



Minnesota Department of Human Services

June 4, 2013

Re: Recent change in FERPA regulations

Dear County Child Welfare Directors and School Superintendents:

Children in foster care face unique educational challenges and child welfare agencies hold the primary responsibility for the well-being of these children. In order to facilitate successful educational outcomes for children in foster care, child welfare agencies need timely access to relevant educational records of the children they serve. In Minnesota, birth parents generally remain the educational decision makers for their children unless it is otherwise ordered by the court. As such, best practices continue to underscore the importance of engaging families in educational planning which ideally includes obtaining consent from birthparents prior to sharing educational records. However, permitting educational agencies to disclose relevant information, when necessary and without additional hurdles, is a critical step in improving educational outcomes for children in foster care. The importance of these activities is also recognized under federal law. The Fostering Connection to Success and Increasing Adoptions Act of 2008 requires that child welfare agencies develop an educational stability plan and coordinate with the local education agencies (LEAs) when a child enters foster care or moves from one foster care placement to another.

To address this need, the Uninterrupted Scholars Act (Public Law 112-278) was enacted on January 14, 2013. The Act amends the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; CFR Part 99, to permit educational agencies and institutions to disclose a student's educational records, without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access a student's case plan "when such agency is legally responsible, in accordance with state or tribal law, for the care and protection of the student." In specified types of judicial proceedings in which a parent is involved, the Act allows educational agencies and institutions to disclose a student's education records pursuant to a judicial order without requiring additional notice to the parent by the educational agency or institution. [View the text of the bill on the U.S. Government Printing Office website.](#)

The federal Department of Education will provide additional technical assistance to further explain the requirements of the FERPA amendments and outline how education and child welfare agencies may share information. The Administration of Children and Families (ACF) will work with the Department of Education to provide information on how FERPA amendments may help child welfare agencies meet certain federal child welfare requirements. Upcoming ACF activities will include a joint webinar and presentations at conferences. For the current schedule

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of ACF activities, or to get contact information for Department of Education officials who can answer FERPA questions, [please visit the U.S. Department of Education website](#).

The Minnesota Department of Education and the Minnesota Department of Human Services will provide further guidance to local school districts and county child welfare agencies as it becomes available. Thank you for your continued work and dedication to the educational outcomes of Minnesota children.

Sincerely,

A handwritten signature in cursive script that reads "Lucinda E. Jesson".

Lucinda E. Jesson, Commissioner
Minnesota Department of Human Services

A handwritten signature in cursive script that reads "Dr. Brenda Cassellius".

Brenda L. Cassellius, Commissioner
Minnesota Department of Education