

**Memorandum of Understanding Between the
Colorado Department of Education and the
Colorado Department of Human Services
Concerning Implementation of HB10-1274 Regarding
Transitioning of Certain Students into the Public School Setting**

I. Purposes and Scope

The purposes of this Memorandum of Understanding are to:

- A. Assure a process for information-sharing and transition planning for students that re-enter the public school system from residential facilities, day treatment facilities, and certain hospital settings, and who have been determined by the court or treating agency to be a risk to self or the community in the past twelve (12) months, and
- B. Promote the successful transition of students into the public school setting and to promote the safety of the school community through information sharing and transition planning.

The scope is to provide definition of the roles, responsibilities of each responsible party in this Memorandum of Understanding and the procedures for implementation pursuant to sections 22-2-139, C.R.S. and 26-1-138(2), C.R.S.

II. Background

This Memorandum of Understanding (MOU) is required by HB10-1274 and is entered into by the Colorado Department of Education and the Colorado Department of Human Services. Implementation of this MOU necessarily requires the cooperation of numerous agencies and entities including: the Colorado Department of Education; Colorado school districts; the State Charter School Institute and its authorized schools; approved facility schools; and the Colorado Department of Human Services, its divisions and their agents. County departments of human/social services are the agents of the Colorado Department of Human Services. Implementation of this MOU is effective July 1, 2011.

III. Introduction

The Memorandum of Understanding is intended to provide a broad approach to addressing the transition and safety needs of a specific population of students returning to the public school system. The spirit of this MOU is to promote interagency collaboration and information sharing for the successful and safe transition of students. The agreement outlines the notification protocols and provides guidance regarding information sharing to allow for more effective decision-making processes and to create an atmosphere that promotes safety and success for students. Additional guidance documents, frequently asked questions and standard forms are also available on the websites of both the Colorado Department of Education and Colorado Department of Human Services.

IV. Definitions

A. Child Welfare Education Liaison

The designee of the school district or State Charter School Institute that is responsible to fulfill the requirements defined in Section V. E, and in section 22-32-138, C.R.S.

B. Colorado Department of Human Services Designees

The Division of Youth Corrections and county departments of human/social services are the designated agencies with responsibility for the placement of students in out-of-home care.

1. County departments are an agent of the state and may be referred to as Human Services, Social Services, Health and Human Services, Health and Housing Services, or a similar term; and
2. The Division of Youth Corrections within the Colorado Department of Human Services is responsible for students legally committed to its care.

C. Hospital

For purposes of this MOU, the term *hospital* refers specifically to a hospital licensed or certified pursuant to section 25-3-301, C.R.S. (public hospital) that provides inpatient acute care or psychiatric services for a student for more than ten (10) calendar days and when there is actual knowledge that the student will attend an identified public school within sixty (60) days after discharge from the hospital.

D. Qualifying Student

A student that is re-entering public school from a treating agency defined in Section IV. E.; and

1. Was determined by the state licensed day treatment facility, facility school, hospital or the court to be a risk to self or the community within the twelve (12) months prior to the proposed transfer.

E. Treating Agency

1. A day treatment facility licensed by the Department of Human Services pursuant to section 26-6-102(2.5), C.R.S.
2. A facility school as defined in section 22-2-402(1), C.R.S.
3. A hospital as defined in section 25-3-301, C.R.S. that is a licensed public hospital, provides inpatient acute care or psychiatric services to a student that is subject to this MOU, and as defined in Section IV. C.

V. Responsibilities

A. Responsibilities of the Colorado Department of Education:

1. Post the contact information for the child welfare education liaisons on the CDE web site and provide that information to the Department of Human Services annually on or before September 1.
2. Provide an annual report to CDHS and to the House, and Senate education committees regarding aggregate data collected pursuant to section 22-2-139(1)(c), C.R.S. The report will also be available to the public on the CDE and CDHS web sites.

