



**EFFECTIVE DATE:** *July 8, 2014*

**DATE ISSUED:** *July 8, 2014*

**LATEST REVISION:** *N/A*

**SUBJECT:** **Memorandum of Agreement (MOA)**

## **I. Purpose**

In the course of its work, the Department often collaborates with other entities, especially other New Jersey Departments, Agencies, and private providers. To memorialize this working relationship, and to provide clarity of roles, expectations, or funding, the Department may become a party to a Memorandum of Agreement (MOA). This Administrative Order provides guidance on this process.

## **II. Scope**

This Administrative Order has Department-wide applicability.

This Administrative Order only applies to MOAs as defined herein and does not apply to procurement agreements between State entities, including State colleges and universities, which function as service contracts for goods and services but which are drafted as a MOA between State entities.

## **III. Definitions**

The following term, when used in this Order, has the meaning indicated:

Memorandum of Agreement (MOA) means a written agreement or understanding among two or more public or private entities in which the Department of Children and Families (DCF), as a signatory, is obligated to provide a service and/or expects a service from the other signatories or their successors as delineated in the MOA. This definition incorporates the alternate term Memorandum of Understanding (MOU) as may be used by other entities. Excluded from this definition are Affiliation Agreements generated by the Children's System of Care and the Office of Licensing as a prerequisite for licensure. Also excluded are Service Contracts governed by applicable procurement law and procurement agreements with other State entities, including New Jersey State colleges and universities, which function as Service Contracts but are drafted as a MOA with a State entity.

### **III. Policy**

#### **A. Conditions for a Memorandum of Agreement**

A Memorandum of Agreement is appropriate in situations where the nature of cooperative work with one or more other entities would benefit from a written document that specifies the terms and conditions of the working relationship. An MOA may have more than two signatory parties.

An MOA may be originated by this Department and, if so, shall conform to the standardized template attached to this Order. MOAs originated by another party need not conform to this structure, yet shall be examined for integrity and revised as necessary prior to DCF signing.

MOAs are not substitutes for contracts, and in most instances the relationship should be governed by either a contract or an MOA, not both. Fiscal transactions and agreements to pay for a product or service should be processed outside of the MOA scope and in accordance with all applicable legal requirements. However, MOAs that incorporate ongoing payment or transfer of funds between public entities should explain that process in detail and reflect approval by the appropriate Departmental fiscal representatives. In addition, statute, regulations, and policy supersede the terms of any MOA and should be referenced therein.

#### **B. Authority and Approval**

While some MOAs may have Department-wide utilization, it is acknowledged that an MOA may have limited functionality and purpose. The approval of an MOA, as evidenced by a signature, shall adhere to the following tiered approval system:

Local or Regional: When the scope of the working relationship described in an MOA is limited to service(s) within local municipalities or New Jersey counties within a Division of Child Protection and Permanency (CP&P) Area designation, the agreement shall be approved by the highest ranking official in that catchment, for example, the CP&P Area Director. That individual shall consult with the respective Division Director prior to approval. No MOA shall be implemented without this minimum level of approval.

Divisional: When the agreement has Statewide applicability and extends beyond one area or county, yet is limited to a single Divisional operation within the Department, the MOA shall be approved by the highest ranking Division official, for example, the Family and Community Partnerships.. Intermediary approvals/signatures may be obtained as requested by the Director.

Departmental: When the agreement has applicability beyond a single Division and obligates a large number of Department employees across multiple Divisions or Offices, the MOA shall be approved by the Commissioner or designee. Such Statewide MOAs shall follow the standardized routing and approvals from the

source through the respective executive staff including Assistant Commissioner, Deputy Commissioner, and Chief of Staff, pursuant to the current Table of Organization.

Any MOA involving payment or transfer of funds between public entities shall be routed and approved by the Chief Administrator, or designee, prior to executive signature.

### **C. Duration of MOAs**

MOAs should have a duration of one year, and should specify an expiration date. If the MOA involves State funding, it is preferable that the expiration date coincide with the State fiscal year period of July 1 to June 30.

An MOA without specified duration or expiration date shall be drafted to expire at the end of each year and be automatically renewed for not more than three successive one-year periods unless any party objects.

## **IV. Procedures**

### **A. Template**

A template for the construction of an initial MOA is attached. To the extent practicable, this template should be utilized for agreements proposed by this Department.

### **B. Consultation During Development**

1. MOAs that involve a fiscal component shall involve the Office of Budget and Revenue during the MOA's development, and the Director of the Office of Budget and Revenue must sign the routing form prior to executive signature.
2. To ensure compliance with any applicable statutes and regulations and to obtain the required level of approval, DCF signatories shall consult with the Office of Policy and Regulatory Development (OPRD) prior to their final authorization and execution. The Director of the Office of Policy and Regulatory Development must sign the routing form prior to executive signature.
3. If the MOA involves the interface of information technology systems between the parties to the agreement, the DCF Office of Information Technology shall be consulted during the MOA's development. The Director of the Office Information Technology must sign the routing form prior to executive signature.

### **C. Amendments**

MOAs may be amended upon agreement between the signatory parties. Any proposed amendment or modification shall be submitted by one signatory party to the other signatory party prior to formal discussion or the negotiation of the issue. Any amendment to the MOA must be set forth in writing, and such amendment must be signed by all parties in order to become effective and to modify or change the MOA.

An amendment to an existing MOA shall be regarded as a new MOA and shall follow the process described in Sections III and IV herein.

### **D. Distribution**

It is the responsibility of the originating DCF entity or designated signatory to distribute the final signed copies of the MOA to all applicable parties. OPRD shall be given a copy upon final approval.

When the MOA involves a fiscal transfer or other monetary obligation, a copy of the MOA shall be sent to the Office of Budget and Revenue.

### **E. Maintenance of MOAs**

OPRD is responsible for maintaining a file of all active MOAs from all levels of approval. This includes MOAs originated by the Department or others if the Department is a party to the agreement. Any amendments made during the MOA period should be sent to OPRD as well.

The originating DCF entity is responsible for tracking and renewing the MOAs, and for forwarding a copy to OPRD. In the case of MOAs not being renewed, the originating entity should notify OPRD so that this can be noted in its files. OPRD will monitor the expiration date, if any, and status of MOAs as well as follow-up with the appropriate parties as needed.

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Allison Blake, PH.D., L.S.W.  
Commissioner

**Attachment:** [Memorandum of Agreement Template](#)

<p><b>Note: This is a reproduction of a signed document. The original document is on file with the DCF Office of Policy and Regulatory Development.</b></p>
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