**STATE EDUCATION AND CHILD WELFARE DEPARTMENTS’**

**SAMPLE JOINT LETTER ON THE UNINTERRUPTED SCHOLARS ACT**

**NOTE: replace all text marked [with grey highlighting] with details specific to your jurisdiction.**

This letter, issued by [**Department of Education]** and [**Department of Child Welfare**] 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 make it easier for child welfare agencies to access education records.

The Act specifically 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.”

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. Notably, this new law does not change the ability of child welfare agencies and others to access de-identified or non-student specific education information as long as education records/information cannot be traced to an individual student.

It is the position of both departments that this Act applies to **[delineate which students fall under this exception, to include at a minimum, all children placed by the child welfare department in care outside the child’s own home].**

It is also the position of both departments that the individuals who can obtain education records under this exception, specifically those who have the right to access the child’s case plan, include the following:

**[Insert list of individuals authorized to view the case plan. For example, the list might include:**

* **the child’s caseworker from the child welfare agency or from a private provider with whom the child welfare agency contracts**
* **the supervisors or managers of such agencies or providers**
* **education liaisons or specialists**
* **other administrators with access to the case plan]**

**[Insert list describing proof that the individual is legally responsible. For example, proof might include**:

* **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 is legally responsible for the child**
* **release form**
* **[insert other proof acceptable in your jurisdiction]**

When the child welfare agency requests records, no parent signature or court order is needed to process the request. However, child welfare agencies have a continuing obligation to work collaboratively with families and local education agencies to address the educational needs of children in dependent care. As a result, the child welfare agency representative working with the family should explain to the parent and to the school entity that provides the records that while the agency will have access to the education records, 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. The child welfare worker and the school should make all efforts to keep parents informed and involved in the child’s education.

Because of the variation in systems across school districts, local agencies and community partners **[insert agency and partner details, to include, for example, school districts, local or state child welfare agencies, private child welfare providers, others]** are encouraged to develop or revise local data sharing agreements. Such agreements should delineate specific methods and related procedures to facilitate child welfare access to student educational records (*i*.*e*. hard copy, web system, parent portal, etc.). However, the absence of such an agreement should not limit the ability of child welfare agencies to obtain prompt access to student records.

To facilitate efficient information sharing, the information may be shared electronically, with appropriate protections in place for student privacy. **[If available, include details about how information can be shared electronically.]** To this end, local agencies and community partners are encouraged to revise local electronic data sharing agreements.

Electronic data sharing can assist **[child welfare department]** and the schools with improving educational outcomes for dependent children. Student educational 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 adhering to the new provisions of FERPA and allowing for the sharing of education records. Schools should provide records as soon as possible and no later than **[insert number of days]** of a request by the department.

In addition, the Uninterrupted Scholars Act 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.

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