DATE: September 30, 2013

POLICY #: SSA-CW # 14-4
(This Policy Directive supersedes SSA #12-13 and #12-26 as well as Supplements SSA Policy Directive #10-21 Case Plan Documentation Clarification)

TO: Directors, Local Departments of Social Services
Assistant Directors, Local Departments of Social Services, Out of Home Placement Supervisors, and Finance Officers

FROM: Carnitra White, Executive Director
Social Services Administration

RE: Education Stability

PROGRAM AFFECTED: Out-of-Home Placement

ORIGINATION OFFICE: Resource Development, Placement and Support Services

ACTION REQUIRED OF: All Child Welfare Service Staff

REQUIRED ACTION: Compliance with the Policy Directive

ACTION DUE DATE: October 15, 2013

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PURPOSE:
This Policy Directive establishes guidelines to ensure the educational stability of children awaiting foster care as well as the children and youth that are in an out-of-home placement.

BACKGROUND:

FEDERAL AND STATE LAW IN REFERENCE TO EDUCATION FOR FOSTER CARE CHILDREN AND YOUTH

Fostering Connections Act
The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires States to develop a plan for ensuring the educational stability of children in foster care, including ensuring that children entering foster care remain in their school of origin unless it is not in the child’s best interests.

Pursuant to the Child and Family Services Improvement and Innovation Act (Public Law (Pub. L.) 112-34), effective October 1, 2011, Title IV-B/IV-E agencies must meet the educational stability case plan requirement at the time of each placement change and not just at the initial placement into foster care.

COMAR 07.02.11.12 (B) requires the local department of social services to ensure school stability for children and youth who are placed in the custody of, committed to or otherwise placed by the local department of social services in out-of-home placement by determining if it’s in the best interest of the youth to continue the child’s education at the school the child last attended prior to the most recent change in residential placement.

McKinney-Vento Act
In 1987, Congress passed the McKinney-Vento Act to make sure students experiencing homelessness receive the education they need. This federal law promotes stability, access, and academic success for homeless students. McKinney-Vento provides assistance for homeless youth with enrollment in a new school, transportation to school, and other educational and supplemental services. It promotes educational stability by allowing homeless youth to remain in their school of origin even if homelessness has caused them to move outside the school district. School of origin is defined as the school a student attended before becoming homeless or the school where the student was last enrolled.

Under this federal law, homeless youth includes a “child awaiting foster care placement”. A child awaiting foster care placement is defined in COMAR 13A.05.09.02 as a child who is placed outside of the child’s home pursuant to a shelter care order by DSS or voluntary placement agreement, or a child committed to the care and custody of the local DSS who is placed into temporary placement of not longer than 90 school days. This definition includes initial removals and placement into out-of-home placement.

Once the provisions of McKinney-Vento have been met, and pursuant to COMAR 13A.05.09 an eligible child remains eligible for school stability and services, including transportation to the school of origin, for the remainder of the school year even if the child moves into a foster home. When the next school year begins, if the child continues to live in a foster home the child will no longer qualify for transportation to the school of origin under McKinney-Vento, and at that time may have to transfer to a school in the district where the child is residing, unless the local DSS determines that it
is in the child’s best interests to remain in the school of origin. In such cases, the local department of social services is required to ensure transportation for the child to and from school. While the local department of social services is responsible for funding transportation to the school of origin, a local education agency must cooperate with the local department of social services to arrange for transportation in a cost effective manner.

ACTION:
- To clarify the responsibilities of the local DSS and local school system with regard to school enrollment of children and youth awaiting foster care and children in out-of-home placement.
- To ensure that children and youth awaiting foster care and those in placement have proper transportation to school.
- To ensure that the local DSS is adhering to the case plan requirements at the time of each placement change and not just at the time of initial placement into foster care.
- To ensure that a best interest determination meeting is held prior to school transfers for youth who have a change in residential placement.
- To ensure proper documentation of a youth’s educational information and progress in MDCHESSIE.

