

Information Sharing in Pennsylvania

Education & Child Welfare

Sharing Child Welfare Related Information in the Education Setting¹

The decision to share confidential information about a child who is in the state's custody should be made thoughtfully, and on a case-by-case basis, to ensure privacy is being protected. Keeping a child's privacy a central focus when developing protocols and discussing matters involving a child in foster care is essential. If and when information needs to be shared, ensure only the minimum information necessary is shared, and only to the individuals who need to know the information to support the child's well-being and education. When thinking about information sharing, remember most children and youth in foster care do not want the fact that they are in foster care shared widely.

CHILD WELFARE

SCHOOLS

What type of information should child welfare typically share with school personnel?²

- ✓ Child welfare caseworker, supervisor, guardian ad litem (GAL), and education decision maker (EDM) contact information. The EDM may be the birth parent, or may be someone else identified by the court.
- ✓ The fact that the student is in agency custody and living in a foster home or in a kinship placement (which could include state forms or redacted court order to document the child is in the agency's custody).
- ✓ If the child welfare agency has access to records required for immediate enrollment, including: birth certificate, immunization records, names of previous schools attended, transcripts and report cards, Individual Education Programs (IEPs), 504 plans, and other documents relating to special education and related services, and other education records. Schools should also get these school records directly from a prior school.
- ✓ Medical records as relevant to determine special education eligibility (i.e., vision and hearing evaluations).
- ✓ Information regarding medications for the student that are administered by the school nurse during the school day, with doctor's written orders.
- ✓ Medicaid eligibility or number, if necessary for school health and related services.
- ✓ Relevant information from the child's case plan as it relates to older youth receiving special education services, planning for postgraduation, and protective orders.
- ✓ Necessary information for Title I monitoring.
- ✓ Any court orders that affect the parents' access to the child (i.e., restrictions on them having unsupervised contact).

What information may be shared on a case-by-case basis only?

- ✓ Relevant medical, disability, or health information, including mental or behavioral health issues, services, and medications not administered at school especially as it relates to discipline or behavior issues.
- ✓ The effects of trauma and the potential triggering events that may cause a behavioral response in the school setting.
- ✓ Information in psychological evaluations, if relevant to the child's care and needs in an educational setting.
- ✓ Information from mental health and psychological evaluations not directly related to assisting the school meet the child's needs should be redacted.
- ✓ Effective behavior supports used by the caregiver to encourage consistency in the school and home environments.
- ✓ Impact of the abuse and neglect history if it may affect the child in school and is appropriate and relevant to share.
- ✓ Details about the child's placement and permanency planning especially as it relates to the school stability

best interest determination. If there are safety concerns about sharing placement details with the child's parents, the child welfare agency may share this with the school and request those details not be shared.

✓ Details about the child's placement. If there are safety concerns about sharing placement details with the child's parents, the child welfare agency may share this with the school and request those details not be shared.



What information can *never* be shared by child welfare agencies?

- ✓ The name of the person who reported the abuse or neglect.
- ✓ The fact that the child was previously adopted; this may be sensitive information to the child and adoptive family.
- ✓ Alcohol or substance abuse history and treatment of the parent, and also the student unless clearly relevant and only if the student is over 14 and signs a specific release.
- ✓ Biological or foster family income should never be needed. All students in foster care are categorically eligible for free and reduced lunch.
- ✓ Details regarding the abuse, neglect or other circumstances leading to entry into foster care that are not relevant to the child's education.

Sharing Education Information with Child Welfare Agency Representatives and Other Child Welfare Partners³

Schools will often need to engage multiple individuals to support the education needs of students in foster care. What information can be shared with birth parents, foster parents, agency personnel, CASAs, GALs and other partners must be clarified. The list below provides guidance to support the sharing of education information so all involved with the student can support his or her education needs and success.

SCHOOLS



CHILD WELFARE



What information school personnel *must* share with child welfare partners?

