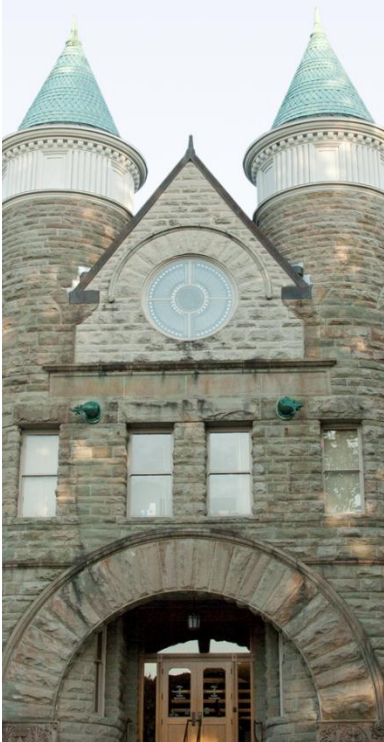


REPORT TO THE LEGISLATURE

Foster Care Data Sharing Report 2012

December 2012



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Report to the Legislature

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Executive Summary

More than 10,000 students in Washington state are under some form of foster care. Often they attend many different schools and may have multiple foster parents. To help them succeed in their education, it's crucial that the records of their education be accurate and, in some cases, be shared with other agencies, such as the Department of Social and Health Services (DSHS). Using that goal as a foundation, the Washington state Legislature in 2012 passed House Bill 2254, a sweeping law that will improve educational outcomes for students in foster care.

Section 9 of the bill addresses the sharing of records. That section directs the Office of Superintendent of Public Instruction (OSPI) to “submit a report ... regarding: The analysis of needs by the K-12 data governance group; a timeline for addressing those needs for which no statutory changes are necessary and that can be implemented within existing resources; and recommended options for addressing identified needs for which statutory changes, additional funding, or both, are necessary.”

This report outlines the feasibility of coordinating education and social services records, which includes a close look at federal laws regarding student privacy. Sharing records would help schools and social services in three ways, by:

- 1) Facilitating the sharing of students' educational records to DSHS;
- 2) Enabling OSPI to provide lists of students in foster care to districts and schools; and
- 3) Notifying schools of a new student's foster care status via the Student Record Exchange system.

Needs Requirements and Recommendations

The Data Governance Group identified several needs and made recommendations related to the collection and sharing of foster care data, which include:

- Foster care data that is reported by school districts to OSPI via the Comprehensive Education Data and Research System (CEDARS) is generally incomplete. Schools and district offices are not fully informed by families or caseworkers if a student is in foster care. Therefore, it is recommended that the foster care status field be eliminated from the CEDARS data submission and be replaced with a system in which OSPI receives foster care information from DSHS that it can share with districts.
- School district administrators and OSPI staff can better serve students if there is quality data regarding students' foster care status. The primary need for this data is not for the in-and-out status of foster care students, but simply identification as a flag in CEDARS if a student is in foster care at any time during a given school year. This is a tactical need to provide services and support for foster care students, rather than data for research purposes. The foster care status flag can support two specific outcomes:

- To generate a report for schools and district offices that lists the foster care students currently enrolled.
- An informative field in the Student Record Exchange System that can notify school districts enrolling students that are or have been in foster care.
- DSHS has a need for educational records of foster care students to provide better services to the youth and populate data for two specific applications:
 - The school records page of the FamLink system.
 - The DSHS form “A Mapping Guide for Completing the Education Plan.”
- The Washington Student Achievement Council (WSAC) has established a data-sharing agreement with DSHS in order to receive data needed to implement the auto-enrollment of foster care youth in the College Bound Scholarship program. Therefore, WSAC does not need to alter their current data-sharing agreement with OSPI.

Data Sharing and Dissemination Plan

In order to meet the needs identified above, OSPI has developed the following plan in collaboration with DSHS:

OSPI’s Office of Child Nutrition currently has a data-sharing agreement with DSHS to provide data from the Automated Client Eligibility System (ACES) database for matching student records to directly certify student eligibility for free and reduced-price meals and free milk. The data elements included in the agreement are: youth name, date of birth, ACES client identification number, ACES assistance unit number, address, household size, and household income. Also included in the database are families who receive Medical, TANF/SFA or Basic Food Assistance. In January 2013, the data-sharing agreement with DSHS will be altered to include information on foster care youth and the data will be provided on a daily basis, instead of monthly as it is currently done.

The Office of Child Nutrition is currently executing a project to enhance the data match for directly certifying students’ eligibility for free and reduced-price meals and free milk. The goal of the project is to increase the overall match rate to at least 95 percent. This would be a significant increase in data quality compared with to the data districts are able to collect on foster care youth. The current project plan is for the enhanced matching solution to be operational by June or July 2013, and for system implementation for schools and districts to be operational by August 27, 2013, in advance of the 2013–14 school year.