RESPONSIBILITIES OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE LOCAL SCHOOL SYSTEM REGARDING IDENTIFYING ELIGIBLE STUDENTS
- The local DSS is responsible for alerting the local school system when a child is “awaiting foster care placement.”
- The local school system has the responsibility to undertake certain actions with regards to “a child awaiting foster care placement” which includes maintaining the child’s enrollment in the school of origin or enrolling the child in a new public school that a non-homeless student living in the attendance area would be eligible to attend. The local school system makes this decision based on what is in the child’s “best interest” under specific criteria contained in COMAR 13A.05.09.04B.
- Pursuant to COMAR 13A.05.09.04A, the local school system is required to continue the child’s enrollment in the school of origin for the remainder of the academic year even if a child becomes “permanently housed” (meaning placed in a out-of-home placement, i.e. there has been a disposition in the CINA case) during the school year.
- At the end of the first school year in that a child is in out of home placement, the local DSS, as the primary decision maker, in consultation with the local school system, must assess whether it is in the child’s best interests to remain in the school of origin for the upcoming school year or whether the child should be transferred to the school serving the attendance area in which the child is currently living. (SEE ATTACHED APPENDIX II Transportation Coordinators for Local School Systems)

SCHOOL PLACEMENT AND DETERMINATION OF A CHILD’S “BEST INTEREST”
Local School System
In accordance with COMAR 13A.05.09.04B the local school system shall, in determining a child’s “best interest” for a child awaiting foster care placement:
1. To the extent feasible, keep a homeless child or youth in the school of origin unless contrary to the wishes of the child’s or youth’s parent or guardian;
2. In determining best interest consider the following:
   a) The student’s age;
   b) The school which the student’s siblings attend;
   c) The student’s experiences at the school of origin;
   d) The student’s academic needs;
   e) The student’s emotional needs;
   f) Any other special needs of the family;
   g) Continuity of instruction;
   h) Length of stay in the shelter;
   i) The likely location of the family’s future permanent housing;
   j) Time remaining in the school year;
   k) Distance of commute and the impact it may have on the student’s education
      and other student-centered, transportation-related factors; and
   l) The safety of the child.

3. Provide a written explanation to the homeless child’s or youth’s parent or
   guardian, including a statement regarding the right to appeal pursuant to
   13A.05.09.07 if the local school system sends the child or youth to a school
   other than the school of origin or school requested by the parent or guardian; and

4. In the case of an unaccompanied youth, ensure that the local school system
   homeless coordinator:
   a) Assists in the placement or enrollment decisions;
   b) Consider the views of the unaccompanied youth; and
   c) Provide notice to the youth of the right to appeal pursuant to 13A.05.09.07.

Local Department of Social Services

In accordance with COMAR 07.02.11.12 (B) School Stability, the local department of social services
shall determine whether it is in the child’s best interest to continue the child’s education at the school
the child last attended prior to the most recent change in placement.

At the end of the first school year that a child is in out of home placement and thereafter at the time
of each placement change, the local DSS, as the primary decision maker, in consultation with the
local school system, must assess whether it is in the child’s best interest to remain in the school of
origin for the upcoming school year or whether the child should be transferred to the school serving
the attendance area in which the child is currently living. If the child’s residential placement is
unanticipated or changed emergently, a best interest determination shall be made as soon as possible,
but in no case later than 5 business days after the change in residential placement.

When making a best interest determination, the local department of social services will seek input
from persons who are able to contribute relevant information regarding the educational needs of the
child. These persons may include, but are not limited to:

   a. Child’s Attorney
   b. Parent
   c. Parent Surrogate
   d. Legal Guardian
   e. Child (if developmentally able)

The youth shall continue to be enrolled and maintain attendance in the school of origin until the local
department of social services completes the best interest determination.
The local department of social services shall provide written notice of the best interest determination to the child’s school, parent, parent surrogate, legal guardian and child’s attorney within 5 business days after the best interest determination has been made. (SEE APPENDIX I- Best Interest Determination Assessment Form. This document can be found in MDCHESSIE under Forms)

When making the assessment of the child’s best interest, the local DSS shall consider the following factors, not in order of priority:
   a. The child’s age;
   b. The school which the child’s siblings attend;
   c. The child’s experience at the school he or she last attended
   d. The child’s academic needs;
   e. The child’s emotional needs
   f. Any other special needs of the child
   g. Continuity of instructions
   h. Length of expected stay at current placement;
   i. Likely location of the child’s future permanent placement;
   j. Time remaining in the school year;
   k. Distance, time, and complexity of commute and the impact it may have on the child’s education and other child-centered transportation-related factors
   l. The safety of the child.

