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	Subject/Title: Revised Information Sharing Procedures for Child Welfare Staff and Educational Agencies																
Distribution: <table style="width: 100%; border: none;"> <tr> <td><input checked="" type="checkbox"/> DHS Child Welfare Staff</td> <td><input checked="" type="checkbox"/> BCAL</td> </tr> <tr> <td><input checked="" type="checkbox"/> Private Agency Child Welfare Staff</td> <td><input checked="" type="checkbox"/> CWTI</td> </tr> <tr> <td><input checked="" type="checkbox"/> CSA Central Office Managers/Staff</td> <td><input checked="" type="checkbox"/> SACWIS</td> </tr> <tr> <td><input checked="" type="checkbox"/> Native American Tribes</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Data Management</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> DHS County Directors</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Adult Services Staff</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Other:</td> <td></td> </tr> </table>		<input checked="" type="checkbox"/> DHS Child Welfare Staff	<input checked="" type="checkbox"/> BCAL	<input checked="" type="checkbox"/> Private Agency Child Welfare Staff	<input checked="" type="checkbox"/> CWTI	<input checked="" type="checkbox"/> CSA Central Office Managers/Staff	<input checked="" type="checkbox"/> SACWIS	<input checked="" type="checkbox"/> Native American Tribes		<input type="checkbox"/> Data Management		<input checked="" type="checkbox"/> DHS County Directors		<input type="checkbox"/> Adult Services Staff		<input type="checkbox"/> Other:	
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On January 3, 2013, the Uninterrupted Scholars Act amended the Family Educational Rights Privacy Act (FERPA) to eliminate obstacles to information-sharing between education and child welfare agencies. The legislation allows education agencies to release education records to child welfare case workers or other representatives of a state or local child welfare agency or tribal organization, without parental consent. Additional information for child welfare workers and education professionals can be found at <http://www.fostercareandeducation.org> and in the attached fact sheet developed by the American Bar Association.

The attached procedures were developed for DHS and private child welfare agencies and local educational agencies to ensure the requirements of the FERPA are met. The Michigan Department of Education (MDE) and DHS are in the process of developing more formalized policy and protocol, joint agency forms, training, professional development and webinars for relevant agencies and staff. Separate notification will be provided to all relevant agencies when these materials are available.

DHS and private agency child welfare staff should direct questions to Ann Rossi, DHS Departmental Analyst, at 517-373-2851 or RossiA@michigan.gov.

Education staff should direct questions to Pam Kies-Lowe, Homeless Education Consultant, at 517-241-1162 or Kies-LoweP@michigan.gov.

**Procedures for Information Sharing Between Education Agencies and Child Welfare Professionals
Effective February 2013**

Child Welfare

- Any time a child/youth moves or changes school placements, a request for educational records must be sent to the Pupil Accounting Office of the former school requesting, at minimum, the following information:
 - Grades
 - Attendance
 - Most recent Special Education Information
 - Disciplinary records
 - Program participation
- A copy of this request must also be sent to the receiving district's McKinney-Vento (MV) Homeless Education Liaison to alert him/her to a new MV-eligible student enrolling. This request must be sent as soon as a change of school placement is known in order to give adequate notice to the sending school.
- This change in law does not revise current procedure regarding foster parent or relative provider access to educational records.
- This change in law also does not change policy requirements of FOM 722-6 (Foster Care – Developing the Service Plan).

MDE Staff/Agencies

For Receiving Schools

- When a school notification letter is received from a child welfare caseworker, Local Education Agency (LEA) staff will request the student's school records from the former/sending school, as specified by current protocol.
- The school notification letter must also be forwarded to the LEA's Homeless Education Liaison (and MV Grant Coordinator, depending on LEA protocol).
- When sending a request for educational records to the sending school, no parent signatures are required.
- This change in law does not revise current procedure regarding foster parent or relative provider access to educational records.

For Sending Schools

- When a request for educational records is received from a child welfare caseworker, no parent signature or court order is necessary to fulfill the request.
- This change in law does not revise current procedure regarding foster parent or relative provider access to educational records.

Foster Care & Education

Q&A

THE UNINTERRUPTED SCHOLARS ACT: HOW DO RECENT CHANGES TO FERPA HELP CHILD WELFARE AGENCIES GET ACCESS TO SCHOOL RECORDS?

Q: Why is sharing education information between child welfare, education, and court systems important?

