Collaboration in Action:
The Uninterrupted Scholars Act

Thursday, July 11, 2013
3:00-4:00 PM EST

Today’s webinar is presented jointly by:
• U.S. Department of Health and Human Services, Children’s Bureau
• U.S. Department of Education

The webinar is hosted by:
The National Resource Center for Permanency and Family Connections (www.nrcpfc.org)
Webinar Agenda

- Welcome
- Significance of the Uninterrupted Scholars Act
  - Commissioner Samuels, Administration on Children Youth and Families;
  - Kathleen Styles, Chief Privacy Officer, U.S. Department of Education
- Overview of Child Welfare and Education System Collaboration
  - Child Welfare, Education and the Courts: A Collaboration to Strengthen Educational Successes of Children and Youth in Foster Care
    - Taffy Compain, National Foster Care Specialist, Capacity Building Division, Children’s Bureau
  - Child Welfare – Education System Collaborations to Increase Educational Stability Grantees
    - Lauren Fischman, Child Welfare Program Specialist, Office on Child Abuse and Neglect (OCAN), Children’s Bureau; and Dori Sneddon, Child Welfare Program Specialist, Office on Child Abuse and Neglect (OCAN), Children’s Bureau
Webinar Agenda

- Implications of the Act to Child Welfare: A Policy Perspective
  - Elizabeth Sharp Loevner, Child Welfare Program Specialist, Policy Division, Children’s Bureau

- FERPA and the Uninterrupted Scholars Act
  - FERPA 101
  - Overview of the Uninterrupted Scholars Act
  - Let’s Talk Specifics: Scenarios
  - How to Get Additional Help
  - Dale King, Chief, Family Policy Compliance Office, U.S. Department of Education

- Closing Remarks
Significance of the Uninterrupted Scholars Act

- Bryan Samuels, Commissioner of the Administration on Children, Youth and Families (ACYF), U.S. Department of Health and Human Services (HHS)
THE UNINTERRUPTED SCHOLARS ACT: WHY IT MATTERS

- Poor educational outcomes for children and youth in foster care
- Cross-system coordination during entry, exit, and moves
- Emotional trauma of foster care entry carries over into school setting
- Building on Fostering Connections and promoting school stability
Significance of the Uninterrupted Scholars Act

- Kathleen Styles, Chief Privacy Officer, U.S. Department of Education
Child Welfare, Education and the Courts: A Collaboration to Strengthen Educational Successes of Children and Youth in Foster Care

Taffy Compain, National Foster Care Specialist
U.S. Department of Health and Human Services
Administration for Children and Families
Children’s Bureau
Training and TA Division
The November 2011 meeting brought together leaders of the three systems to:

- Encourage participation in enhancing existing cross-system efforts to address educational stability and continuity issues;
- Showcase collaborative projects and initiatives at State and local levels that support educational well-being outcomes; and
- Facilitate development of action plans by each State that set forth strategies for improving educational outcomes.
Goals:

• Expand understanding of each system and the individual and collective opportunities to contribute toward the betterment of educational outcomes for children in foster care;

• Gain insight into youth’s perspectives on what supports have aided in their educational success;

• Familiarize participants with the educational provisions of Fostering Connections;

• Increase awareness of meaningful collaborative initiatives and programs affecting educational outcomes, specifically addressing the requirements of Fostering Connections; and

• Develop action plans for moving forward with specific goals that they will collaboratively champion in their respective organizations.
Meeting Highlights:

- 52 jurisdictions invited, 52 attended with up to 8 members each from the three disciplines
- Participants: technical expertise and decision-making authority
- Engagement with Alumni- perspectives
- Education Meeting Website- fostering communication and collaboration amongst team members
- Organizational Self Study on Educational Stability
  - Building knowledge regarding the State’s own strengths and challenges in implementing Fostering Connections education provisions
  - Four progressive team meetings to develop a jurisdictional “Action Plan”
State Team Action Plans- Overarching Themes

- Increase COMMUNICATION!

