



Oregon

John A. Kitzhaber, MD, Governor

Department of Human Services
Department of Education

OREGON DEPARTMENT OF EDUCATION AND DEPARTMENT OF HUMAN SERVICES, OFFICE OF CHILD WELFARE PROGRAMS' JOINT LETTER ON THE UNINTERRUPTED SCHOLARS ACT

This letter, issued by the Oregon Department of Education (ODE) and Oregon Department of Human Services, Office of Child Welfare Programs (DHS, OCWP) provides guidance on the Uninterrupted Scholars Act, (P.L. 112-278), which was signed into law on January 14, 2013 with an immediate effective date. The Act makes key revisions to the Family Educational Rights and Privacy Act (FERPA) that will make it easier for child welfare agencies to access education records.

The Act creates a new exception under FERPA that authorizes an agency caseworker or other representative of a State or local child welfare agency or tribal organization to have access to the student's educational records *without having to obtain parental consent or a court order*. The Act applies to children for whom the public child welfare agency has legal responsibility for their care and protection. It is the position of both departments that this Act applies to all children in the custody of DHS, including children in temporary, voluntary, or permanent custody.

The records obtained pursuant to the Act may not be re-disclosed to any other person or entity unless those individuals or entities are engaged in addressing the student's educational needs and are authorized by the child welfare agency to receive such disclosure consistent with state confidentiality laws.

In order to obtain the student's records, an agency must provide proof of its relationship with the child. This proof will be in the form of written notification on agency letterhead indicating the agency has custody and is legally responsible for the care and protection of the child. Schools will receive a similar notification on agency letterhead when DHS no longer has legal responsibility, or custody, of the student.

When the child welfare agency requests records, no parent signature or court order is needed to process the request. However, child welfare agencies have a continuing obligation to work collaboratively with families and local education agencies to address the educational needs of children in dependent care. As a result, the child welfare agency representative working with the family should explain to the parent and to the school entity that provides the records that while the agency will have access to the education records, unless the court has limited a parent's educational rights or an educational decision-maker has been appointed, the parent still maintains the right to access the records directly from the school and the right to make decisions

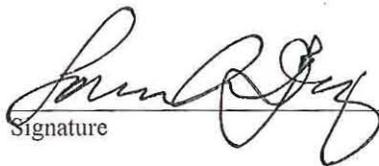
about the child's education. The child welfare worker and the school should make all efforts to keep parents informed and involved in the child's education. Record sharing can assist Oregon Child Welfare and the schools with improving educational outcomes for dependent children. Student educational information is critical to the process of ensuring prompt enrollment, school stability and appropriate placement of children as well as identifying and analyzing areas of need, developing and implementing evidence-based practices, and determining appropriate allocations of resources.

Record sharing may occur in various formats, dependent upon the preference of the jurisdiction (hard copy, web system, parent portal, etc.). Regardless of the information sharing format, it is critical that the appropriate protections are in place for student privacy and are consistent with confidentiality laws.

We ask for your continuing assistance and collaboration in addressing the educational needs of children, for whom DHS has custody, by adhering to the new provisions of FERPA and allowing for the sharing of education records. Under ORS 326.575, any school, institution, agency, facility or center that receives a request for a foster care student's education records must transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than five days after the receipt of the request. However, we ask that all districts help expedite access to records for all children in DHS custody to assist in ensuring that we meet the educational needs of these children. We look forward to working together to improve educational outcomes for these vulnerable students at the state and local level.

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Department of Human Services

Sarah Drinkwater, PhD.
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Signature _____ Date 9/17/13


Signature _____ Date 9-17-13

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