


### Today's Agenda

1. Why is record sharing important?
1. What are the federal requirements on maintaining education records?
1. What are the confidentiality laws protecting child welfare records?
1. How does the Uninterrupted Scholars Act amend FERPA?

North Carolina Department of Justice

### Children in Foster Care

- Twice as likely to drop out of school
- 2-4 times as likely to repeat a grade
- Score notably below peers on standardized tests
- Higher rates of school suspensions and expulsions
- While 84% of foster youth in high school say they would like to graduate from college, however:
  - Only 50% graduate high school
  - Only 2% obtain a bachelor's



Source: Legal Center for Foster Care & Education, Juvenile Law Center

North Carolina Department of Justice

North Carolina Department of Justice

### Why is it important for CWAs to have access to education records?

- Making informed placement decisions and recommendations to the court
- Making timely enrollment best interest determinations
- Ensuring proper credit transfer and graduation requirements
- Ensuring appropriate grade / classroom placement
- Tracking attendance and truancy
- Identifying needed supports and services, including special education
- School discipline advocacy



### Why is it important for CWAs to have access to education records?

- Minimizing transportation challenges
- Defining an education decision-maker, advocate, or surrogate
- Ensuring social adjustment by preventing disruption of relationships
- Preventing disruption of sports / extracurriculars
- Encouraging the pursuit of higher education
- Supporting older youth transitioning from the child welfare system
- Complying with federal law pertaining to enrollment, case plans, and educational stability



### Examples of Education Records

<p><b>Academic Records</b></p> <ul style="list-style-type: none"> <li>• Transcripts</li> <li>• Grades</li> <li>• Report cards</li> <li>• Standardized test scores</li> <li>• Progress notes</li> <li>• Academic activities</li> </ul>	<p><b>School Discipline Records</b></p> <ul style="list-style-type: none"> <li>• Behavior Intervention Plans</li> <li>• Functional Behavior Assessments</li> </ul>
<p><b>Special Education Records</b></p> <ul style="list-style-type: none"> <li>• IEPs</li> <li>• 504 Plans</li> <li>• Personal Education Plans</li> <li>• Results of evaluations/ re-evaluations</li> <li>• Contact information for education decision maker or surrogate parent</li> </ul>	<p><b>Other Records</b></p> <ul style="list-style-type: none"> <li>• Attendance records</li> <li>• Immunization records</li> <li>• Birth certificate</li> <li>• Extracurricular activities</li> <li>• Vocational assessments</li> </ul>



### What are the benefits of access to education records at the system level?

- Identify systemic problems by tracking trends and deficits
- Collaborate more effectively with education agencies to improve outcomes
- Expands opportunities to develop effective policies and shape program interventions
- Permits systems to track progress and interventions over time through longitudinal data



### Why is it important for schools to have access to child welfare information?

- To improve educational outcomes of children in care
- To comply with federal laws requiring the education of all school-aged children and to focus attention on closing the achievement gap between high and low performing students
- To identify and link students to specialized services
- To respond with trauma-informed approaches
- To help school staff determine how best to support a child and provide that child with appropriate services



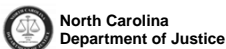
### What child welfare information should be disclosed to schools?

- Whether the child is in custody and what happens when legal custody transfers
- Where the child is living
- The role of the biological and foster parents
- How permanency goals may affect school placement / stability
- Who should make education decisions on the child's behalf
- What special challenges the child may be facing
- The implications that life experiences may have on development and learning
- Restrictions on who can visit the child at school and who can pick them up
- School behavioral needs or behaviors to look for
- Any other information that is necessary for the school to educate the child appropriately



### Collaboration between child welfare and education agencies leads to...

- Better decision making
- Better case planning
- Better service provision
- Improved educational outcomes



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### **Child and Family Services Review (CFSR)**

- Requires “substantial conformity” with federal outcomes
- Previous outcome required CWAs to ensure that “children receive appropriate services to meet their educational needs”
  - Availability of school records was a factor in determining whether “substantial conformity” was met



### **Title IV-E Case Plan Requirements**

- CWAs are required to develop a written case plan for each child in foster care
- Education records must be maintained in that plan, including:
  - Name and address of educational provider
  - Grade-level performance
  - School record – including disciplinary record
  - Any other relevant educational information determined to be appropriate by the CWA



### **Title IV-E Case Plan Requirements**

- CWA must also regularly review and update each child's education record AND supply it to foster parents.
- CWA must provide a copy of the child's education record to every child who reaches age 18 and is exiting care.



### **Case Plan Requirements under Fostering Connections**

Fostering Connections requires that child welfare agencies must include "a plan for ensuring the educational stability of the child while in foster care" as part of every child's case plan.



### **Case Plan Requirements under Fostering Connections**

As part of the case plan, the agency must include assurances that:

- Each placement of the child in foster care takes into account the "appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of the placement."



### **Case Plan Requirements under Fostering Connections**

As part of the case plan, the agency must include assurances that:

- The child welfare agency has coordinated with appropriate local education agencies to ensure that the child remains in the school in which the child is enrolled at the time of the placement unless remaining in such school is not in the best interests of the child.



### **Case Plan Requirements under Fostering Connections**

- If remaining in the school of origin is not in the best interests of the child, the case plan must include assurances by the child welfare agency and the local education agencies that provide immediate and appropriate enrollment in a new school; and provide all educational records of the child to the school



### **Case Plan Requirements under Fostering Connections**

Fostering Connections also requires states to provide assurances in their Title IV-E state plans that every school-age child in foster care is a full-time elementary or secondary school student or has completed secondary school.



