



COMMONWEALTH of VIRGINIA
Department of Education

May 17, 2013

TO: Division Superintendents

FROM: Patricia I. Wright, Superintendent of Public Instruction

SUBJECT: Amendment to FERPA on Foster Care Student Record Disclosure

The Uninterrupted Scholars Act (USA), (Public Law 112-278) was enacted on January 14, 2013, amending the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99. The amendment adds a new exception to FERPA's general consent rule to permit educational agencies and institutions to disclose education records of students in foster care, without parental consent, to a caseworker or other representative of a state or local child welfare agency. The text of the bill can be found at <http://www.gpo.gov/fdsys/pkg/PLAW-112publ278/pdf/PLAW-112publ278.pdf>. Additionally, the FERPA requirement concerning notification of parents before complying with a lawfully issued subpoena or judicial order was amended to permit schools to disclose education records pursuant to a judicial order without requiring additional notice to the parent(s) involved in the proceedings.

Children in foster care face unique educational challenges, and child welfare agencies hold the primary responsibility for the well-being of these children. The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires welfare agencies to develop an educational stability plan and to coordinate with the local educational agencies (LEAs) when a child enters foster care or moves from one foster care placement to another. The USA will allow child welfare agencies to have timely access to educational records that will ultimately result in improved educational success for children in foster care while building interagency collaboration between education and child welfare agencies.

On April 24, 2013, the U.S. Department of Education (USED) and the U.S. Department of Health and Human Services issued a joint letter to inform school officials and child welfare agencies about this recent amendment to FERPA. The USED plans to provide additional technical assistance in the future. In the interim, please refer to the USED's Web site at www.ed.gov/fpco for further information and updates regarding FERPA and the USA.

If you have questions about the FERPA amendments, contact Dr. Sandra E. Ruffin, director of federal program monitoring; telephone (804) 225-2768; or Sandra.Ruffin@doe.virginia.gov. For information regarding the Fostering Connections to Success and Increasing Adoptions Act of 2008, contact Dr. Patricia A. Popp, homeless education coordinator, at (757) 221-7776 or PXPOPP@wm.edu.

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