OSPI proposes to use Child Nutrition’s matched records to facilitate the data sharing outlined in SHB 2254, Section 9. OSPI would use the matched records to compile an extract of records needed for the FamLink system and the form “A Mapping Guide for Completing the Education Plan” to comply with the identified DSHS needs. Second, OSPI will use the matched records to create a flag in CEDARS to provide reports for school districts and populate a field in the Student Record Exchange System.

Family Educational Rights and Privacy Act (FERPA)

In order to facilitate the plan outlined above, OSPI engaged the Office of the Attorney General (AG) to provide the following determination related to federal and state law:

FERPA (20 U.S.C. § 1232g; 34 CFR Part 99), enacted in 1974, is a federal law that governs collection and disclosure of personally identifiable student information in education records maintained by schools. FERPA generally prohibits educational agencies from disclosing personally identifiable student information from an education record without consent of the parents. Personally identifiable information has been defined to include information that would make a student's identity easily traceable.

There are 16 exceptions to the nondisclosure rule. Of those exceptions, two are relevant to the analysis of whether information from education records may be disclosed from school district to OSPI and then from OSPI to the DSHS.

1. Juvenile Justice Exception (34 CFR 99.31(a)(5) & 99.38). A district may disclose personally identifiable information to state officials to whom the information is specifically allowed to be reported by state statute if the disclosure concerns the juvenile justice system and the system's ability to effectively serve the student prior to adjudication. In light of this exception, the Legislature enacted RCW 28A.150.510 to allow schools to disclose under the juvenile justice exception. It provides, in part:
 - In order to effectively serve students who are dependent pursuant to chapter [13.34](#) RCW, education records *shall be transmitted to the department of social and health services* within two school days after receiving the request from the department provided that the department certifies that it will not disclose to any other party the education records without prior written consent of the parent or student unless authorized to disclose the records under state law.
2. State and local educational authority exception (34 CFR 99.31(a)(3) and 99.35). A district may disclose personally identifiable information to authorized representatives of state and local educational authorities in connection with an audit or evaluation of state programs. This exception carries a condition that the information not be further disclosed beyond those received state or local educational authorities and that the information is destroyed when no longer needed for the audit or evaluation purposes. However, there is an exception to the prohibition on further disclosure.

Based on the above exception, school districts disclose personally identifiable information (PII) from education records to OSPI. OSPI holds PII as a secondary source and is subject to restrictions on further disclosure. Under recent amendments to the FERPA regulations, OSPI may now make further disclosures of PII on behalf of the school district under certain circumstances. Specifically, OSPI may make further

disclosures to a third party on behalf of a school district if the school district could directly disclose to that third party under one of the exceptions in 34 CFR 99.31.

Therefore, because school districts may disclose PII to DSHS under the juvenile justice exception in 34 CFR 99.31 (a)(5) and 99.38, OSPI may disclose that same PII on the districts' behalf to DSHS, pursuant to the authority in 34 CFR 99.33(b); 99.35(b).

With the determination that sharing education records is now possible, three issues will need to be worked out with Assistant Attorney Generals representing DSHS and OSPI. These issues are not insurmountable but will require further meetings that will be organized as soon as possible. These issues are:

1. The execution of data sharing agreements to enable the use of data as outlined in this report.
2. Complying with the reporting notice and tracking requirements in FERPA.
3. Stipulations on sharing data with DSHS contractors that OSPI will require as part of the data sharing agreement.

Timelines

OSPI proposes the following high-level timeline to carry out the plans outlined above:

- December 2012–January 2013: OSPI and DSHS work with AG's office to solve issues with tracking requirements and stipulations on sharing data with DSHS contractors.
- January 2013: new OSPI/DSHS data-sharing agreement executed.
- February 2013: the OSPI CEDARS Data Manual amended to eliminate the collection of foster care status from districts and schools.
- February–March 2013: OSPI documents the requirements for a list to be provided to schools and districts of foster care youth currently enrolled in their district.
- April 2013: OSPI documents the requirement for making changes to the Student Record Exchange System to include a flag for a foster care student.
- May–June 2013: OSPI and DSHS collaborate to document the extract, file format and fields needed for the FamLink system and form "A Mapping Guide for Completing the Education Plan."
- July–November 2013: OSPI development and testing of student foster care report, changes to the Student Record Exchange System, and student education records extract for DSHS.
- January 1, 2014: student foster care lists available for schools and districts, changes to the Student Record Exchange System implemented, and the student education records extract available for DSHS.

Funding Needs

No extra or specific dedicated funding is needed by OSPI to carry out the plans outlined above. However, maintenance funding for OSPI data systems as outlined in the K–12 Statewide Longitudinal Data System decision package is required. If this funding is not appropriated, OSPI data analysts and development resources would be severely constrained and the high level timeline would not be met.

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