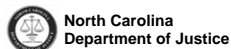
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## Child Abuse Treatment and Prevention Act (CAPTA)

- Provides that every state must have laws in place to protect the confidentiality of child welfare records and specify when and with whom the records may be shared.
- Permits child welfare to share records with "federal, state, or local government entities that have a need to carry out their responsibilities to protect children from abuse or neglect."
- In order for the child welfare agency to share information with the education agency, a state statute must authorize the information sharing, or it must be established that the school system needs the information to protect children from abuse and neglect.



## North Carolina Laws and Regulations

N.C.G.S. 108A-80 provides for the blanket confidentiality of all public assistance and social services records that contain any identifying information

10A NCAC 69.0102 provides that any information received by DSS from another agency or individual shall be treated as any other information generated internally



## North Carolina Laws and Regulations

N.C.G.S. 7B-302 speaks specifically to child protective services and provides for the confidentiality of all CPS records, including all information received during screening and assessment as well as the identity of the reporter of abuse, neglect, or dependency

N.C.G.S. 7B-2901(b) provides for the confidentiality of all info received in connection with the provision of protective services (foster care records)



## North Carolina Laws and Regulations

10A NCAC 70A .0113 (authorized pursuant to 7B-302 and 7B-2901) provides that no one outside of DSS may review a protective services record but contains exceptions

- However, the county director may share “information without court order with public or private agencies or individuals being utilized to provide or facilitate the provision of protective services to the child.”



## North Carolina Laws and Regulations

N.C.G.S. 7B-3100 allows for sharing of confidential information between county departments of social services and local school administrative units in order to protect the juvenile or to "improve educational opportunities"

14B NCAC 11A.0301 allows for sharing of relevant information between county departments of social services and local school administrative units when a petition has been filed alleging a juvenile is abused, neglected, dependent, undisciplined, or delinquent



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## Confidentiality of School Records

### Exception for Reporting of Suspected Abuse, Neglect, or Dependency

N.C.G.S. 7B-301 provides that any person with cause to suspect is a mandatory reporter

N.C.G.S. 115C-400 mandates that school personnel report suspected *a/n/d* as provided in 7B-301



## Memorandum of Understanding

- 2007 Memorandum of Agreement between the NC Department of Public Instruction and the Division of Social Services Re Child Abuse, Neglect, or Dependency
- School is permitted to disclose otherwise confidential information (pertaining to the report) when making a mandatory report of a/n/d pursuant to 7B-301
- Acknowledges that protective services records are confidential and may only be examined by court order



## Family Educational Rights and Privacy Act (1974)

FERPA is a privacy law concerning the disclosure of education records.

FERPA prohibits the disclosure of personally identifiable information (PII) in a student's education records without parental consent (or the consent of a student who is 18 or attending a postsecondary program).

Consent is not required if the records cannot be traced to an individual student or are not student specific.



## Education Records

Defined as those materials maintained by the educational agency or institution (or by a party acting for the agency or institution) that are directly related to a student.



## Directory Information

- An education agency can share directory information without prior consent.
- Directory information includes the student's name, address, telephone number, email address, place and date of birth, dates of attendance, the most recent school attended, participation in officially recognized activities and sports, and awards received.
- The education agency must give current students and families advance notice of the types of directory information it will release and the parents the right and opportunity to refuse to release the information.





### Who is the Parent under FERPA?

FERPA regulations define a parent as "a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian."



### Court Order Exception

The child welfare agency or anyone seeking to access the child's education records should always first seek parental consent.

In the absence of parental consent, schools may release student records to comply with a court order or a lawfully issued subpoena.



### Health and Safety Emergency Exception

Allows the educational agency to disclose personally identifiable information from an education record to "appropriate persons" when the educational agency determines that there is an articulable and significant threat to the health or safety of a student or other individual.

The disclosure may be made to any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals



### Uninterrupted Scholars Act

Prior to USA, FERPA frequently caused delays in accessing critical education records and hindered child welfare agencies in their efforts to meet the educational needs of students in foster care. Further, there was confusion about what was allowed under FERPA.

Congress mandated that child welfare agencies obtain education records and ensure educational stability but failed to amend FERPA accordingly to allow access to PII.



## Uninterrupted Scholars Act

USA amends FERPA to authorize schools and school districts to release a student's otherwise confidential education records to "an agency caseworker or other representative of a state or local child welfare agency" 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."



## Uninterrupted Scholars Act

All FERPA exceptions, including USA, are permissive.

Education records received by a child welfare agency under the USA exception, may only be used to address the child's educational needs.



## Uninterrupted Scholars Act

### Re-Disclosure

The records obtained pursuant to this exception 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 authorized by the child welfare agency or organization to receive such disclosure and such disclosure is consistent with state confidentiality laws.



## Uninterrupted Scholars Act

USA also amends FERPA to provide 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.

Child welfare agency is allowed access to education records, but parent maintains education rights under FERPA.



## Uninterrupted Scholars Act

"Children in foster care face unique educational challenges and child welfare agencies hold the primary responsibility for the well-being of these children. Child welfare agencies need timely access to the education records of the youth they serve. Permitting educational agencies to disclose important and relevant information from the education records of children in foster care to child welfare agencies without unnecessary delay or hurdles is a critical step to enhance timely access to needed educational services and ultimately result in improved educational success for children in foster care."

"We believe that the Uninterrupted Scholars Act furthers efforts to build interagency collaboration - at the local, state and federal levels - between education and child welfare agencies. We encourage these agencies to share information about students in foster care to ensure the success of these students."

*April 24, 2013 Joint Letter issued by Administration for Children & Families (ACF) and the U.S. Dept. of Education to the Chief State School Officers and Child Welfare Directors*



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