



## Transcript: Uninterrupted Scholar's Act

---

### Slide 1:

Baron Rodriguez; Hello, welcome to today's webinar on the Uninterrupted Scholar's Act. Today's webinar will be jointly presented by the U.S. Department of Education and the U.S. Department of Health and Human Services. We have muted participants for today's session. However, you may enter questions into the chat box in the lower corner of your browser. While we will not be answering questions today, we will be answering some of the most frequently asked questions around this topic and we will take them forward to provide further clarification on upcoming publications around this topic. You can also send questions to [privacyTA@ed.gov](mailto:privacyTA@ed.gov). This webinar will also be record and posted on the Family Policy Compliance Office's website as well as the PTAC website. Those links will be provided at the end of the webinar.

### Slide 2:

Baron: Today we'll be talking about foster children, the program basics and why it's important to share information, the federal child welfare law, FERPA 101, the Uninterrupted Scholars Act ,and then we'll talk about specifics with some common scenarios and where you can get help.

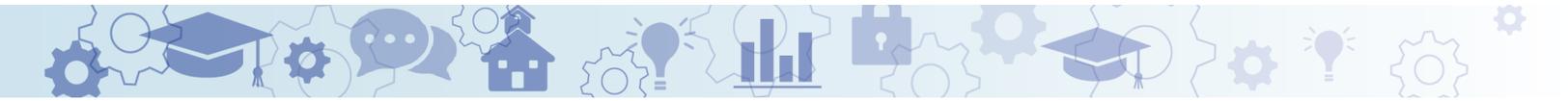
### Slide 3:

Baron; Today's presenters from the U.S. Department of Health and Human services are Taffy Compain from the National Foster Care Specialist, Elizabeth Loevner from the Policy Division. From the US Department of Education: Dale King, the director of the Family Policy Compliance Office as well as Baron Rodriguez from the Privacy Technical Assistance Center. With that, I'm going to hand it over to the Department of Health and Human Services and they can take it from here.

### Slide 4:

Taffy Compain: Hi, I'm Taffy Compain, specialist at the Children's Bureau of Administration for Children and Families and what we'd like to start off with this afternoon is a very quick, very high level overview of the foster care system so that hopefully we can give you just a little bit of insight into the journey of a child in foster care and then particularly why it is that we see that school stability is so important for those children that are in foster care. So, generally the way that the children come into foster care is usually first through a contact, or a report of abuse or neglect. The states will have abuse hotlines and the people who will call are family members, interested parties or mandated reporters, such as school teachers.

There is an investigation that is made into the specific situation based upon the details that are gathered. During the investigation, the risk and safety of the child is assessed. Based on that assessment, which includes interviews with the child (if appropriate), with family members and those involved parties and even others, a determination is made as to whether a recommendation is to be made to the court that the child be removed from the home or not. Of course, we try as much as possible to maintain the child



in the home, for example, with appropriate services that would ensure that the child remains safe while we work with the parents on that particular issue. This would be the parents or any other care giver the child would be with. But there are times when the child has to be removed in order to ensure their safety and wellbeing. In those cases, we will have various placement options for the child. This could include a foster home, and the state child welfare system will have a myriad of foster homes that are able to receive children that are not related to them and to provide placement while we work with the family in order to return the child to their home. Often, though, we are able to find relatives who are willing and able to care for the child on a temporary basis and work with the family and work with the agency to try to return the child home, so that's another placement option. Sometime the courts determine that the child is able to remain at home with or without services. If the child is placed in foster care, the court will periodically review that child's case. At least every 12 months, there needs to be a permanency hearing to look at the specifics of the child's situation, what their goal is and how the family, the agency and other involved parties are progressing toward having that child's goal met so that they may achieve permanency. When the court does their review, they may choose to keep the child in foster care while they're looking for other permanent options. They may look at terminating their parental rights, which means that the child is put into a situation where we are looking for an adoptive home or that we give custody to another caregiver.

About half of the time, the family is able to achieve their case plan and have the child return home. Often, there can be an intertwining of various different types of placements and different types of goals while the child is in foster care, which may include a change of setting that would also involve a change of school and that's why we want to talk about educational stability.