A: Child welfare workers need accurate information about a child's education history and needs to make informed placement recommendations to the court. Selecting a placement that is close to the child's current school and provides the proper education supports, including special education if necessary, will improve the child's well-being, increase permanency, and help prepare older youth to transition successfully to adulthood. Sharing education records also increases transparency and accountability across different state and local agencies, and reliable data helps stakeholders advocate for better laws and policies as well as increased funding. *Moreover, federal law requires child welfare agencies to maintain education records in each child's case plan file.*

Q: What is FERPA and how does it affect education agencies' ability to share education records with child welfare agencies?

A: Schools must comply with the Family Educational Rights and Privacy Act (FERPA), which protects the privacy of students' education records. "Education records" are all the materials maintained by an education agency or institution containing information

directly related to a student. FERPA explains what information from a student's records can be shared, with whom, and under what circumstances. 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.

However, FERPA contains a number of important exceptions, and a recent amendment to FERPA will now make it much easier for child welfare agencies to obtain children's education records from schools.

Q: What has changed in FERPA that affects children in foster care?

A: The Uninterrupted Scholars Act (USA), known in the House as the A+ Act, passed Congress with bipartisan support. The changes to FERPA became effective on January 14, 2013. The law makes two very important changes to FERPA:

- 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 eliminates the requirement that education agencies notify parents before education records are released pursuant to a court order to any individual, when the parent is a party to the case where that order was issued.



Q: Why were these changes needed?

A: Previously, FERPA had caused delays and problems for child welfare agency representatives in getting critical education records. Children and youth in foster care are among the most educationally at-risk of all student populations. Child welfare law requires that child welfare agencies maintain education records as part of the child's case plan. The Fostering Connections to Success and Increasing Adoptions Act of 2008 now also requires agencies to make sure that children are enrolled in school, that their school placements are as stable as possible, and that children who change schools are promptly enrolled with all school records. To meet these requirements – and to ensure informed and timely judicial decisions – child welfare agencies need quick access to the child's education record.

Q: To whom can schools release records under the new exception?

A: The new amendment permits schools to release education records to “an agency caseworker or other representative of a State or local child welfare agency, or tribal organization” who has the right to access a student's case plan, and when the agency or organization is “legally responsible” for the child's “care and protection.” While this will clearly include all children placed in out-of-home care by the agency, states may vary as to which other students fall into this category. Remember, even for children that are not in this category, the child welfare agency may nonetheless be able to get records through other means. Please see Q & A: *How Can Child Welfare Agencies Access Education Records in Compliance with FERPA* for more information:
www.fostercareandeducation.org/portals/0/dmx/2012/09/file_20120920_161604_YFhF_0.pdf

Q: When and with whom can the child welfare agency share the education records?

A: While the new exception does facilitate information sharing with child welfare agencies, it still protects the confidentiality of students' records. Child welfare agencies can only redisclose education records obtained through this exception to “an individual or entity engaged in addressing the student's education needs” who is authorized by the child welfare agency to receive

the records, and consistent with other state confidentiality laws. Of course, the child welfare agency may also share the records with any individual who meets another FERPA exception. Please see Q & A: *How Can Child Welfare Agencies Access Education Records in Compliance with FERPA*:
www.fostercareandeducation.org/portals/0/dmx/2012/09/file_20120920_161604_YFhF_0.pdf.

Q: How did the new law change the notice requirements under FERPA's “court order” exception?

A: Another important exception to FERPA's parental consent requirement is when education records are shared with a third party to comply with a judicial order or subpoena. A school can release education records to any party listed on a court order, such as the child welfare agency or caseworker, caretaker, children's attorney, or court appointed special advocate. Under the new law, schools do not need to provide notice to parents prior to the release of records pursuant to the court order exception when the parents are parties to the child welfare case and are already on notice that the school records will be shared.

Q: Where can I learn more about this topic?

A: The Legal Center for Foster Care and Education provides training and technical assistance to states and jurisdictions to improve their data collection and information sharing across agencies. We provide examples of what has worked in other jurisdictions, assess legal strategies, and assist in drafting memoranda of understanding (MOUs) that delineate the role of each stakeholder, protect children's and families' privacy rights, and ensure quality and reliability. For training and technical assistance requests, please email ccleducation@americanbar.org. For a manual and tools about information sharing between child welfare and education, please download *Solving the Data Puzzle* at www.fostercareandeducation.org/portals/0/dmx/2012/08/file_20120829_141730_VmdkIY_0.pdf. To stay up-to-date on implementation of this important law, please visit the Data and Information Sharing section of the Legal Center for Foster Care and Education website: www.fostercareandeducation.org/AreasofFocus/DataandInformationSharing.aspx

