

# **The Uninterrupted Scholars Act**



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# Child's Journey Through Care



- The Cabinet for Health and Family Services (CHFS), Department for Community Based Services (DCBS) Receives a Report involving child abuse, neglect or dependency.
- A DCBS worker is assigned to investigate the report.
- If it is determined that the child is in immediate danger the investigative worker files a petition requesting emergency custody.
- The court reviews the information provided in the petition and determines whether a child should be removed from the home or remain in the home.

# Child's Journey Through Care



- If a child is removed from the home DCBS seeks the least restrictive placement for the child.
- Non custodial parents and relatives are evaluated before seeking a placement in foster care.
- Efforts to keep siblings together.

# Child's Journey Through Care



- If the child enters foster care the DCBS is required to make reasonable efforts to support the child's return to the home.
- Within 5 days a case planning conference is held and a case plan is negotiated with the family.
- The case plan includes the permanency goal for the child, objectives and tasks the family must complete to remove or reduce the risks that brought the child into care.

# Case Plan Requirements



The case plan includes education information about the child, including the most recent information regarding:

- The names and addresses of the child education providers
- The child's grade level
- School record and progress
- Any additional educational information deemed appropriate

# Child's Journey Through Care



- Court receives case plan progress reports to determine if the child will return home or live permanently with a relative.
- Courts review a child's educational progress.
- If the parents do not make progress and the child has been in foster care for 15 out of the last 22 months the DCBS is required to petition the court for termination of parental rights.

# Foster Care in Kentucky

Number of children in foster care in  
Kentucky on July 7, 2013 **7,242**

<u>Age</u>	<u>Number</u>	<u>%</u>
Less than 1 year at first entry:	1,310	18.1%
Age 1 to < 3 at first entry	1,040	14.4%
Age 3 to < 6 at first entry	1,228	17.0%
Age 6 to < 12 at first entry	1,751	24.2%
Age 12 to < 18 at first entry	1,911	26.4%

Majority are school aged

Source: Foster Care Facts Sheet dated July 7, 2013

# Foster Care Nationally



There were 400,540 children in foster care on September 30th 2011.

- Mean Age 9.3
- Median Age 8.8
- School age children and youth (age 5-17) 286,895  
67.7% in 2009



# Fostering Connections To Success and Increasing Adoptions Act of 2008



School enrollment: Requires a title IV-E agency to assure that each child receiving a title IV-E payment who has attained the age for compulsory school attendance .

- A plan for ensuring the educational stability of the child while in foster care, including:
  - ✓ **School enrollment;**
  - ✓ **Proximity to the school at the time of placement;**
  - ✓ **Coordination with the LEA to ensure the child remains in the same school at the time of placement;**
  - ✓ **If remaining in such school is not in the best interests of the child, assurances by the State/Tribal agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school;**

# **Fostering Connections To Success and Increasing Adoptions Act of 2008**



- **The Child and Family Services Improvement and Innovation Act (Public Law 112-34) requires title IV-E agencies meet the educational stability case plan requirement at the time of each placement change, not just at initial placement into foster care as was the original requirement under Fostering Connections.**
- **Costs of reasonable travel to school allowed as part of foster care maintenance payments.**

# Uninterrupted Scholars Act



- **Introduced: August 1, 2012**
- **Aka: The A+ Act**
- **Sponsor: Senator Mary Landrieu [D-LA]**
- **Signed by the President: January 14, 2013**
- **This bill became Pub.L. 112-278**

# Cosponsors-Bipartisan Support



9 cosponsors (7D, 2R)

- [Begich, Mark \[D-AK\]](#)
- [Blunt, Roy \[R-MO\]](#)
- [Boxer, Barbara \[D-CA\]](#)
- [Franken, Alan "Al" \[D-MN\]](#)
- [Grassley, Charles "Chuck" \[R-IA\]](#)
- [Klobuchar, Amy \[D-MN\]](#)
- [Kerry, John \[D-MA\]](#)
- (joined Sep 10, 2012)
- [Murray, Patty \[D-WA\]](#)
- (joined Sep 10, 2012)
- [Feinstein, Dianne \[D-CA\]](#)
- (joined Dec 05, 2012)

<http://www.govtrack.us/congress/bills/112/s3472>

# USA and FERPA



The Family Educational Rights and Privacy Act (FERPA) protects the privacy of students' education records.

Schools **must** comply with FERPA.

**Generally, FERPA prohibits schools from disclosing a student's education records to a third party unless the parent (or the student at age 18) gives written consent.**

# USA



USA creates a new exception under FERPA that makes it easier for schools to release a child's education records to child welfare agencies without the prior written consent of the parents. *(This does not mean that child welfare agencies should leave out parents. In fact, good practice dictates that child welfare agencies should make efforts to keep parents informed and involved at all times.)*

# USA Amends FERPA



<http://fosteryouthcaucus-karenbass.house.gov/video/uninterrupted-scholars-act>



# USA Amends FERPA 2 Important Changes



Section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) (commonly known as the “Family Educational Rights and Privacy Act of 1974”) was amended to:

- 1. Allows education agencies to release/disclose a child’s education records, without parental consent, to child welfare workers who have a right to access a child’s case plan (includes tribal agencies).**
- 2. Does not require the education agency or institution to provide additional notice to the parent when the parent is a party to a proceeding involving child abuse, neglect or dependency.**



# Foster Care Alumni Studies Education Outcomes



## Students in foster care

## General student population

<b>Dropout</b>	<b>50%</b>	<b>30%</b>
<b>HS Grads/GED</b>	<b>50%</b>	<b>70%</b>
<b>Goes to College</b>	<b>20%</b>	<b>60%</b>
<b>Graduates</b>	<b>7-8%</b>	<b>25%</b>

[www.cwla.org](http://www.cwla.org)

Casey Northwest Alumni Study

# Kentucky's Implementation of the USA



Interagency Partnership with the Kentucky Department of Education (KDE), Administrative Office of the Courts (AOC) and the Kentucky School Board Association (KSBA).