#### Slide 5:

Taffy: Here are some numbers around children who are in foster care. I believe these are from September 2009. I have more recent data on what we call AFCARS data (Adoption and Foster Care Analysis and Reporting System). This is a long name for what is simply a data collection system that enables state child welfare agencies to report data to the federal government on various components of their child welfare system. On September 30th, 2011, two years from the date of the data shown here, we had just over 400,000 children in foster care. The breakdown of the ages here is comparable to what we saw in 2011. The vast majority, 65-75% of children in foster care, are school-age children, between five and seventeen years old.

#### Slide 6:

Taffy: In addition, the 2011 data shows that 52% of the children in foster care are male and 48% female. About 47% were placed in foster homes with persons that were not related to the child. About 52% had a goal to be reunified with their parents or principal caregiver.

For these children in foster care, there are concerns about their educational stability. This is evidenced by a couple of different statistics. One of the concerns for children in foster care is that they are more like to have repeated a grade. On this slide you can see three different sources of information. This gives you a picture from across the nation; from Los Angeles, Chapin Hall in Chicago and New York. In all three of these cases, what we see is that children in foster care often have to repeat a grade or some schooling. In the Chicago public school system, we saw that children in foster care were twice as likely to have to repeat a grade as those where not in foster care.



Slide 7:

Taffy: Another concern that we have is that often children in foster care are forced to be placed more than once. They may be in a foster home and in many different circumstances, they may have to be moved to a different foster care setting or perhaps a relative has come forward and say that they're willing to take care of the child. We would then place the child with the relative, since they would then have a closer connection with family. That could mean the child moving to another school, however. There's a high rate of mobility, an average of one to two home placements per year. In particular, if you look at the third bullet point, we've done a lot of work looking at this Midwest Evaluation study, which also comes from Chapin Hall in Chicago and in those three Midwest states, over one third of children reported having five or more school changes during their time in foster care. We see that the children do move around a lot. This means that they have to make new connections, their school records must be transferred and we often have to look at what the transportation situation is, which is often done on a case-by-case basis.

Slide 8:

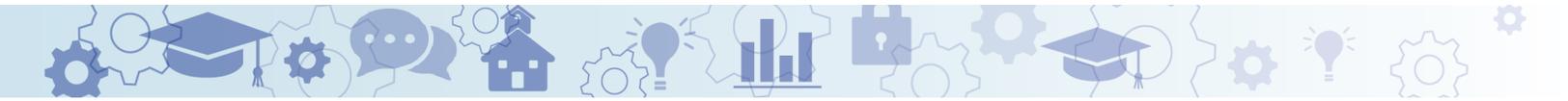
Taffy: One other concern that we have is that children in foster care are found to be overrepresented in the education achievement gaps. We give you three examples here of their scoring below their non-foster care counterparts in standardized tests, and that foster-care students often attend lower performing schools. Typically, these children read under their grade level.

Slide 9:

Taffy: In the educational outcomes, what we see is that students in foster care tend to drop out at a higher rate than those in the general population. They also tend to not do as well as students in the general population when it comes to graduating high school. As you can see, there is a very big gap, about 40% of those students who do not go on to college compared to their non-foster care counterparts, as well as a gap in those students who actually graduate college. So, those things that we can do while these children are in high school, to try to prevent that drop out and try to support their going on to college, these are the things we look at when we think about these children's educational stability.

Slide 10:

Taffy: One thing I did not note is that we do a lot of work with former foster youth. We call them the Alumni of Care. By and large these alumni are very interested in going to college and really want to be successful. It's not as much as of an issue of their interest in going to college as it is the environmental factors and the issues around not being placed in their homes of origin, as well as dealing with the mental health issues of abuse and neglect that often accompany these children as they pass into adulthood. In addition to that time period where they are transitioning from being children to young adults, we see the instability that results from having many foster care placements and being at numerous schools. We also see how that impacts ability in their later education and even after as they pass into adulthood. As you can see, students in foster care tend to have less ability to have insurance, and yet have a higher propensity of having mental health issues; there is a higher level of homelessness and also those living below the poverty line than their counterparts in the general population. This tells



you the story of what entering into foster care looks like in terms of outcomes and the effects that multiple placements can have.