In addition to using the above factors, when it is proposed that a youth enroll in a nonpublic school setting (i.e. Type I, II or III), the local DSS shall also consider the following:
   a. The number of instructional hours offered by the nonpublic education program, compared to the number of instructional hours offered by the school of origin or local zoned school, and whether the hours offered by the nonpublic education program are sufficient to meet the child’s academic, emotional, and other special needs.
   b. Whether the nonpublic education program offers the same courses and programs that the child was enrolled in at his or her school of origin.
   c. Whether enrollment in a nonpublic school program precludes a student from continuing in a particular program when the student returns to public school, e.g., a vocational program, a magnet program, and/or an honors program.
   d. Whether the child’s likely to remain on track for grade promotion or graduation if he or she is enrolled in a nonpublic school program.
   e. The impact of the nonpublic school program’s inability to award credits on the child’s ability to earn full academic credit for the school year in all of the subjects that the child would take in a regular public school setting.
   f. Whether the nonpublic school program groups youth in appropriate age cohorts and provides sufficient quantity of instruction hours.
   g. Whether the nonpublic program, as determined by the child’s IEP team, is able to provide a free appropriate public education, needed special education and supplementary aids and services with certified special education teachers, and related services and programmatic modifications specially designed instruction supports and transition planning as detailed in a child’s IEP.
   h. Whether the child, if placed in a nonpublic school program, will be able to continue participating in extracurricular activities offered in the school of origin or local school where the child resides.
It should be noted that the cost of school transportation is not to be a factor in determining the best interest of the child for school selection.

If the local DSS determines that remaining in the child’s school of origin after the end of the first school year in out of home placement is not in the child’s best interests, the local DSS and local school system shall work together to ensure that the local school system immediately enrolls the child in a new school with all education records provided to the new school.

TRANSPORTATION TO AND FROM SCHOOL

• When a child is “awaiting foster care placement”, the local school system provides and pays for transportation if the local school system has determined that it is in the best interests of the child to remain at the school of origin.
• If a child “awaiting foster care placement” becomes “permanently housed” during the school year, the local school system continues to provide and pay for transportation to the school of origin until the end of the current school year.
• In accordance with COMAR 13A.05.09.06C, if the child begins living in an area served by a local school system other than the system of the school of origin at any time during the first year, the two school systems must agree upon how to apportion responsibility for the cost of transportation to the school of origin, otherwise they share the cost equally.
• Thereafter, for the following school year and beyond, the local school system and local DSS are expected to work together to determine transportation arrangements to the school of origin, and the method and procedure for paying transportation costs if the local DSS has determined it is in the best interests of the foster child to attend the school of origin. The local school system may continue to arrange for and/or provide the transportation, but the local DSS shall be responsible for paying the transportation costs. (SEE ATTACHED Appendix II-Transportation Coordinators for local school systems)

CHARGING TRANSPORTATION COST

• The McKinney-Vento Act requires that the local school system pay for the first full year of transportation for both IV-E and non IV-E eligible children and youth in order to keep them in their home school.
• After the first school year in out of home placement, if it is determined that it is in the child’s best interest to continue to remain in the school of origin, the local DSS must assume the reasonable education transportation costs to maintain the child in their home school.
• Workers at the local DSS will determine the child’s continuing eligibility and need for education transportation service.
• If the child is IV-E eligible and reimbursable, transportation costs to and from the home school are IV-E allowable expenses as outlined in the child’s education stability case plan.
• When it is determined that the local DSS will pay for the transportation cost for students, these expenses will be charged in MD CHESSEIE using either code 2114 for IV-E eligible children or 7114 for non IV-E eligible children under the service Education/Education Transportation Cost.
• If the child’s placement expenses are charged to non IV-E 71XX, then education transportation costs should also be charged to non IV-E 7114.
OBTAINING EDUCATION RECORDS AND INFORMATION FROM THE LOCAL SCHOOL SYSTEM

Pursuant to the Uninterrupted Scholars Act (P.L. 112-278) agency caseworkers or other representatives of a state or local child welfare agency, or tribal organization who are authorized to access the child’s case plan shall have access to the child’s education records without having to obtain parental consent or a court order.

