



STATE OF WASHINGTON

**WASHINGTON STATE EDUCATION AND CHILD WELFARE DEPARTMENTS'  
JOINT LETTER ON THE UNINTERRUPTED SCHOLARS ACT**

This letter, issued by the Office of Superintendent of Public Instruction (OSPI) and the Department of Social and Health Services (DSHS) 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 facilitate child welfare agency access to education records for students who are in the custody of DSHS.

The Act creates a new exception under FERPA that authorizes schools and school districts to release a student's 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 the child's case plan when the agency or organization "is legally responsible" for the "care and protection of the student." It is the position of OSPI and DSHS that this Act applies to all children in the custody of DSHS, including children in temporary, voluntary, or permanent custody.

The records obtained pursuant to this exception may not be disclosed to any other person or entity unless those individuals or entities are engaged in addressing the student's educational needs and authorized by the child welfare agency or organization to receive such disclosure, and such disclosure is 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 may be in the form of a court order, written notification on agency letterhead indicating the agency has custody and is legally responsible for the care and protection of the child, or release of information authorizing further disclosure under the Uninterrupted Scholars Act (USA). Schools will receive a similar notification on DSHS letterhead when DSHS no longer has legal responsibility, or custody, of the student.

It is also the position of both OSPI and DSHS that the individuals who can obtain education records under this exception, specifically those who have the right to access the child's education case plan, include the child's caseworker from the child welfare agency or from a private provider with whom the child welfare agency collaborates, which may include education liaisons or specialists.

Proof of authorization to release/receive information may include the following:

- a written notification on agency letterhead indicating that the agency has legal custody or is otherwise legally responsible for the care and protection of the child;
- an email from a child welfare agency email address indicating that the agency has legal custody and is legally responsible for the child; or
- a signed release of information form.

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### **Education Record Access and Decision Rights**

When DSHS requests education records, no parent signature or court order is needed to process the request. However, 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. As such, DSHS and the school shall make an effort to keep parents informed and involved in the child's education.

In addition, the Uninterrupted Scholars Act (USA) provides that, in cases where a parent is a party to a proceeding involving child abuse, neglect, or dependency, and a court order is issued authorizing the disclosure of education records, additional notice need not be provided to the parent by the educational agency before educational records are released.

Electronic data sharing can assist with improving educational outcomes for dependent children. Student education 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.

We ask for your continuing assistance and collaboration in addressing the educational needs of children in out-of-home care by acknowledging the new provisions of FERPA and allowing for the sharing of education records of these children. Schools should provide records as soon as possible and no later than two (2) days after a request by the department (RCW 28A.150.510).

We look forward to working together to improve educational outcomes for these vulnerable students at the state and local level.

Sincerely,



Randy I. Dorn  
State Superintendent  
of Public Instruction



Kevin Quigley, Secretary  
Department of Social  
and Health Services