- Increase data sharing at local and state level

- Increase cross-discipline training and professional development opportunities
Maintaining Support:

- Technical assistance from the Children’s Bureau Training and Technical Assistance Network as well as numerous other organizations that participated in the meeting;
- Webinar series that both provided information on the areas of interest to the teams as well as showcased the ongoing work of the teams in successfully meeting action plan goals;
- Collection and sharing of team’s progress in attaining goals; and
- Dedicated website through the National Resource Center for Permanency and Family Connections where teams communicate, share information and materials, update action plan statuses and obtain information on new resources related to their work.

http://www.nrcpfc.org/education_summit/
Discretionary Grant Opportunities that Support Increased Collaboration Between Child Welfare and Education Agencies

Dori Sneddon, Child Welfare Program Specialist and Lauren Kass Fischman, Child Welfare Program Specialist
U.S. Department of Health and Human Services Administration for Children and Families
Children’s Bureau
Child Welfare – Education System Collaborations to Increase Educational Stability for Youth (CWED)

• Grant Program Purposes
  ▫ To build infrastructure capacity between child welfare and education systems to ensure that youth in care are afforded the ability to succeed and thrive in educational settings and reach individual education goals.
  ▫ Grant projects support the development of policies, practices and/or protocols to support youth into comprehensive high quality education services; and promote the development of policy, quality practice and other strategies across systems aimed at increasing protective factors and mitigating the effects of childhood trauma.

• Grant Cluster Information
  ▫ Ten grantees funded September 2011; $250,000 over 17-month project period
  ▫ Ten grantees funded September 2012; $500,000 over 24-month project period
Funded Grantees- 2011

- Allegheny County, Pittsburg, PA
- Kids Central, Inc., Ocala, FL
- Legal Aid Society of Cincinnati, Cincinnati, OH
- North Carolina State University, Raleigh, NC
- Siouxland Human Investment Partnership - SHIP AS, Sioux City, IA
- Solano County Office of Education, Fairfield, CA
- State of Connecticut Department of Children and Families, Hartford, CT
- State of Utah Department of Human Services, Salt Lake City, UT
- Texas Education Agency, Austin, TX
- University of Kansas Center for Research, Inc., Lawrence, KS
Funded Grantees- 2012

- Colorado Department of Human Services-Division of Child Welfare (Denver, CO)
- Lucas County (Toledo, OH)
- National Center for Youth Law (Oakland, CA)
- New York City Administration for Children’s Services (New York, NY)
- Oregon Department of Human Services (Salem, OR)
- Our Kids of Miami-Dade/Monroe, Inc. (Miami, FL)
- San Diego County Superintendent of Schools (San Diego, CA)
- University of Louisville Research Foundation, Inc. (Louisville, KY)
- University of Vermont and State Agriculture College (Burlington, VT)
- Wisconsin Department of Children and Families (Madison, WI)
Child Welfare-Early Education Partnerships to Promote Protective Factors for Children with Child Welfare Involvement (ECCW)

- Grant Program Purposes
  - Improve the socio-emotional and behavioral well-being of infants and children, ages birth to 5 years old, and their families, through collaborative service delivery.
  - Build infrastructure capacity between child welfare agencies and early childhood systems to ensure that infants and young children at-risk of entering foster care have access to comprehensive, high-quality early care and education services.

- Grant Cluster Information
  - Eight grantees funded September 2011; $250,000 over 17-month project period
  - Ten grantees funded September 2012; $500,000 over 24-month project period
Funded Grantees- 2011

- Augusta Partnership for Children, Inc., Augusta, GA
- Children's Friend and Service, Providence, RI
- Colorado Department of Human Services, Division of Child Welfare, Denver, CO
- Family Central, Inc., North Lauderdale, FL
- Family Support Services of North Florida, Inc., Jacksonville, FL
- State of Connecticut Department of Children and Families, Hartford, CT
- The Regents of the University of California, Los Angeles, CA
- University of Arkansas at Little Rock, Little Rock, AR
Funded Grantees- 2012

- County of Santa Clara, Santa Clara, CA
- Collaborative for Educational Services, Northhampton, MA
- Children's Home & Aid Society of Illinois, Chicago, IL
- Arizona Superior Court, Maricopa County, Phoenix, AZ
- Children's Home Society of Washington, Seattle, WA
- Oklahoma Partnership for School Readiness Foundation, Inc., Oklahoma City, OK
- Philadelphia City Department of Human Services, Philadelphia, PA
- Family Support Services of North Florida, Inc., Jacksonville, FL
- University of Maryland, Baltimore, Baltimore, MD
- Rhode Island Department of Children, Youth and Families, Providence, RI
The Uninterrupted Scholars Act and Federal Child Welfare Law

Elizabeth Sharp Loevner, JD
U.S. Department of Health and Human Services
Administration for Children and Families
Children’s Bureau
Policy Division
Presentation Overview

- Child Welfare Agency Requirements Regarding Education:
  - Educational Records
  - Educational Stability
  - School Enrollment
Case Plan Requirements

- Child welfare agency workers must develop a written case plan for each child in foster care.
- Among other things, the case plan includes the education records of the child, including the most recent information regarding:
  - The names and addresses of the child’s education providers
  - The child’s grade level performance
  - The child’s school record
  - Any other relevant education information the child welfare agency determines to be appropriate
Case Plan Requirements, con’t

- Child welfare agency workers must:
  - review and update the child's education record each time the child is placed in foster care,
  - provide the education record to the foster parent/provider, and
  - provide the education record to the child at no cost when the child exits care at the age of majority in the State/Tribe.
Educational Stability Plan

- As part of the case plan developed for every child in foster care, the child welfare agency must address the child’s educational stability.
Educational Stability Plan, cont.