Slide 11:

Taffy: We want to talk about why school stability is so important. Over half of the students in foster care return to their homes of origin, to their parents, to their communities, to their schools of origin. Those who have had less stability in their school setting were shown to have greater academic delays than those who were able to remain in their same school. Those who have had only one placement were shown to have an easier time transitioning back to their original school. We think that school stability is an important goal during the student's time in foster care. During this time, they are dealing with so many other non-school- related issues. There are placed away from their homes, there is not a great deal of permanency in their lives, they consider their placements to be temporary and they have a lot of anxiety around what the future holds for them. Children are also often still dealing with the trauma of abuse and neglect they have suffered as well as the separation not only from their parents, but also from their siblings and friends. Since all of this is so important to a child's development, we actively promote school stability as a positive counter-weight to their often-troubled home situations. With that, I'm going to turn it over to Elizabeth, who will be speaking from the standpoint of the federal child welfare laws that impact this issue.

Slide 12:

Elizabeth: Hi, thank you, Taffy. This is Elizabeth Lovener and I work in the Children's Bureau in the Policy Division. Taffy did a great job of discussing why children in foster care have a lot of these educational challenges; they're changing schools, changing placements, repeating classes, et cetera. From our perspective, the child welfare agencies have the primary responsibility for the well-being of these children while they are in foster care. What comes along with that are a lot of federal requirements for ensuring not only a general well-being and safety of these children but also their educational success. What I'm going to provide today is a general overview of the Child Welfare Funding and also those requirements and law that are linked to that federal funding.

Slide 13:

Elizabeth :Child Welfare Agencies can be operated by States, local agencies and tribes. Those agencies receive funding from a wide variety of sources, including state, local and tribal sources, and of course a big piece of that comes out of federal programs. The two biggest sources of child welfare funding from the federal government are titles IV-B and IV-E of the Social Security Act.

Slide 14:

Elizabeth: Title IV-B funding is a variety of mandatory and discretionary funding and its flexible funding that is distributed to state, local and tribal child welfare agencies based upon a formula set in law. This is available for a wide range of activities such as family preservation (to prevent the child from going into foster care), generally promoting the safety, permanency and well-being for children in foster care and adoptive families and improving outcomes for children affected by substance abuse, and even more.



### Slide 15

Elizabeth: Title IV-E is a little different. It's not like the flexible funding under Title IV-B. It's reinforcement for payments and administrative costs only for eligible children. These children may be in foster care, have been adopted, or be in a relative's guardianship. The payments for these children are for maintenance for the foster care, adoption assistance payments and guardianship assistance payments and also the associated administrative and training costs. There's some other funding for child welfare payments available under the Child Abuse Prevention and Treatment Act and the Chafee Foster Independence Program, but I'm not going to talk about those too much today because I want to get into the requirements that apply to those agencies that are getting the title IV-B and IV-E money related to education.

### Slide 16

Elizabeth: Federal law requires that child welfare agency workers develop a written case plan for each child in foster care no more than sixty days after that child was removed from their home. The case plan has lots of components, and they're all related to ensuring the safety, permanency, and well-being of the child. But one of the more relevant required elements today that we're talking about is around the child's education records. The record must contain the information you see on the slide, at a minimum, included in that required case plan.

### Slide 17:

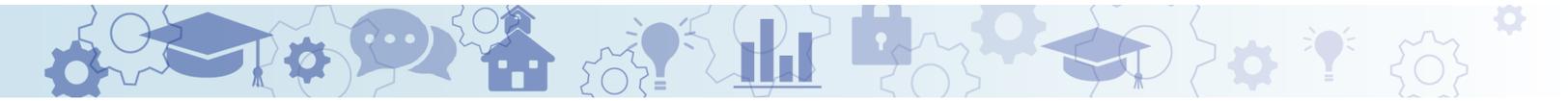
Elizabeth: In addition, the child welfare agency workers must review and update that education record each time a child is placed. It has to be provided to the foster parent. If the child exits care when they reach age of majority in the state, the agency should be providing those full education records to the child. So, as you can see, child welfare agency access to education records really helps ensure that the foster care provider is up to date with the child's educational needs and ensures that a youth leaving foster care has easy access to the records for their own use as they go forward toward independence.

### Slide 18:

Elizabeth: In addition to including the child's education record in the case plan the child welfare agency must address the child's educational stability in the case plan.