- ✓ Education records with custodial agency representative with care and placement responsibility even without a court order or parent consent.
- ✓ Education records in response to any partner that has a court order or parental release authorizing the school to release the education records, such as GALs, CASAs, foster parents, and education decision makers (EDMs).
- ✓ Requests or referrals for an evaluation under Section 504 of the Rehabilitation Act of 1973, or special education services in response to ongoing requests or participation in IEP meetings.
- ✓ Disciplinary reviews or hearings that require parental notice pursuant to the child welfare agency's legal responsibility.



What information *may* be appropriate for school personnel to share with child welfare partners?

- ✓ Education information about a child in foster care can always be shared with the child's caseworker and EDM. Depending on the circumstances, information may also be shared with the child's foster parent, caregiver, or surrogate parent. Examples include:
 - Notice when a child is injured or becomes sick at a school activity on or off school grounds.
 - Report cards, permission slips, and other routine school correspondence, including receiving homework assignments on behalf of the child if necessary.
 - The child's IEP.
 - Information about transition planning for youth age 14 or older.
- ✓ Foster parents should be involved and notified of activities and decisions that have a clear impact on the child's home life.
 - Foster parents are generally responsible for decisions about participating in extracurricular activities, sports and events, dances, clubs, etc., regardless of whether the caregiver is also the child's designated EDM or surrogate parent.⁴

Endnotes

¹ Limitations on Child Welfare to School Information Sharing: 55 Pa. Code § 3130.44 (family case records); HIPAA (certain medical records); 55 Pa. Code § 5100 (child and adult mental health records); and Pa. C.S.A. § 6352.1 and 42 U.S. Code § 290dd-2 (substance abuse records).

² At the federal level the applicable laws, regulations, and policies regarding confidentiality and the title IV-B/IV-E agency are found in section 471(a)(8) of the Social Security Act (SSA), section 106(b)(2)(B)(viii) of the Child Abuse Prevention and Treatment Act (CAPTA), 45 CFR 1355.21(a), 45 CFR 205.50 and the Child Welfare Policy Manual sections 2.1A.1 (CAPTA, Confidentiality), 7.2 (IV-B, Confidentiality), and 8.4E (IV-E, Confidentiality). Generally speaking these federal laws, regulations, and policies authorize title IV-B/IV-E agency disclosure of otherwise confidential information only to certain classes of individuals and entities for certain purposes and these protections apply to any re-disclosure of that information by the authorized recipient. For example, 442 U.S.C. §5106(a)(b)(2), The Child Abuse Prevention and Treatment Act (CAPTA), requires states to have laws in place that protect the confidentiality of all records, but also specifies when these records can be shared. Individuals and entities listed as appropriate to share records with include: the subject of the report of abuse or neglect; federal, state, or local government entities that need such information to carry out their responsibilities to protect children from abuse or neglect; a grand jury or court; and other entities or people specified by state law. Per CAPTA, a state needs either a statute authorizing the sharing of foster care information with the school system or to establish that the school system needs certain information to protect the child from abuse and neglect.

³ 20 U.S.C. §1232g; 34 C.F.R. Part 99. The Family Educational Rights and Privacy Act (FERPA), passed in 1974, is the federal law that protects the privacy interests of parents and students regarding students' education records. The Uninterrupted Scholars Act (USA) amended FERPA allowing schools to share education records with child welfare agencies, without parental consent. In addition to federal laws, federal guidance encourages information sharing between schools and child welfare "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."

⁴ The Reasonable and Prudent Parenting Standard allows foster parents to make day-to-day parental decisions for the child in out of home care to promote normalcy. 42 Pa.C.S.A. § 6302. "Reasonable and prudent parent standard." The standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while encouraging the emotional and developmental growth of the child, that a caregiver must use when determining whether to allow a child in an out-of-home placement under the responsibility of the county agency to participate in extracurricular, enrichment, cultural and social activities. See also: 2015 PA Act 75,11 P.S. § 2645.