

Foster Care & Education

Data Points

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BRIDGING A DATA DIVIDE: DATA SHARING FOR YOUTH IN FOSTER CARE

Introduction

Accessing, sharing, and reporting education data and information is critical to ensure positive education outcomes for children in foster care. However, information sharing can be complicated; many different people may need information to assist a child with their education needs. Keeping all of the rules and requirements straight may seem daunting. This article breaks down some common needs related to accessing and sharing education records and information and provides examples of federal and state policies addressing these needs.

1. Child welfare agency representatives need access to school records to support individual students.

The federal **Family Education Rights and Privacy Act (FERPA)** regulates third-party access to personal information from a student's education records.¹ Typically, schools may only disclose personally identifiable information (PII) about the student after obtaining parental consent and on the condition that the recipient not redisclose the information to any other party without parental consent. FERPA permits disclosing "directory information" without parental consent after the school gives general notice to all parents of its intent to release directory information² and the parent does not "opt out" of such disclosure. Directory Information can include a student's name, address, telephone listing, email, date and place of birth, grade level, dates of attendance, degrees and awards received, and the most recent educational agency attended by the student. It *does not* include a student's social security number.

Beyond directory information, FERPA has several exceptions that allow a school to release a child's education records. One exception is when a court orders these records to be released.³ Another exception was added through the **Uninterrupted Scholars Act (USA)** in January 2013. USA amended FERPA to expand and simplify access to records for child welfare staff.⁴ Under USA, schools can release a child's education records to an agency caseworker or other representatives of state, local, or tribal child welfare organizations as long as the organization or agency is "legally responsible...for the care and protection of the student," and has the right to access a student's case plan. In turn, the child welfare agencies can only disclose the education records obtained through the USA child welfare exception to "an individual or entity engaged in addressing the student's education needs," assuming they were authorized by the agency to receive the records and that it complies with other state confidentiality rules. **Through these exceptions, education**

records and PII from those records could be disclosed to the child’s foster parent, the guardian ad litem, a court appointed special advocate, or another person engaged in the child’s education.

Although USA simplified how a child welfare agency obtains and discloses education records, some states, such as **Oklahoma**, have codified a method of transferring education records to aid the timely transfer and enrollment of a student. Oklahoma requires a “sending school” to ensure timely delivery of temporary and permanent student records according to the foster care state plan developed by the State Department of Education and the Department of Human Services. Specifically, Oklahoma’s legislation states that “in the event that the nondirectory education records of a student who has been placed in state care cannot be released to the parent(s) or legal guardian(s) of the student, school district personnel of a sending school district shall make temporary records available to a designee of the Office of Juvenile Affairs or the Department of Human Services.”⁵ Oklahoma defines “nondirectory education records” as “those records maintained by the school district regarding a student who is or has been enrolled at the school district which are categorized as private or confidential records pursuant to” FERPA.

2. **Foster parents (and foster parent agencies in some states) need access to school records for students in their care. Parents of students may also continue to have a right to access those school records, even when the child is not living with them.**

To support educational stability and normalcy for a student during transitions between placements, some states have legislation addressing foster parents’ need to access school records. State law and/or child welfare policies often specify parents’ and foster parents’ rights as educational decision makers, and their right to access educational information. **Conducting a state-specific inquiry into parental rights regarding educational decision making** helps establish the extent of the parent’s right to be involved in their child’s educational decisions. These parental rights may exist concurrently with rights of foster parents and foster parent agencies to access school records, which is necessary because the foster parent often provides day-to-day assistance with homework and school issues. Colorado, Arkansas, and California have expanded foster parent’s rights to access records of youth in their care:

Colorado law states the child welfare agency or the judiciary may provide a prospective or current foster parent with “information that is necessary to meet the foster child’s physical, mental, emotional, behavioral, and other identified trauma needs,” such as school records.⁶ Additionally, Colorado requires that a school district “shall” provide a foster parent access to education records and reports for a student who resides in the foster parent’s home.⁷ This includes both physical and online records. Foster parents are still required to maintain the confidentiality of these records upon receipt.