### Slide 19:

Elizabeth: This educational stability requirement means that when a child is being placed in foster care from their home or if they are already in foster care but they're moving to a new placement the agency must do certain things. They have to consider whether the child's current school is appropriate. They have to consider how close the current school is to the new foster care placement. In addition to that, they need to be coordinating with the local education agency to work to keep the child enrolled in the same school. This could be through transportation and coordinating with the local education agency to ensure that their records get over so that they may be enrolled in a timely manner.



Slide 20:

Elizabeth: As I'm sure you all know, it may not be in the child's best interest to stay in the same school. For example, there could be an extremely long travel time, there could be safety concerns at the school or there could be a special program at a different school that would be more appropriate for the child's needs. In the case where the agency determines that it is not in the best interest of the child to remain in the same school, the agency must make sure that the child is immediately enrolled in a new school and that all their records are provided to the new school. Agencies really depend on the timely access to records to make those placement decisions to allow them to determine the best interests of the child and minimize obstructions to the child's education.

Slide 21:

Elizabeth: The final requirement I'm going to speak to is around school enrollment. Child welfare agencies receiving this title IV-B and IV-E funding must assure that each child who is receiving a foster care payment is a full time elementary or secondary education student. In addition to this requirement in law, we also encourage child welfare agencies to ensure students are not just enrolled, but are in attendance. As I said earlier, child welfare agencies do have the primary responsibility for the well-being of these children in foster care so we really encourage agencies to keep up with this requirement and ensure that they're not just enrolled but attending. Having access to the education records of a child in foster care can really help a child welfare agency verify the student's enrollment and attendance.

Slide 22:

Elizabeth: That's all I have to say today on the federal child welfare requirements around education. Thank you all for your time today.

Slide 23

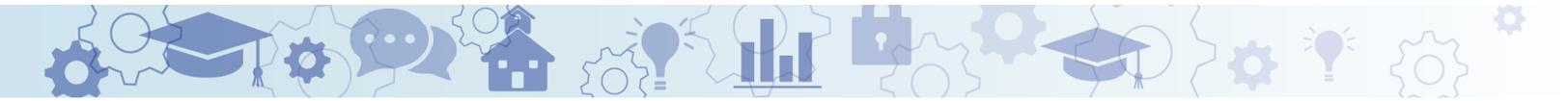
Baron: Thank you both. We're now going to transition to talking a little about FERPA basics and then start to talk about the specifics around the changes enacted by the Uninterrupted Scholars Act.

Slide 24:

Baron: So with that, here's the Family Educational Rights and Privacy Act statute and regulations. As many of you already know, the regulations were changed effective January 3rd, 2012, and if you look at some of our past webinars, you can find a summary of those changes. The Department is in the midst of a legal challenge from EPIC, which is the Electronic Privacy Information Center. This may create some challenges around data sharing and we'll be talking about that more in the future.

Slide 25:

Baron: What is FERPA? FERPA gives parents and eligible students the right to access and seek to amend education records. It also protects personal identifiable information from education records from



unauthorized disclosure. And written consent is required to disclose PII unless one of the exceptions apply.

Slide 26:

Baron: What are education records? Education records are those that are directly related to a student and maintained by an educational agency or institution or by a party that is acting for the agency or institution. Keep in mind that discipline and behavior records are also included under the definition of education records.

Slide 27:

Baron: What is PII? PII can be many things: name, mother's maiden name, address, date of birth, social security number, parent's names. It also could be information that could not be directly identifiable but combined with other information can become personally identifiable. For instance, if you linked together some non-identifiable information, if there are small sub-groups for example, that can make that information personally identifiable.

Slide 28:

Baron: What are some of the exceptions to the consent requirement? Some of the exceptions include: 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 judicial order or subpoena; audits, evaluation and studies, directory information and health and safety emergencies.

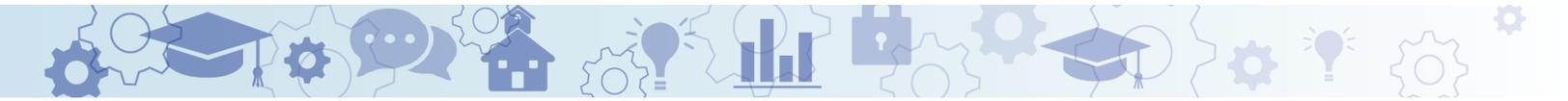
Slide 29:

Baron: What is an education program? It is 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 it also includes any program that is administered by an educational agency or institution.