• When placing a child in foster care, or when a child is changing foster care placements, the agency must:
  ▫ consider the appropriateness of the child’s current school and the proximity of that school to the foster care placement;
  ▫ AND
  ▫ coordinate with the local education agency to ensure the child can stay enrolled in their school of origin despite the foster care placement.
Educational Stability Plan, cont.

- However, if the child welfare agency determines it isn’t in the child’s best interests to stay in the same school, the agency must ensure that
  - the child is immediately enrolled in a new school, and
  - all the child’s educational records are provided to that new school.
School Enrollment

- Child welfare agencies must assure that each child receiving a Federal foster care payment is a full-time elementary or secondary school student (or is incapable of attending school due to a medical condition).
- Federal child welfare guidance encourages child welfare agencies to ensure that children are not only enrolled, but are in fact attending school.
FERPA Basics
Family Educational Rights and Privacy Act (FERPA)

- **Statute:** 20 U.S.C. § 1232g
  
  (§ 444 of the General Education Provisions Act (GEPA))

- **Regulations:** 34 CFR Part 99


- Legal challenge: EPIC v. U.S. Dept. Education
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.

§ 99.3
What is personally identifiable information (PII)?

- Name
- Mother’s maiden name
- Social Security Number
- Date of birth
- Address
- Parent’s name
What are the exceptions to the consent requirement?

Some of the exceptions:

- School officials with legitimate educational interests;
- Schools in which a student seeks or 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
- Health and safety emergencies
What is an education program?

- Any program principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education; and

- Any program that is administered by an educational agency or institution.
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?

- The CWA can disclose (or re-disclose) the records to “an individual or entity engaged in addressing the student’s education needs”
- This individual or entity must be authorized to receive the records and the disclosure (or re-disclosure) must be consistent with State confidentiality law
Changes to Notice Provisions

- Uninterrupted Scholars Act 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.
Permitted: Sharing To Address Educational Needs

- The Uninterrupted Scholars Act allows schools to disclose education records to CWAs to address student education needs.
- If the school or district is sharing information for other purposes, they may need to look at other exceptions such as the studies or audit/evaluation exception.
- But …. Remember the “education program” limitation when sharing under the audit/evaluation exception.
Scenario One

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 of these records, or just the information that the high school thinks the child welfare agency needs to see?
Scenario Two

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?
Scenario Three

If the CWA hires contractors to function as caseworkers, rather than using its own employees, may the CWA redisclose education records to those contractors? And if so, does the CWA have to record the redisclosure?
Scenario Four

May a CWA use education records for purposes other than addressing a foster child’s educational needs? For example, could the agency use these records to conduct investigations of child abuse or conduct research?
Scenario Five

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?
Scenario Six

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?
Scenario Seven

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?
Scenario Eight

What about situations where the child is living with relative because the home situation is unsafe. Can the school share records with the relative?
Scenario Nine

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 this district for five years?
Scenario Ten

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 from individual schools and LEAs?
Scenario Eleven

Normally FERPA requires schools to record disclosures. Do schools need to record disclosures to child welfare agencies?
Scenario Twelve

Can schools also disclose special education records to CWAs, such as Individualized Education Programs (IEPs) under this exception?
Scenario Thirteen

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 Uninterrupted Scholars Act allow the school to turn over these records?
Where to go for help
Contact Information

Family Policy Compliance Office

Telephone: (202) 260-3887
Email: FERPA@ed.gov
FAX: (202) 260-9001
Website: www.ed.gov/fpco

Privacy Technical Assistance Center

Telephone: (855) 249-3072
Email: privacyTA@ed.gov
FAX: (855) 249-3073
Website: www.ed.gov/ptac
After the Event

• Thank you for participating in the webinar today! A feedback survey will be emailed to you following the event. We appreciate your feedback!

• Materials for this event are currently posted on the NRCPFC website at: [http://www.nrpfnc.org/teleconferences/2013-07-11.html](http://www.nrpfnc.org/teleconferences/2013-07-11.html)

• The event will be archived beginning Wednesday, July 17, 2013 on the Education Summit website at: [http://www.nrpfnc.org/education_summit/webinars.html](http://www.nrpfnc.org/education_summit/webinars.html)