required services in a school other than the school of origin, consistent with Title VI and the Equal Educational Opportunities Act (EEOA).
- xi. Transportation costs should not be considered when determining a child's best interest.
- xii. If the child remains in the DOO, CYF will arrange for transportation for the child within five (5) school days of the date of the best interest determination.
- xiii. Any contracts or agreements related to the hiring or utilization of a transportation service shall be memorialized in a document separate from this Agreement.
- xiv. If the child is to be enrolled in the DOR, whether special arrangements for transportation will be needed.

C. At the conclusion of the Best Interest Determination, if it is found to be in the child's best interest to remain in the DOO, DOO shall proceed with the arrangement of transportation and plan for costs, if applicable, within five (5) school days of the Best Interest Determination. If it is determined that the child shall be enrolled in the DOR, no transportation costs will be associated with this Agreement.

**V. Best Interest Determination and/or Transportation Plan Dispute Resolution**

- A. If the Parties cannot agree in making a Best Interest Determination, or establishing a Transportation Plan, the following shall occur:
  - i. 1<sup>st</sup> Level Dispute: The DOO, DOR, and the CYF Point of Contact and/or Education Liaison shall seek, once more, to reach an agreement as to the child's best interests relative to educational placement and transportation arrangements to accomplish the same. If an agreement is reached, then transportation shall be arranged by CYF, as provided in Section IV. If no agreement is reached then the matter will proceed to 2<sup>nd</sup> Level Dispute.
  - ii. 2<sup>nd</sup> Level Dispute: The Superintendents of the DOO and DOR, as well as the CYF Administrator, shall seek to reach an agreement as to the best interests of the child's educational placement and transportation arrangements to accomplish the same. If an agreement is reached, then transportation shall be arranged by CYF, as provided in Section IV.

- iii. Out of professional courtesy, when either the CYF, DOO, or DOR decides to contact the Regional Office with the intention of resolving the dispute, they will notify the other parties by telephone or email prior to contacting the Regional Office. The Party who opposes the Best Interest Determination and/or transportation plan will then contact by email the Regional Office and “copy” the other parties on the email. The email will detail the Best Interest Determination and/or transportation dispute and/or transportation plan points of contention. The email will ask for recommendations on how to resolve the matter. Upon receipt of recommendations from the Regional Office, CYF, DOO, and DOR will collaborate and reevaluate available resources to determine how to implement the recommendations from the Regional Office
- iv. During all levels of the dispute, the child shall remain in the DOO.

**VI. Duration of Transportation.** Transportation shall be provided and/or arranged by CYF, as set forth above, for the duration of the child’s time in Foster Care as long as it continues to be in the child’s best interest. If the child exits Foster Care before the end of a school year, the transportation arrangement will be maintained through the end of the quarter/semester/school year in order to maintain the child’s emotional stability, when possible.

**VII. Allocation of Transportation Costs.**

**A.** The County shall reimburse the DOO for costs related to the educational stability for children in Foster Care where it is determined that it is in the best interests of a child placed outside the DOO to continue to attend school in the DOO at a rate of one third (1/3) of the cost associated with transporting the child where the DOR is participating in the cost to ensure educational stability.

**B.** The County shall reimburse the DOO for costs related to educational stability for children in Foster Care where it is determined that it is in the best interests of a child placed outside the DOO to continue to attend school in the DOO at a rate of one half (1/2) of the cost associated with transporting the child where the DOR is not participating in the cost to ensure educational stability.

**C.** In the event it is determined that it is in the best interest of a child to be in an educational placement outside the DOO, and instead be enrolled in the DOR, there shall be no obligation on the part of the County to reimburse either the DOO or DOR for any costs related to the educational stability of the child in Foster Care.

## **VIII. Payment of Compensation.**

**A.** In circumstances where the cost of transportation is split between CYF, DOO, and the DOR, the DOR shall forward invoices reflecting the cost of transportation to CYF fiscal director, director, or other appropriate County department as noted, on or before the tenth (10<sup>th</sup>) working day of the month immediately following the provision of services. The County shall be responsible for paying any reasonable transportation service utilized to transport a child to the DOR directly in accordance with any applicable or relevant contracts or agreements within thirty (30) days of receipt of said invoice.

**B.** In circumstances where the cost of transportation is split between CYF and the DOO, the DOO shall forward invoices reflecting the cost of transportation to the CYF fiscal director, or other appropriate County department as noted, on or before the tenth (10<sup>th</sup>) working day of the month immediately following the provision of services. The County shall be responsible for paying any reasonable transportation service utilized to transport a child to the DOO directly in accordance with any applicable or relevant contracts or agreements within thirty (30) days of receipt of said invoice.

**IX. Drug-Free Work Place Act.** The parties shall ensure that any transportation service employed to transport a child in Foster Care shall certify that it is in compliance with the Drug-Free Work Place Act. Use, possession, sale, manufacture or distribution of illegal drugs or other controlled substances (not documented as for medical reasons) on the work site, including in the transportation vehicle, by employees, subcontractors, or agents are prohibited. Employees, subcontractors, and agents shall be notified of this prohibition and that violators of this policy may be removed or barred at the discretion of the County.