Slide 30:

Dale King: Thanks, Baron. Again, I'm Dale King and I'm the director of the Family Policy Compliance Office. This is the office responsible for enforcing and implementing FERPA. I know Baron just gave you very quick overview of the key terms of FERPA and I also know that many folks out there understand that FERPA is a lot more complicated than what is contained in those four definitions.

But what I want to talk about is really about what the Uninterrupted Scholar's Act does and how it impacts FERPA. Before I talk about what it does, I want to talk about what it was like prior to the Uninterrupted Scholars Act. I think Taffy and Elizabeth provided you with a good overview of the need for education records for students in foster care since the students are in such unstable situations. Prior to the Uninterrupted Scholar's Act release of education records required either consent by the parents or an eligible student. There are a relatively small number of students in foster care that would be



considered to be eligible (18 or over), so this mainly rested upon parent consent. Prior to the act, you needed parental consent or else you had to get a court order to disclose the records to a child welfare agency. This was always a challenge for the child welfare agencies in obtaining those records. One thing that also contributed to the confusion in terms of the difficulty in cooperation between education agencies or schools and child welfare agencies was when Congress passed the Fostering Connections to Success and Increasing Adoptions Act in 2008. The act gave state child welfare agencies responsibility of working with the LEAs to implement the educational stability requirements which Elizabeth was talking about. However, what Congress did not do was amend FERPA to allow the LEAs or schools to disclose education records except in accordance with FERPA, which again, would've only been through consent or court order. So while the Fostering Connections Act talked about coordination between schools and child welfare agencies, the privacy provisions in FERPA still applied which made it more difficult for the agencies to fulfill the responsibilities. With the passage of the Uninterrupted Scholar's Act, FERPA permits disclosure without consent of education records of students in foster care to those representatives of a State or local child welfare agency authorized to access said student record.

#### Slide 31:

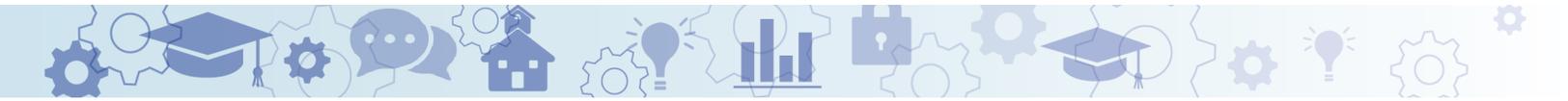
Dale: So, what has changed? The Uninterrupted Scholar's Act amended the Family Educational Rights Privacy Act, which we refer to as FERPA. Specifically, what the act adds is an additional exception to the general requirements of consent in FERPA that allows schools to disclose education records of students without parental consent to an agency caseworker or other representative of that State or local child welfare agency or also to a tribal organization that are authorized to access a student's case plan when the organization is legally responsible for the care and protection of the student. Exceptions to the general consent requirements are in the FERPA regulations. While you will not find the new exception created via the Uninterrupted Scholar's Act in the regulations for FERPA, it still applies. Also, remember that the exceptions to the general consent requirements in FERPA, including the new exception under the Uninterrupted Scholars Act, are permissive and are not requirements. There is nothing in the act that would require that the school disclose any records to a child welfare agency. However, the Department of Ed and HHS highly encourage such cooperation. This cooperation is required under the Fostering Connections act.

#### Slide 32:

Dale: What can a child welfare agency do with the PII from education records? The Uninterrupted Scholar's Act permits a child welfare agency to use the PII from the education record for a very limited purpose. The language is very specific. The act provides that the disclosure or any re-disclosure may be made to an individual or entity engaged in addressing the students' education needs and is authorized by the organization to receive the records and disclosures, and that the disclosure is consistent with state confidentiality law. Just a note: while FERPA does require the school to record the disclosure of the education records to the child welfare agency, FERPA does not require the child welfare agency to record any disclosure of PII to another third party, such as a contractor providing services to address a foster student's education needs.

#### Slide 33:

Dale: The Uninterrupted Scholar's Act also amended the exception to the general requirement of consent in FERPA that permits a school's disclosure of PII from a student's education records without



consent if the disclosure complies with a lawfully issued subpoena or judicial order. Under FERPA, is it required that schools make a reasonable effort to notify the parent or eligible student of the subpoena or judicial order before complying with, it in order to allow that parent to quash the subpoena order or to seek a protective action. However, the Uninterrupted Scholar's Act amended this notification requirement, adding an additional exception that a school or LEA does not have to notify the parent if the court has already given the parent such notice.