Similarly, **Arkansas** law allows foster parents to receive a range of information regarding youth in their care, including: reports, correspondence, memoranda, case histories, and protected health information. The foster parent may only use such records to provide improved care of the child, and may not redisclose information from the records, including information about relatives of the child, to any party.⁸

In 2017, **California** amended its law allowing foster family agencies to access records of grades, transcripts, and IEPs. The amended law expands this access to include online communications, attendance, and discipline records.⁹

3. **Schools must exchange education records when a student in foster care changes schools.**

FERPA, as discussed above, governs a school or school district’s disclosure of a student’s education records. Enrollment is one area where a school or school district must disclose a student’s education records. While FERPA has always allowed disclosure of education records to enroll a student in a new school, some states have paired the federally allowed disclosure with guiding state-specific legislation.

For example, **Oklahoma** passed a law in 2017 providing a specific procedure for schools and school districts to follow when exchanging records for students in state care. Beyond requiring the sending school district to “timely deliver” temporary and permanent student records according to ESSA, Oklahoma law requires that the receiving school district “enroll and place the student upon arrival” and that the sending school district “process and furnish the student’s permanent records within 3 days” of a request for such records from the receiving school.¹⁰

In 2016, **California** codified a similar requirement that the sending school must transfer both the student and their records within two business days from notification that the student will be transferring schools.¹¹ California also requires a specific school point of contact to handle these transfers promptly, and the county education agency must coordinate information about student transfers in foster care between these points of contact to ensure transfers occur quickly and smoothly.¹²

4. Schools need to know which students are in foster care and when changes in living placement occur.

If schools do not know which students are in foster care and when changes in placement occur, the students may not be afforded all the rights they are guaranteed by state law. Some states have implemented a clear infrastructure for data sharing between child welfare agencies and schools, outlining what information may be shared with whom while reserving some discretion about when sharing occurs. For example, **Wisconsin** law allows for confidential transfer of information between child welfare agencies or counties and the child's school under the condition that the school keep this information confidential.¹³

Other states go a step further and require the county or child welfare agency in charge of the child in foster care to notify that child's school or school district when the child enters custody or changes placement. In 2018, **Kentucky** amended its state code to include mandated data sharing between child welfare agencies and schools when students enter the state's foster care system. Under the law, schools must be notified of the child's status as a student in foster care, who is caring for the child, and who is authorized to visit and pick the child up.¹⁴

5. Local intervention programs must collect data to provide quality support for youth in foster care.

Several jurisdictions have designed interventions to support the education needs of children in foster care. Collecting and sharing data to demonstrate successes and challenges of these programs and guide improvements and services is critical to make progress and improve outcomes for students in foster care.

The **Kids in School Rule!** Program in Cincinnati, Ohio is a collaborative effort that promotes improved education outcomes for students attending Cincinnati Public Schools who are in the custody of Hamilton County Department of Job and Family Services (or under their protective supervision). This multisystem partnership -- including the school district and child welfare agency, the courts, and Legal Aid advocates -- provides a wide range of supports and interventions for students in foster care. The program regularly tracks data on student-specific outcomes and aggregate data on overall successes or challenges experienced by program participants (e.g., school stability, attendance rates, disciplinary referrals, graduation rates, third grade reading benchmarks, and others). For more information on KISR! see

http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2109&Command=Core_Download

Another example is **Treehouse**, a nonprofit in Washington State with several education initiatives serving youth in foster care, including general educational advocacy and postsecondary support. One prominent example is the Graduation Success initiative, a youth-centered academic program that directly supports youth in high school with their educational needs and goals. For compelling data showing positive graduation outcomes for youth participating in the Treehouse program, see: <https://www.treehouseforkids.org/wp-content/uploads/2019/04/Treehouse-Annual-Report-2018.pdf>.

Finally, **Achievement Unlocked**, a project developed by the Washoe County, Nevada, Department of Social Services, relies on a multidisciplinary team model that seeks to change the educational trajectory of students in foster care by providing advocacy, tutoring, mentoring, and case management to high school-aged youth in foster care. The project is guided by data showing improved outcomes for students. For more information, see http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2110&Command=Core_Download

6. In addition to ESSA data requirements, states should track additional education outcomes to monitor state progress in meeting the needs of students in foster care.