This exception under the Family Educational Rights and Privacy Act (FERPA) applies to children for whom the public child welfare agency has legal responsibility for their care and protection, specifically those in out-of-home placement. This would include children placed under a voluntary placement agreement and youth co-committed to the Maryland Department of Juvenile Services.

The individuals who can obtain education records under this exception, specifically those who have the right to access the child’s case plan, include the following:

- The child’s case worker from the Local Department of Social Services;
- The child’s case worker from a private children and youth agency with whom the Social Services Administration contracts; and
- The supervisors or managers of the local department of social services.
- Other administrators with access to the case plan by State law for the purpose of care of individual youth.

In order to obtain a student’s education record, proof that the local department of social services is responsible for the care of the student must be provided. This proof can be in the form of a court order or written notification on agency letterhead indicating that the agency has legal custody or is otherwise legally responsible for the care and custody of the child. (SEE ATTACHED Appendix III- Sample Letter - Request Education Records)

The records obtained pursuant to this exception may not be re-disclosed to any other person or entity unless those individuals or entities are engaged in addressing the student’s educational needs and authorized by the local department of social services to receive such disclosures.

DOCUMENTATION OF YOUTH’S EDUCATION INFORMATION AND PROGRESS IN MDCHESSIE

Pursuant to Title IV-E of the Social Security Act child welfare agencies are required to maintain education records in each child’s case plan file. MDCHESSIE is the official case plan file for each youth that is in out-of-home placement. There are two places in MDCHESSIE to maintain the youth’s education record that shall be completed by the case worker; they are education tabs 1-3 in Case Plan-2 and the Education Folder.

CASE PLAN-2

Pursuant to the Child and Family Services Improvement and Innovation Act (Public Law (Pub. L.) 112-34), effective October 1, 2011 Titles IV-B/IV-E agencies must now meet the educational stability case plan requirement at the time of each placement change and not just at the initial placement into foster care.
In accordance with SSA Policy Directive #10-21, Caseplan Documentation Clarification, caseplan 2 sides 5, 6, and 7 are dedicated to the child’s education. The case plan is intended to serve as a review of what has transpired in the life of the case since the last case plan was completed. All narrative fields must be completed, summarizing the child’s progress since the last case plan. The education folder must be completed first in order for the education information to populate to the case plan.

Below is an example of a completed education tabs I-III-3 on the case plan 2.
EDUCATION FOLDER
The Education folder, in MDCHESSIE, is one of the places where educational information and progress must be documented for youth in out-of-home placement. The education folder shall be fully completed with the most recent and accurate educational information on the youth at the time of initial removal, if the youth changes schools and at the commencement of a new school years. Information that is required in the folder should be updated as follows:

A. When there is a change in school placement (i.e. transfers, promotions, graduations),
B. When there is a change in grade level,
C. To document best interest determination decisions,
D. Quarterly to document academic performance, (1st, 2nd, 3rd, 4th quarter),
E. Changes in youth behavior (i.e. disciplinary actions, progress reports),
F. Updates to IEP (Individual Education Program) or 504 Plans, and
G. Child's academic needs changes.

Below is an example of a completed Education Folder in MDCHESSIE.
Kirsten suffers from Generalized Anxiety Disorder which precludes her from working.