#### Slide 34:

Dale: The Act is clear that the education records disclosed to the child welfare agency under this exception must only be used to address the education needs of the child. Further, unless the school permits the child welfare agency to use the PII from the education record pursuant to one of the other exceptions under FERPA, the child welfare agency could not use the information from the education record for any other purpose. For example, it would be permissible for an LEA to evaluate the effectiveness of its education program in meeting the needs of children in foster care and it may want to use the Audit and Evaluation exception in order to conduct that evaluation. Now, it's important to stress that Congress intended that the Uninterrupted Scholars Act only apply to those children where the Child Welfare Agency is legally responsible for making the legal decisions for the child relative to foster care. Thus, the act would not permit schools or LEAs to disclose the PII from education records for children who receive other services through the child welfare agency if the parent or guardian retains legal responsibility for the child. For example, some agencies may be providing some vocational or skill assessment, or they may be providing family services and the child is still under the legal responsibility of the parent or guardian. In those types of situations, this exception would not apply. That covers the basics of the changes that result from the Uninterrupted Scholars Act. We're going to move on now to some common scenarios that you may find helpful.

#### Slide 35:

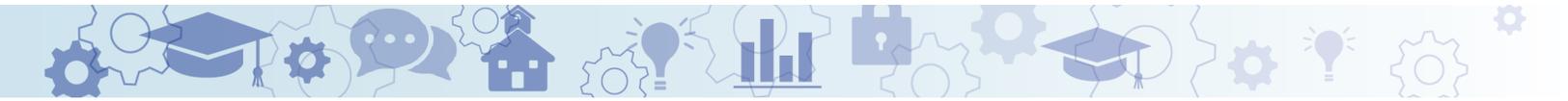
Baron: So, Dale, what if a high school gets a request from the local child welfare agency for all school records relating to certain students who are in foster care? Does the high school have to turn over all of these records, or just the information that the high school thinks the child welfare agency needs to see?

Dale: Well Baron, FERPA does not require the high school to turn over any of the records to the child welfare agency. Again, FERPA permits the high school to turn over all or part of the education record for those students in foster care to the child welfare agency who is responsible for their care and protection. The welfare agency may use these records to address the students' educational needs. However, ED highly encourages LEAs and schools to share education records with the child welfare agencies for those children who are in foster care.

#### Slide 36

Baron: Does a school sharing education records with a child welfare agency (CWA) need to have a written agreement with that agency prior to disclosing PII from education records?

Dale: Not under this new exception that is created under the Uninterrupted Scholars Act. There are other FERPA exceptions that do require written agreements, but it does not apply in this particular



situation. However, FERPA would not preclude an LEA or school to have a written agreement with a welfare agency, but it is not required.

#### Slide 37:

Baron: 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?

Dale: Yes. The Uninterrupted Scholars Act authorizes the child welfare agency to redisclose the records. But, this can only be done to an agency or individual who is directly involved with addressing the educational needs of the student in question. The redisclosure must also be consistent with state or tribal laws. While the Uninterrupted Scholars Act (USA) does not require the welfare agency to record the redisclosure to the contractor, both HHS and ED believe it is a good practice to record this redisclosure.

#### Slide 38:

Baron: 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?

Dale: As we've pointed out previously in this presentation that under this exception to FERPA, the welfare agency can only use the education records to address the student's education needs. There may be other exceptions that would permit the child welfare agency to obtain and use PII from the education records for other purposes, but we're not addressing those in this particular webinar. But, you can find out more information about these other exceptions through our technical assistance center, which we will provide more details on at the end of this presentation.

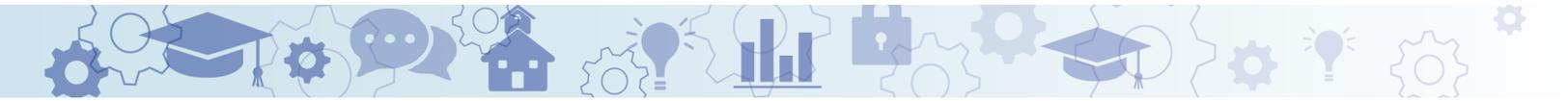
#### Slide 39:

Baron: How about when 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?