**X. Security and Privacy.** Both parties of this Agreement are bound by security and privacy acts. Therefore, each Party agrees to adhere to the obligations of their respective act, as identified:

**A.** The County is governed by the Health Insurance Portability and Accountability Act of 1996 (HIPPA) and hereby accepts full responsibility in determining the County's status and obligations under HIPAA and for operating in compliance with HIPPA as applicable to their organization's status.

**B.** The District is governed by the Family Educational Rights and Privacy Act (FERPA) and hereby accepts full responsibility in determining the District's status and obligations under FERPA and for operating in compliance with FERPA as applicable to their organization's status.

C. Commitment to Confidentiality - Providers and/or contractors entering into this contract with the County hereby acknowledge and affirm their commitment to confidentiality of protected health and education information that they create, maintain, use and/or disclose in the course of performing functions as detailed in this contract. Providers and/or contractors further affirm their commitment to maintaining the confidentiality of protected health and education information in accordance with State and Federal law, including HIPAA and FERPA, except as disclosure is permitted or required by law.

**XI. Non-Discrimination Clause.** In carrying out the terms of this Agreement, both Parties agree not to discriminate against any employee or client or other person on account of age, race, color, sex, religious creed, national origin, marital status, or handicap. The Parties shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, any pertinent Executive Order of the Governor and with all laws prohibiting discrimination in hiring or employment opportunities and the provision of child welfare services, including meaningful access to all programs to individuals with Limited English Proficiency.

**XII. Hold Harmless Provision – Indemnification**

A. It is understood that each Party shall assume all risks and responsibilities for losses of every description in connection with the service each provides, which can be attributed either directly or indirectly to each respective Party. Each Party agrees to indemnify, protect, defend and hold the other Party, and the directors, officers, employees and agents of the same, harmless from any claims, actions, administrative proceedings, judgments, liens, damages, punitive damages, penalties, fines costs, liabilities, interest or losses (collectively the “Liabilities”) including, without limitations, reasonable attorney fees and paralegal fees (at trial and appellate levels) and expenses (including such fees and expenses incurred in enforcing this indemnification or collecting any sums due hereunder), consultant fees and expert fees that arrive directly or indirectly from or in connection with the actions or omissions of the other Party, or its directors, officers, employees, agents, or subcontractors in pursuance of the fulfillment of the terms of this Agreement.

B. Neither Party shall be held responsible for delay or failure to perform when such delay or failure is due to fire, flood, epidemic, strike, acts of God or the public enemy, unusually severe weather, legal acts of the public authorities, or delay or default which cannot reasonably be foreseen or provided against.

### **XIII. Modification**

**A.** This Agreement, and all attachments which have been incorporated by reference, contains all the terms, provisions, and conditions of this Agreement. No term or provision may be unilaterally modified or amended. Any alteration must be reduced to writing and signed by the parties to this Agreement.

**B.** Any alteration, variation, modification or waiver of a provision of this Agreement shall be valid only when reduced to writing and duly signed by the parties of this Agreement, pending a thirty (30) day review.

**XIV. Dispute Resolution.** Pennsylvania law shall govern the terms and conditions of this Agreement. Pennsylvania shall be the appropriate jurisdiction for all disputes. Disputes shall be resolved by a non-jury trial in the York County Court of Common Pleas.

**XV. Business Associate Agreement.** If the County determines that a Business Associate Agreement is necessary, a separate written agreement will be executed between the parties. If executed, the Business Associate Agreement will be attached to this Agreement as Attachment A.

**XVI. Assignment.** Neither this Agreement nor any rights or obligations set forth hereunder may be assigned by either Party without the prior written consent of the other Party. Any attempt by either Party to assign any rights, duties or obligations without such consent shall be void and without force or effect.

**XVII. Notices.** All notices, demands, requests or other communications which may be or are required to be given by any Party to any other Party pursuant to this Agreement shall be in writing and shall be hand delivered, mailed by first class, registered or certified mail, return receipt requested, postage prepaid, sent by overnight express mail, postage prepaid, return receipt requested or transmitted by facsimile or email, addressed as follows:

If to County:

Evelyn Cruz, Fiscal Officer III, CYF  
28 East Market Street  
York, PA 17401

If to District:

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Each Party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Notice shall be deemed given for all purposes at such time as it is delivered to addressee (with the return receipt, the delivery receipt, or with respect to a facsimile the answerback being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the address upon presentation.

**XVI. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision will nevertheless continue in full force without being impaired or invalidated in any way.

**XVIII. Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its principles pertaining to conflict of laws. Further, the Parties agree and acknowledge that the York County Court of Common Pleas for York County Pennsylvania shall have jurisdiction over any and all disputes arising from the terms and conditions of this Agreement. If either Party should seek to enforce its rights under this Agreement, then the prevailing Party shall be entitled to recover all costs incurred, including filing fees and reasonable attorney's fees.

**XIX.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed on their behalf, as of the day and year first written above.

**YORK COUNTY BOARD OF COMMISSIONERS**

**YORK COUNTY OFFICE OF CHILDREN,  
YOUTH & FAMILIES**

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Mark Derr  
Administrator/Chief Clerk

Date

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Evelyn Cruz  
Fiscal Officer III, CYF

Date

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**Printed Name of School District**

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Signature of District Representative

Date

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Printed Name & Title of School District Representative