- B. Responsibilities of School Districts and the State Charter School Institute:
1. Designate an employee of the school district or the State Charter School Institute to act as the child welfare education liaison.
 2. Report the name and contact information of the child welfare education liaison annually, on or before August 15, to the Colorado Department of Education.
 3. In lieu of designating an employee, a school district or the State Charter School Institute may contract with an individual to act as the child welfare education liaison.
 4. Make arrangements for a substitute for the child welfare education liaison whenever he/she is unavailable, in order to assure that:
 - a. Notifications can be received timely pursuant to section 22-2-139, C.R.S., and section 26-1-138(2), C.R.S.; and
 - b. Transition planning can still occur during normal school breaks, particularly through the summer.
 5. Cooperate with the information sharing and transition process with the responsible treating agency, county department of human/social services, or the Division of Youth Corrections to assure that an appropriate educational placement, including appropriate educational services and location is made.
 6. Establish policies consistent with section 24-72-204(3) C.R.S. and with applicable provisions of the federal "Family Education Rights and Privacy Act of 1974" (FERPA), 20 E.S.C. sec. 1232g, and all federal regulations and applicable guidelines to share and release information directly related to a student and maintained by a public school or by a person acting for the public school in the interest of making schools safer.
- C. Responsibilities of Treating Agencies:
1. Provide written notice to the appropriate school district or State Charter School Institute child welfare education liaison, of the pending enrollment of a student at least ten (10) calendar days prior to the student's transition to the public school.
 2. Invite the child welfare education liaison or designee to participate in the development of a transition plan for the student.
 3. Invite people to participate in the transition planning process as appropriate, including but not limited to the student, parent, county department of human/social services or the Division of Youth Corrections staff, Guardian Ad Litem, Educational Surrogate Parent and other relevant parties.
 4. Provide information to the child welfare education liaison or designee including but not limited to that listed in Section VI. B., and within the confidentiality parameters stated therein.
 5. Provide notification to the agency with legal custody if the transitioning student is in the custody of the Division of Youth Corrections or a county department of human/social services.
- D. Responsibilities of the Colorado Department of Human Services executed through the Division of Youth Corrections or the county departments of human/social services:
1. If a change of placement for a qualifying student is required for the safety of the student or if a court, the Division of Youth Corrections or the county department of human/social services changes the placement of a qualifying student with less than ten (10) calendar days notice, the Division of Youth Corrections or county department of human/social services shall provide information and written notice to the appropriate child welfare education liaison of a qualifying student's enrollment within five (5) calendar days following the student's educational placement;

2. Invite the child welfare education liaison or his or her designee to participate in the development of a transition plan for those students in the situation described above;
 3. Provide information to the child welfare education liaison or the designee including but not be limited to that listed in Section VI. B. 3, and within the confidentiality parameters stated therein; and
 4. Cooperate with the receiving school districts, charter school or State Charter School Institute to assure that an appropriate educational placement, including education services, is made.
- E. Responsibilities of the child welfare education liaison:
1. Receive notice of transition and invitation to participate in transition planning.
 2. Work with treating agencies, parents, the county department of human/social services or the Division of Youth Corrections (if applicable), to facilitate the prompt and appropriate educational placement, transfer and enrollment in school of qualifying students who are enrolling in the school district or an institute charter school.
 3. Work with students, parents, treating agencies and the county department of human/social services or the Division of Youth Corrections (if applicable) and other relevant parties to ensure the prompt transfer of education information and receive records for qualifying students.
 4. Ensure that the education information and records of a student in out-of-home placement are delivered to the student's new school within five (5) school days after receiving a request for the transfer of the student's education information and records from a county department.
 5. Upon receiving the required notification and invitation, participate in (or have his or her designee participate in) a transition planning meeting or other process if a meeting is not deemed necessary, regarding the enrollment in a public school of a qualifying student.
 6. Participate in any interagency collaboration teams or risk/threat assessment teams centered on students, which the school district may develop or in which the school district may be invited to participate.
 7. Provide to the Colorado Department of Education the information required in Section VII. A.
- F. Nothing in this Section V. shall alter the rights and obligations of the Department of Education, the Department of Human Services, a county department of human/social services, or a school district, as such rights and obligations are set forth in 20 U.S.C. Sec. 1400, et seq.; 29 U.S.C. Sec. 701, et seq.; 42 U.S.C. Sec. 11431, et seq.; and 42 U.S.C. Sec. 675, as amended by the Federal "Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub.L. 110-351.

VI. Procedures

A. Notification

1. The Colorado Department of Education and the Colorado Department of Human Services shall develop a standard notification and invitation form.
2. The responsible party shall send the notification and invitation to the child welfare education liaison of the receiving school district using the standard form and within the prescribed timeframe.