Dale: Some of the FERPA exceptions require that the recipient of the education records destroy the information when it's no longer needed, but that is not true under this exception. It's up to the school district and the CWA to determine how long the CWA will keep those records. As a good practice, the CWA could use its standard record retention guidelines, unless the district and the CWA agree to something different. One thing to remember though, if the CWA does retain those records for whatever reason, it cannot use the information therein for any other purpose.

#### Slide 40:

Baron: Could an LEA or district 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?



Dale: Sure, they could do that. As a best practice, HHS and ED would urge that the CWA identify the students in foster care for each delivery so education records are only delivered for those students who are in foster care at the time the records are transferred. But don't forget that the LEA or the school must record these disclosures if they do set up such a practice.

Slide 41:

Baron: 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?

Dale: Not usually, as parental rights are not automatically terminated for all children in foster care. In most cases, the goal for children is to return them to their families from foster care. It can be helpful for parents to remain involved in the child's schooling. However, if a school has evidence that a parent's parental rights have been terminated, then FERPA would no longer provide the parents any rights and the school would not be permitted to share, without consent, education records with the parents. We encourage schools to learn about their students' situations and to be sensitive to what parental involvement is safe.

Slide 42:

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

Dale: Well, I know we have this question in here, but it really doesn't relate to the Uninterrupted Scholars Act or foster care. This is however a question we get fairly frequently in our office. The answer is that generally FERPA would permit this if the relative is providing day-to-day care for the student. This would be true regardless of whether this was an informal arrangement or if the relative has been appointed as the foster parent.

Slide 43:

Baron: 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?

Dale: While I believe that there would be no agency that would actually do this, yes, they would be subject to this five-year rule. Remember, though, that only the Family Policy Compliance Office would have the authority to impose that five-year rule. A district however may not want to continue sharing the records for foster children with a CWA that inappropriately discloses those records. Remember that data sharing with anyone other than the parent or eligible student is permissive under FERPA and not mandatory.

Slide 44:

Baron: May a State decide to share education records for children in foster care and send records to the CWA directly from the state education agency, rather than from individual schools and LEAs?



Dale: Yes. It's up to the SEAs and LEAs to determine what is the most efficient way to share this information with the CWAs in the state. States vary in where they hold education records and how frequently they update them, so there's no single right way to do this. Remember though that regardless of which entity shares those education records with the welfare agency, the disclosure has to be recorded.

Slide 45:

Baron: Normally FERPA requires schools to record disclosures. Do schools need to record disclosures to child welfare agencies?

Dale: Yes, they do need to record the disclosure to the child welfare agency.

Slide 46

Baron: Can schools also disclose special education records to CWAs, such as Individualized Education Plans, also known as IEPs, under this exception?

Dale: Yes, special education records may be disclosed. In fact, child welfare agencies will often want those IEPs more than some of the other education records so that they can help facilitate services for the students if they change schools.

Slide 47:

Baron: 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 those records?

Dale: Generally, no. The question is whether the welfare agency is legally responsible in accordance with state or tribal law for the care and protection of the student. This will almost always mean that a court order has been entered, placing the student in care of the state or the child welfare agency. If that's happened, then the Uninterrupted Scholars Act allows the school to turn over records for as long as the child is in the care of the state or the CWA. The Uninterrupted Scholar's Act does not apply to education records for those children whose families are receiving in-home services. It only applies to children in foster care. Now, in some instances, a child in foster care will be returned to the family home for a trial period and during that time, the child is still in the care of the state and the school could continue to disclose the student's education records to the child welfare agency as well as to the parents. At the end of the trial period the CWA will close the child's case, at which point the school cannot continue to disclose education records to the child welfare agency.

Slide 48:

Baron: I would like to thank our presenters, Dale, Elizabeth and Taffy, for taking the time to do this webinar today and I want to thank our participants today for being on today's webinar. We trust that this has been helpful, but should you have further questions on this or any other related topic please don't hesitate to look at the various resources on the PTAC website.



Slide 49:

Baron: If you still need assistance, please send us an email at the email address listed here. In addition, you can sign up for the PTAC listserv by going to the PTAC website and clicking on the “contact us” link. You’ll automatically be notified of new ED/PTAC guidance around privacy and security and upcoming webinars. Thank you again for attending.