



MEMORANDUM

TO: County Superintendents of Schools
Community Service Managers

FROM: Honorable Gary Johnson, Administrative Director, Supreme Court of Appeals of West Virginia
Steven L. Paine, Ed.D.
State Superintendent of Schools
Bill J. Crouch
Cabinet Secretary, Department of Health and Human Resources

SUBJECT: NOTIFICATION AND PARTICIPATION OF SCHOOL OFFICIALS AT MULTIDISCIPLINARY TREATMENT TEAM MEETINGS

DATE: May 2, 2018

At any given time, thousands of West Virginia children are in the care of the West Virginia Department of Health and Human Services due to abuse and neglect or juvenile status or delinquency matters. Nearly ten thousand children were in state care in 2016¹ with an average length of stay of 17-18 months and, based upon current data for 2017, the number of children in care is expected to increase. Studies conducted by the West Virginia Department of Education found that the academic achievement of children in state care was lower than all the subgroups for which reporting was required under the *No Child Left Behind Act*. West Virginia children in care experience more school disciplinary issues, including suspension and expulsions, and lower achievement scores on state assessments in reading and math as compared to their school-age

¹ For the federal fiscal year of 2016, 9802 total unique foster care children/youth were in state care in West Virginia. This number was derived from mandated federal compliance reporting for foster care and was obtained from the West Virginia Department of Health and Human Resources semiannual Adoption and Foster Care Analysis and Reporting System (AFCARS) submissions.

peers.² Other state and national studies have shown that children in care experience higher drop-out and retention rates, and even lower college graduation rates, as compared to children not in care.³ At times, these children face further instability with school and record transfers.

West Virginia recognizes the importance of educators for not only their close and consistent contact with children, but also for their unique opportunity to advocate for and assist in providing programs and services for these children and their families. As a result, West Virginia statutes mandating multidisciplinary treatment team meetings identify a representative from education as a crucial member of multidisciplinary treatment teams (MDT) in abuse and neglect cases, as well as in juvenile delinquency cases. Pursuant to **West Virginia Code §49-4-405** regarding child abuse and neglect cases, **the multidisciplinary treatment team consists of “an appropriate school official,”** among others. Pursuant to **West Virginia Code §49-4-406** regarding juvenile proceedings, **the multidisciplinary treatment team shall consist of the “county school superintendent or the superintendent’s designee”** with notice at least seven days prior to the meeting. And, for juveniles adjudicated as delinquents who are ordered to undergo an examination while in the custody of the West Virginia Division of Juvenile Services, **West Virginia Code §49-2-907** provides that **the multidisciplinary treatment team consist of an “appropriate school official or representative.”** In addition to West Virginia statutes, the mandatory invitation and attendance of an education official at multidisciplinary treatment team meetings is also cited within the Youth Services Policy Manual⁴ and the WVDE Counselor’s Handbook.⁵ A desk guide to aid in conducting effective MDTs is also accessible on the WV DHHR website.⁶

² West Virginia Out-of-Home Care Education Task Force, *Reaching Every Child: Addressing Educational Attainment of Out-of-Home Care Children in West Virginia* (2011), available at http://www.wvdhhr.org/oos_comm/reports/reaching%20every%20child%20report%2011-23-05.pdf.

³ National Working Group on Foster Care and Education, *Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care* (2014), available at <http://cdn.fc2success.org/wp-content/uploads/2012/05/National-Fact-Sheet-on-the-Educational-Outcomes-of-Children-in-Foster-Care-Jan-2014.pdf>.

⁴ West Virginia Department of Health and Human Resources, *Youth Services Policy Manual*, 48-55 (2017), available at <http://www.dhhr.wv.gov/bcf/policy/Documents/Youth%20Services.pdf>.

⁵ West Virginia Department of Education, *Counselor Handbook*, 25 (1998), available at <https://wvde.state.wv.us/counselors/Counselorhandbook/documents/WVReportingAbuse..pdf>.

⁶ West Virginia Department of Health and Human Resources, *MDT Desk Guide* (2016), available at [http://www.dhhr.wv.gov/bcf/policy/Documents/Multidisciplinary%20Team%20\(MDT\)%20Desk%20Guide.pdf](http://www.dhhr.wv.gov/bcf/policy/Documents/Multidisciplinary%20Team%20(MDT)%20Desk%20Guide.pdf).

Inconsistent practices across West Virginia have resulted in the absence of education officials at some multidisciplinary treatment team meetings thereby disrupting the planning of educational services for children in the abuse and neglect and juvenile systems. A complete multidisciplinary treatment team is critical in preparing and implementing comprehensive, individualized service plans for children and families and preventing delays in the delivery of educational services. The state of West Virginia is committed both to ensuring that children receive critical education services and to promoting effective, appropriate, and confidential communication between systems.

Meeting the legal requirements for educational participation in multidisciplinary team meetings requires planning and coordination at the local level by county school district and DHHR personnel. The recently enacted *Every Student Succeeds Act* (ESSA) contains key protections for students in foster care to promote school stability and educational success. One of these key protections includes establishing points of contact with local education and child welfare agencies to ensure collaboration, communication, and implementation of the new law. In this regard, we are requesting that county school districts establish procedures to ensure educational participation in multidisciplinary team meetings in coordination with DHHR personnel. It is imperative that school districts develop a protocol that best works for each county in adhering to ESSA, West Virginia law, and this commitment to our state's children.

cc: Circuit Court Judges
School Attendance Directors
Guardians ad Litem
Regional Directors
Department of Health and Human Resources
Child Protective Services and Youth Services Workers