B. Information Sharing

1. Compliance with state and federal confidentiality and privacy laws is required regarding any transmittal of the student's information verbally, in writing, and in any electronic format. Releases of information shall be obtained to assure that federal and state privacy and confidentiality laws are not violated. The Health Insurance Portability and Accountability Act (HIPAA) mandates the Minimum Necessary Principle for use and disclosure of protected health information (PHI). The HIPAA entity can only disclose the minimum amount of PHI needed to accomplish the intended purpose. The parent, guardian, and student age fifteen (15) years of age or older must be informed that upon their consent to release HIPAA protected information, nullifies privacy under HIPAA in the future with regard to educational agencies. Medical information including physical and mental health shall be shared only with the receiving school district if the parent or legal guardian signs an appropriate HIPAA release. If a HIPAA release is not signed by the parent or youth aged 15 years or older:
 - a. The HIPAA covered entity shall notify the child welfare education liaison in the receiving school district;
 - b. All remaining requirements of the MOU regarding the transition planning process apply; and
 - c. Other pertinent information that is not HIPAA protected shall be shared.
2. If a release or consent is not obtained, the educational agencies may not deny the student access based on their privacy decision.
3. The Family Educational Rights and Privacy Act (FERPA) specifically allows an educational entity to transfer a student's educational records to another school or school district in which the student seeks or intends to enroll without parental consent if:
 - a. The disclosure of records was initiated by the parents; or
 - b. The disclosing entity's annual FERPA notification to parents includes a notice that the entity forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled 34 C.F.R. §§ 99.31(a)(2) and 99.34(a)(1).
4. The information provided to the child welfare education liaison shall include but need not be limited to the qualifying student's:
 - a. Educational records; and
 - b. Outline of needs to be successful in the public school setting, which information would assist the school district in meeting the student's needs and ensuring a successful transition.
5. For information is protected by the Federal Substance Abuse Confidentiality Regulations (42 C.F.R., part 2), the recipient may not re-disclose such information without another specific release of information.

VII. Accountability, Data Collection and Reporting

A. Annual data collection

The Colorado Department of Education shall prescribe the content, process and timeframes for child welfare education liaisons to provide required annual data:

1. The child welfare education liaison or designee shall provide the prescribed data to the Colorado Department of Education on or before February 15, 2012 and annually on or before February 15, thereafter.
 2. Information shall include but not be limited to the:
 - a. Number of educational placements of qualifying students occurring in a school year;
 - b. Number of emergency educational placements of qualifying students occurring in a school year;
 - c. The type of placement from which each qualifying student transitioned;
 - d. The educational setting into which each qualifying student was placed;
 - e. Date notification of transition was received by the child welfare education liaison;
 - f. Date qualifying student was discharged from the treating agency;
 - g. Date qualifying student began receiving educational services from the school district or State Charter School Institute; and
 - h. Demographic information of each qualifying student including but not limited to age, race, gender and ethnicity.
- B. Protocols for Interdepartmental Data established pursuant to section 24-37.5-704, C.R.S. are not yet available. When this work is completed, recommendations relevant to this MOU will be considered and a report of the recommendations provided to the Colorado Department of Human Services, the State Board of Human Services, the Department of Education and the State Board of Education.

VIII. Dispute Resolution

- A. When there is disagreement regarding the educational placement between the school district or State Charter School Institute and the responsible party, conflict resolution may occur through the following existing mechanisms:
 1. For students identified as having a disability, disagreements regarding educational placement decisions may be resolved using the Special Education procedures. These conflict resolution procedures are located on the Colorado Department of Education website on the Exceptional Student Leadership Unit (ESLU) webpage.
 2. For general education students, disagreements regarding educational placement decisions may be resolved using the procedures of the local school board.

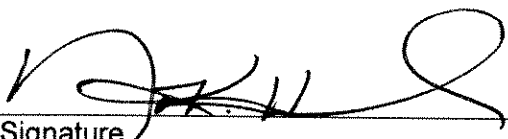
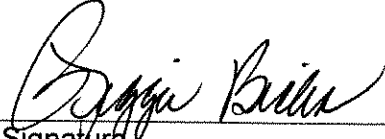
IX. Training Needs and Funding Sources

- A. Training should address the content and intent of HB10-1274, the content and procedures required in the MOU, requirements regarding confidentiality and information sharing and recommended practices. Those needing to be trained include CDE staff, school district staff (including designated child welfare education liaisons), State Charter School Institute staff (including the child welfare education liaison), CDHS (including DYC) staff, treatment facility staff, approved facility school staff, and staff of the county department of human/social services.
- B. There are no funding sources available for training specific to this MOU or HB10-1274. Training will be embedded in regularly scheduled meetings and training opportunities and written guidance will be jointly developed and provided by the Colorado Department of Education and the Colorado Department of Human Services.

X. Signatures and Date

Authorized Representatives: By signatures below, the individuals listed in this document as representatives of the Colorado Department of Human Services and the Colorado Department of Education are authorized to act for the matters in this agreement

THE PARTIES HERETO have executed this Memorandum of Understanding.

	
Signature	Signature
Robert Hammond Commissioner Colorado Department of Education	Reggie Bicha Executive Director Colorado Department of Human Services
Date: 7/11/11	Date: 6-24-11