Has the child changed schools due to placement? Yes

Explain why it was in the child's best interests to change schools:

Kirsten is now in a different school due to her placement with Jean Black in Foster Care and the determination was made it is in the best interest of Kirsten to attend this new school as she was struggling more at her previous school, including incidents of bullying. Whereas Kirsten has some issues with peers, she is adjusting better to this new school environment.
Appendix I

Department of Human Resources
Social Services Administration

BEST INTEREST DETERMINATION ASSESSMENT FORM
Once completed, this document must be uploaded into MDCHESSIE

<table>
<thead>
<tr>
<th>Child's Name:</th>
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<tbody>
<tr>
<td>Student School Identification #:</td>
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<tr>
<td>Name and District of Current Attendance:</td>
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<tr>
<td>Previous Schools:</td>
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<tr>
<td>Current Grade Placement (i.e. 4th, 3rd):</td>
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<tr>
<td>Date of Best Interest Determination Meeting:</td>
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<tr>
<td>Persons in Attendance at the Best Interest Determination Meeting: (beside each name please indicate title of each person (i.e. teacher, child's attorney, case worker)) 1)</td>
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</table>

### FACTORS CONSIDERED

The student shall remain in the current school unless consideration of the following factors indicates that a change of school placement is in the child's best interest

- [ ] The child's permanency goal, plan and expected date for achieving permanency support a change in school placement.
- [ ] The parents/prior custodians or child believe that changing schools in the child's best interest. If so, indicate why.
- [ ] The length of the commute to return to the current school would have a negative impact on the child. The child's current school environment is negatively impacting the child (i.e. bullying, etc.) and the child wants to change school. If so, indicate why.
- [ ] The child has only attended the current school for a short time or is not attached to the school. (Consider: What are the child's ties to his or her current school, including significant relationships and involvement in extracurricular activities)
- [ ] Safety considerations favor a change in school placement. If so, indicate why.
- [ ] Transferring schools will positively impact the child emotionally, socially or academically. (i.e. the child siblings attend the new school)
☐ The new school will better meet the child's academic needs.  *(Consider: How is the child performing academically in the current school? What are the child academic/career goals? Does the child's new school programs and activities address the unique needs or interests of the student that current school does not have?)*

☐ The new school will better meet the child's special education needs.  *(Consider: Is the child receiving any special education services from his or her current school? Does the child participate in other specialized instruction? (i.e. gifted program, career and technical program) that would be impacted by a school move.)*

☐ Changing schools will NOT undermine the child's ability to stay on track to graduate.  *(Consider: How would changing schools affect the students ability to earn full academic credit, participate in sports or other extra-curricular activities, proceed to the next grade, or graduate on time? Does the new school have programs and activities that address the unique needs or interest of the student that the current school does not have?)*

☐ The timing of the school transfer will not undermine school success.  *(Consider: Would the timing of the school transfer coincide with a logical juncture in the child's academic or personal progress? (i.e., after an event that is significant to the child or end of the school year)*

**DOCUMENTATION AND RECORDS**  *(Check all that Apply)*

Attach any supporting documentation used in making this determination of best interest. (The following is a checklist of examples of documents that may be considered. The list is not intended to be exhaustive)

☐ Report Cards
☐ Progress Reports
☐ Achievement Data (test scores)
☐ Attendance Data
☐ IEP or 504 Plan
☐ Emails or correspondence from individuals consulted
☐ Others:

☐ Were child, child's biological parent and child’s school informed of best interest determination meeting, invited to attend and/or provided information about the decision?

☐ Caseworker's Name: ___________________________ reviewed the child's education records?

**DETERMINATION**  *(Only check one)*

☐ The student shall remain in the same school where the child is currently enrolled. Name, Address and District of School:

Transportation will be provided by: ___________________________.

☐ Based on the best interest determination, a change in school placement is needed. The student shall be enrolled in the new school of current residence. Name, Address, and District of School:

*Note: If a change in educational placement is needed, enrollment should take place immediately with all education records provided to the new school. The individual responsible for enrolling the child is:*

Cc: Child's Attorney  
Parent  
Parent Surrogate  
Child's School  
Legal Guardian  
DHR/SSA FORM 101-EDU, 3/13
# Transportation Coordinators/Supervisors’ Contact Information

