Out-of-County Living Arrangements

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What is the definition of a child in an out-of-county living arrangement?

"Child in an out-of-county living arrangement" means a child who is placed by a State agency, a licensed child placement agency as provided by §5-507 of the Family Law Article, or a court in a county other than where the child's parent or legal guardian resides. "Child in an out-of-county living arrangement" does not include a child living with a relative, stepparent, or a person exercising temporary care, custody or control over a child at the request of a parent or guardian of the child [§4-122(a)(2)].

What is the sending school system's responsibility for a child who receives special education services and is placed in an out of county living arrangement by a public agency?

After being notified by the receiving local school system of the child's enrollment or imminent enrollment, the sending local school system:

1. Must inform the receiving school of the grade level in which the child was last enrolled and that the child has an Individualized Education Program (IEP). This information may be provided orally.
2. Must send by mail or transmit to the receiving local school the child's school record within three school days of receiving notice of enrollment;
3. Should be responsive to information requests in order to implement the child's IEP; and
4. Should designate a contact person.

What is the receiving local school system's responsibility when a child who receives special education services is placed in an out of county living arrangement by a public agency?

The receiving local school system is the "service providing local education agency." "Service providing local education agency" means the local school system for the county where a child in an out of county living arrangement is placed [§4-122(a)(5)].

- A child in an out-of-county living arrangement shall receive an appropriate education from the service providing local school system [§4-122(b)(1)].
- The service providing local school system shall include a child enrolled as the result of an out-of-county living arrangement in their full time equivalent enrollment [§4-122(b)(2)].

The service providing local school system shall:

1. Enroll the child.
2. Request in writing the records from the sending local school system within two days of receiving notice of the enrollment or imminent enrollment of a child in state-supervised care. A copy of this request is to be given to the child or a responsible adult acting on behalf of the child.
3. Inform the child or the responsible adult of rights under COMAR 13A.08.07.03:
   -In regard to the child's IEP, the service providing local school system must provide FAPE, including services comparable to those on the child's IEP.
   -In consultation with the parents, the service providing local school system must either adopt the child's current IEP, or develop, adopt, and implement a new IEP.

How is payment of funding for education determined for a child in a out-of-county living arrangements

In accordance with Education Article, Annotated Code of Maryland §4-122, the "financially responsible county" means the county where the parent or legal guardian of a child in an out of county living arrangement resides. If the parents of the child live apart, the financially responsible county is:

(i) The county where the parent who has been awarded custody of the child resides;
(ii) If custody has not been awarded the county where the parent with whom the child lives when not in a foster care home or residential facility resides;
(iii) If custody has been awarded to both parents and the parents reside in different counties, both counties shall be considered financially responsible and shall pay one-half the amount as computed in accordance with Education

Article 4-122(c), except if the child receives a public education in a county where a parent resides this subparagraph shall not apply; or

(iv) If custody has been awarded to both parents and one parent resides in a Maryland county and the other resides out-of state, the Maryland county shall be considered the financially responsible county.

What is the responsibility of the "service providing local education agency" when the child's IEP indicates a nonpublic placement?

The service providing school system must provide FAPE, including services comparable to those on the IEP. A school system may continue the child's nonpublic placement; alternately, the school system may make alternate arrangements as long as FAPE is provided.

In consultation with the parents or guardian of the child, the service providing local school system shall either adopt the child's current IEP, or develop, adopt, and implement a new IEP. Depending on the circumstances, a school system that adopts the IEP may continue a student at a nonpublic school or provide FAPE at a public school.

What is the responsibility of the county of residence when the service providing local school system determines that a child's IEP requires placement within a nonpublic school?

The "financially responsible county" is the county where the parent or legal guardian of a child in an out-of-county living arrangement resides. This county pays for the child's education costs at the nonpublic school. The financially responsible county would submit Nonpublic Tuition Assistance Applications to the Maryland State Department of Education.

If the service providing local school system determines that a child in an out-of-county living arrangement is a child with a disability and needs a nonpublic educational program as provided by Education Article §8-406, the financially responsible county shall pay for the child's educational program, consistent with Education Article § 8-415(d)(3).

What is the responsibility of a receiving local school system for a child in the care of an agency from another state?

The Interstate Compact on the Placement of Children (ICPC) is an agreement among all 50 states, the District of Columbia, and the US Virgin Islands. The ICPC requires that when an agency has custody of a child and the agency seeks to move the child into another state (the "receiving state") , the agency must initiate the ICPC process to notify the appropriate agency in the receiving state before placement into the receiving state is made.

When an agency outside of Maryland seeks to place a child in Maryland, the agency must contact the Maryland Department of Human Resources (DHR). DHR's, ICPC Office must approve the placement . Upon approval, DHR will issue a 100A form/contract indicating both the grant of approval and the financially responsible parties.

Education Article 4-122(e) and the ICPC state " the public child placing agency in the sending state shall have financial responsibility for the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state;.." The liability for education costs of children in the care of agencies from other states and placed in Maryland is covered by Education Article §4-122(e); note however that when a child is placed by an out-of-state agency for the purposes of adoption, the out-of-state agency is not liable for education costs

When a receiving school system enrolls a child who is placed by an out-of-state agency, the receiving school system should look to the ICPC and Education Article §4-122(e) when considering recovering education costs

Local school systems may contact DHR's Maryland ICPC office at (410) 767-7159 for additional information regarding the Interstate Compact on Placement of Children.