- Creation of new Standards of Practice
- Educational Passport
- Joint letter from KDE and DCBS

# Benefits of Partnership



- Realize the goal of equity in education for all students.
- Improve graduation rates and decrease dropout rates.
- Prevent inappropriate school placements, enrollment delays, lost credits, and drop-outs.
- Increase college and career readiness.
- Turn around low performing schools.
- Close the achievement gap.

# Uninterrupted Scholars Act



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# What is FERPA?



- Gives parents and eligible students the right to access and seek to amend education records.
- Protects personally identifiable information (PII) from education records from unauthorized disclosure.
- Written consent required to disclose PII unless an exception applies.

# What are education records?



**Education records are records that are:**

- **Directly related to a student; and**
- **Maintained by an educational agency or institution or by a party acting for the agency or institution.**

# What is personally identifiable information (PII)?



- Name
- Mother's maiden name
- Address
- Date of birth
- Social Security Number
- Parent's name

# Exceptions to the consent requirement



- School officials with legitimate educational interest;
- Schools in which a student intends to enroll;
- State and local officials pursuant to a state statute in connection with serving the student under the juvenile justice system.
- To comply with a judicial order or subpoena;
- Audits, evaluations and studies;
- Directory Information; and
- Health and safety emergencies.



# Before the Uninterrupted Scholars Act



Some schools and LEAs were sharing education records with CWAs prior to passage of the Uninterrupted Scholars Act using FERPA exceptions such as court order and “parent”.

But there was a lot of confusion about what FERPA permitted.

# Uninterrupted Scholars Act- What's Changed?



## **New exception to the general consent rule passed by Congress January, 2013, P.L. 112-278**

- Disclosure permitted to: “agency caseworker or other representative” of a state or local CWA who has the right to access a student’s case plan.
- Disclosure permitted when: the CWA is “legally responsible for the care and protection of the student”.
- Provisions for tribal organizations as well.

# What can the CWA do with the Education Records?



- Child welfare agencies can only re-disclose records to an entity or individual addressing the foster child's education needs.
- The person receiving the records must be authorized to receive the records and the disclosure must be consistent with state confidentiality law.

# Changes to Notice Provisions



- The USA amends the requirement to notify a parent before complying with a subpoena or court order to disclose records when the parent has been a party to a court order proceeding involving child abuse, neglect, or dependency.
- Theory behind this change: The parent ;has already been informed by being involved in the child abuse, neglect or dependency proceeding.

# Scenario One



- Q.** A high school gets a request from the local child welfare agency (CWA) for all school records relating to certain students who are in foster care. Does the high school have to turn over all the records or just the information that the high school thinks the child welfare agency needs to see?
- A.** FERPA doesn't require, but permits.

## Scenario 2



- Q. Does a school sharing education records with a CWA need to have a written agreement with that agency prior to disclosing PII from education records?**
- A. Under USA no specific agreement is required, but FERPA wouldn't preclude.**

## Scenario 3



**Q. If the CWA hires contractors to function as caseworkers, rather than using its own employees, may the CWA re-disclose education records to those contractors? And, if so, does the CWA have to record the re-disclosure?**

**A. Yes**

# Scenario 4



**Q. May a CWA use education records for purposes other than addressing a foster child's education needs? For example, could the agency use these records to conduct investigations of child abuse or conduct research?**

**A. No**



# Scenario 5



- Q.** A school district is willing to turn over education records to a CWA, but wants to require the CWA to destroy the records once the children in question are no longer in the foster care system. Does FERPA require this? And can the school district make the CWA do this?
- A.** FERPA may require records be destroyed but not under this exception. CWA could use standard retention guidelines. If CWA chooses to retain the records when a child is no longer in foster care they cannot use.

## Scenario 6



- Q. Could an LEA and a CWA agree to enter into an arrangement where the LEA sends information on children in foster care to the CWA on a monthly basis?**
- A. Yes. As a best practice could identify children in foster care and transfer only those records. LEA must record those disclosures.**

# Scenario 7



- Q.** What should a school do if it is notified that a child is in foster care and then the biological parent asks to meet with the child's teacher and review the student's progress? Does FERPA mean that the school can no longer talk to the biological parent?
- A.** No. In most cases the goal is return to parent and rights have not been terminated.

# Scenario 8



- Q.** What about situations where the child is living with a relative because the home situation is unsafe. Can the school share records with the relative?
- A.** This is not addressed in the USA which addresses children in foster care. Generally, FERPA would permit if the relative is providing day-to-day care whether caring formally or informally for a child.

# Scenario 9



**Q. Let's say a district shares education records with a CWA and the CWA inappropriately shares these records with the press. Is the CWA potentially subject to FERPA's "five-year rule" so that the CWA can't get records from the district for five years?**

**A. Yes. Only the compliance office can enforce.**

# Scenario 10



**Q. May a State decide to share education records for children in foster care and send records to the CWA directly from the SEA rather than form schools and LEAs?**

**A. Yes**

# Scenario 11



**Q. Normally FERPA requires schools to record disclosures. Do schools need to record disclosures to child welfare agencies?**

**A. Yes**

# Scenario Twelve



**Q. Can schools also disclose special education records to CEAs, such as Individualized Education Programs (IEPs) under this exception?**

**A. Yes**



# Scenario 13



- Q.** The appropriate CWA representative asks to receive education records for children that it is helping with in-home services (children who are not in foster care). Does the USA allow the school to turn over these records?
- A.** Generally not

# Questions