<table>
<thead>
<tr>
<th>County</th>
<th>Supervisor’s Name</th>
<th>Office Phone</th>
<th>Fax No.</th>
<th>E-Mail Address</th>
</tr>
</thead>
<tbody>
<tr>
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<td>410-996-5409</td>
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<tr>
<td>County</td>
<td>Contact</td>
<td>Phone 1</td>
<td>Phone 2</td>
<td>Email</td>
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<td>410-778-1705</td>
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<td>301-840-4516</td>
<td><a href="mailto:Todd.Watkins@mcpsmd.org">Todd.Watkins@mcpsmd.org</a></td>
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<tr>
<td>Prince George's</td>
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<td>301-952-6929</td>
<td><a href="mailto:thomas.bishop@pgcps.org">thomas.bishop@pgcps.org</a></td>
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<tr>
<td>Queen Anne's</td>
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<td>800-336-7775 Ext.141</td>
<td>410-758-8200</td>
<td><a href="mailto:Thad.kalmanowicz@qacps.org">Thad.kalmanowicz@qacps.org</a></td>
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<tr>
<td>St. Mary's</td>
<td>Jeffrey Thompson</td>
<td>301-475-4256 Ext. 132</td>
<td>301-475-4239</td>
<td><a href="mailto:jkthompson@smcps.org">jkthompson@smcps.org</a></td>
</tr>
<tr>
<td>Somerset</td>
<td>Paul Jefferson</td>
<td>410-621-6227</td>
<td>410-651-2931</td>
<td><a href="mailto:pjefferson@somerset.k12.md.us">pjefferson@somerset.k12.md.us</a></td>
</tr>
<tr>
<td>Talbot</td>
<td>Fred McCracken</td>
<td>410-822-9535</td>
<td>410-820-4260</td>
<td><a href="mailto:fmccracken@tcps.k12.md.us">fmccracken@tcps.k12.md.us</a></td>
</tr>
<tr>
<td>Washington</td>
<td>Barbara Scotto</td>
<td>301-766-2904</td>
<td>301-766-2911</td>
<td><a href="mailto:scottbar@wcboe.k12.md.us">scottbar@wcboe.k12.md.us</a></td>
</tr>
<tr>
<td>Wicomico</td>
<td>David Reeve</td>
<td>410-677-4558</td>
<td>410-677-5820</td>
<td><a href="mailto:dreeve@wcboe.org">dreeve@wcboe.org</a></td>
</tr>
<tr>
<td>Worcester</td>
<td>Steve Price</td>
<td>410-632-5013</td>
<td>410-632-0745</td>
<td><a href="mailto:HSPrice@mail.worcester.k12.md.us">HSPrice@mail.worcester.k12.md.us</a></td>
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<tr>
<td><strong>MSDE</strong></td>
<td>Leon Langley</td>
<td>410-767-0209</td>
<td>410-333-2232</td>
<td><a href="mailto:llangley@msde.state.md.us">llangley@msde.state.md.us</a></td>
</tr>
<tr>
<td></td>
<td>Pat Askew</td>
<td>410-767-0217</td>
<td></td>
<td><a href="mailto:paskew@msde.state.md.us">paskew@msde.state.md.us</a></td>
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</tbody>
</table>
SAMPLE
REQUEST FOR EDUCATION RECORDS
ON LDSS AGENCY LETTERHEAD

Date:

School Name
District Number
School Address

Re: Request for Education Records

Dear Educational Provider:

(Child’s name) (DOB) is a foster child in the state’s legal custody as of (date of commitment hearing)

Pursuant to the Uninterrupted Scholars Act (P.L. 112-278), agency caseworkers or other representatives of state or local child welfare agency, or tribal organization are authorized to have access to student’s educational records without having parental consent or a court order.

Please provide the most recent copies of the following checked education records for the above mentioned youth. It is imperative that copies of the following documents be received within three days of the date of this request.

- Report Card/Interim Reports
- Attendance Reports
- Individualized Education Program (IEP)
- Disciplinary or Behavioral Reports
- Education Portfolio
- Transcripts
- High School Diploma/GED
- 504 Plan
- Immunization Record
- Standardized Assessment (MSA, HSA, Eligibility for Alternative Assessments)
- Psycho educational, behavioral and/or related services assessment

Please mail all requested documents to (Case Worker’s Name and Address).

Please contact me if you have further questions or concerns.

Sincerely,

(Caseworker’s Name, Phone Number, & Email)

Cc: File