Under the **Every Student Succeeds Act (ESSA)**, passed in 2015, states must collect and report on student achievement and graduation rates for all students in foster care, beginning with data from the 2017-18 school year.¹⁵ Implementing this requirement requires that child welfare and education agencies coordinate at the state and local levels. While the **USA**, discussed earlier, made it possible for child welfare agencies to obtain education records from schools without parental consent, significant barriers remain to accurate data sharing at the state level absent specific guidance on best practices. For more information on ESSA report card sharing from state agencies to the Department of Education, see [Data Points #1: Understanding Why Data Matters and the Foster Care ESSA Data Requirements](#).

While ESSA created a minimum for data sharing, some states, both pre- and post-ESSA, have gone further and require the exchange of additional key data. In 2018, for example, **Indiana** enacted a law requiring the state’s Department of Education to submit annual reports on disaggregated data about students receiving foster care, including: graduation rates, grade promotion and retention, suspension and expulsion, and performance on state standardized tests. This data is required to be broken down by “race, grade, gender, free or reduced-price lunch status, and eligibility for special education.”¹⁶

Other states have laws requiring aggregate data reporting. In **Texas**, state law requires the Department of Family and Protective Services to produce an annual report of aggregate data on the following education metrics for students in foster care: “student academic achievement, graduation rates, school attendance, disciplinary actions, and receipt of special education services.”¹⁷ While demographic information may be attached to this data, disaggregation is not required by law. While limited to aggregate data, this form of data sharing may be helpful in ensuring that necessary information is effectively collected and reported. It also provides the state with some quality information about outcomes for students in foster care.

For more information about state examples of this kind of data sharing and key steps to building this kind of data exchange, see <https://dataqualitycampaign.org/resource/roadmap-for-foster-care/>.

Conclusion

These forms of data sharing ensure students in foster care receive the attention and support they need to achieve positive outcomes. As the highlighted examples show, information sharing by education and child welfare agencies is essential for the success of students in foster care. To aid this work, state laws and policies must support some of the foundations laid by federal law. While these examples show data sharing can serve several independent purposes, combining these purposes can provide far greater support for students in foster care. Through data sharing to directly serve students, build and support programs, and track and monitor state performance, we can help change the educational trajectories of these vulnerable students.

¹ [20 U.S.C. § 1232g](#)

² [20 U.S.C § 1231g\(a\)\(5\)](#)

³ [20. U.S.C. § 1231g\(b\)\(2\)\(B\)](#)

⁴ [20 U.S.C. § 1231g\(b\)](#)

⁵ [Okla. Stat. tit. 70, § 13-132\(B\) \(2017\)](#)

⁶ [Colo. Rev. Stat. § 19-1-303\(11\)\(a\) \(2018\)](#)

⁷ [Colo. Rev. Stat. § 22-32-138\(8\) \(2018\)](#)

⁸ [Ark. Code. Ann. § 9-28-407\(h\)\(1\)\(H\) \(2017\)](#)

⁹ [Cal Educ. Code. § 49069.3\(a\) \(2017\)](#)

¹⁰ [Okla. Stat. tit. 70, §13-132\(D\)\(2\) \(2017\)](#)

¹¹ [Cal. Educ. Code § 49069.5\(d\) \(2016\)](#)

¹² [Cal. Educ. Code § 49069.5\(f\) \(2016\)](#)

¹³ [Wisc. Stat. § 48.78\(2\)\(b\) \(2018\)](#)

¹⁴ [Ky. Rev. Stat. § 620.146\(1\) \(2018\)](#)

¹⁵ [20 U.S.C. § 6311\(h\)\(C\)\(iii\) \(2019\)](#)

¹⁶ [Ind. Code § 20-19-3-17\(d\) \(2018\)](#)

¹⁷ [Tex. Educ. Code § 7.029 \(2019\)](#)