

August 20, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 21-86

The purpose of this ACL is to provide information regarding Senate Bill 233 and the right of caregivers to access current and most recent education records for foster youth in their care.



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DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

August 20, 2021

ALL COUNTY LETTER NO. 21-86

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL COUNTY CHILD WELFARE PROGRAM DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL FOSTER CARE PROGRAM MANAGERS
ALL FOSTER FAMILY AGENCY DIRECTORS
ALL GROUP HOME DIRECTORS
ALL ADOPTION REGIONAL AND FIELD OFFICES
ALL JUDICIAL COUNCIL STAFF

SUBJECT: CAREGIVER'S RIGHT TO ACCESS CURRENT AND MOST
RECENT EDUCATION RECORDS

REFERENCE: SENATE BILL (SB) [SB 233](#) (CHAPTER 829, STATUTES OF
2017); ALL COUNTY INFORMATION NOTICE (ACIN) [ACIN I-77-
16; WELFARE AND INSTITUTIONS CODE \(WIC\) SECTION WIC
Section 16010; RESOURCE FAMILY APPROVAL \(RFA\) WRITTEN
DIRECTIVES, VERSION 7](#)

PURPOSE

The purpose of this ACL is to provide county child welfare agencies, probation departments, and other relevant parties with information regarding the requirements of Senate Bill (SB) 233 (Chapter 829, Statutes of 2017). Senate Bill 233 authorizes access to education records for caregivers for youth in foster care, including resource parents, relatives caring for the child, tribally approved homes, foster family agencies (FFAs) and Short-Term Residential Treatment Program (STRTP) staff, even if they are not the child's educational rights holder. Education records can include records of attendance, discipline, and online communication on platforms established by schools for pupils and parents, and any plan adopted pursuant to specified federal law. This bill also updates Resource Family training requirements and adds caseworker responsibilities.

BACKGROUND

Statewide and national data show that the academic performance of youth in foster care is less successful than other disadvantaged groups and that youth in foster care continually have the lowest graduation rates, as well as the highest dropout rates, compared to the general student population. Ensuring access to current and most recent education records of youth in foster care is critical to obtaining services to address these barriers.

In 2014, the California Department of Education (CDE) and the California Department of Social Services (CDSS) issued a letter entitled [Educational Records of Youth in Foster Care](#) detailing the importance of efficient information sharing by county offices of education, local school districts, and child welfare agencies. In 2016, both the CDE and the CDSS jointly released [“Dear Colleague: Joint Guidance Foster Youth Information-Sharing”](#) with the Bureau of Children’s Justice at the California Department of Justice attempting to clarify the sharing of information related to youth in foster care. However, the letter did not include clarification of what information could and couldn’t be shared with caregivers who are not the youth’s educational rights holders.

Educational rights holders have full access to a student’s records and are permitted to make all education decisions for a child. Education rights holders may include caregivers who are sometimes assigned education rights by the courts, a child’s biological parent who may retain education rights after their child is placed in foster care, or a person other than the child’s caregiver or biological parent may be appointed by a court to hold education rights. Although the caregiver of a youth in foster care is not always their educational rights holder, they play a significant role in supporting the child’s education. Senate Bill 233 was enacted to improve coordination and empower caregivers to be able to access records to support the youth in their care and to collaborate with the education rights holder. Caregivers who are regularly informed of a student’s progress in school can better support the child’s day-to-day educational needs and increase their educational success.

ACCESSING EDUCATIONAL RECORDS

The following changes relative to student records and education information of youth in foster care have been made by SB 233:

- Requires a school district to permit access to student records by a FFA with placement of a student who is currently or formerly enrolled in the school district, a short-term residential treatment program staff responsible for the education or case management of a student, and a caregiver who has direct responsibility for

the care of the student, including an approved or licensed foster parent, an approved relative or non-related extended family member, or a resource family;

- Expands access to student records to include current or most recent records of grades, transcripts, attendance, discipline, online communication, special education assessments, and an individualized education program or 504 plan; and
- Establishes the right and obligation of the caregiver to access and maintain educational information about the child, regardless of whether the caregiver has been appointed as the student's educational rights holder.

Senate Bill 233 authorizes FFAs, STRTP program staff, and caregivers' access to review and receive student records for purposes of monitoring the student's educational progress, updating and maintaining the student's education records, and ensuring the student has access to educational services, supports, and activities. This bill provides that these purposes include, but are not limited to, enrolling the student in school, assisting the student with homework, class assignments, college and scholarship applications, and enrolling the student in extracurricular activities, tutoring, and other after school and summer enrichment programs. FFA staff, STRTP staff, and caregivers should be mindful that these records are confidential and take appropriate precautions regarding their usage and storage.

Senate Bill 233 specifies that a child welfare agency, probation department, or its designee foster family agency, is required to take all necessary steps to assist the caregiver in obtaining relevant health and education information, as mandated by current law. These steps include, but are not limited to:

- Obtaining educational information to share with caregivers;
- Providing documentation to caregivers that confirms their status as approved caregivers and their right to access information; and
- Explaining caregiver rights and responsibilities regarding access to educational information as specified in current law.

CAREGIVER REQUIREMENTS

In order to ensure that both the caregiver and educational rights holder are apprised of the child's educational needs, SB 233 requires a caregiver who is not the student's educational rights holder to notify the student's educational rights holder, if direct communication between a caregiver and the education rights holder is appropriate, of any educational needs of the student that require the educational rights holder's consent or participation, including but not limited to school placement decisions, decisions on whether to invoke or waive school of origin rights, consent for special education assessments and individualized education programs (IEPs), meetings or hearings regarding attendance or discipline, and decisions regarding graduation.

For each of these decisions (e.g., school enrollment, special education assessments or IEPs, etc.), it is the responsibility of the caregiver to notify the education rights holder of the pending need or issue, and the education rights holder's responsibility to make determinations, in the youth's best interest. Caregivers are to support the children's educational case planning and educational goals to include case plans, Needs and Service Plans and Transitional Independent Living Plans.

In instances involving significant discipline or incidents that potentially impact a student's continued enrollment and progress in school, SB 233 requires the caregiver to provide the same information to the student's social worker or probation officer as is provided to the educational rights holder.

Senate Bill 233 also requires a student's social worker or probation officer to direct the caregiver, who is not the student's educational rights holder, to communicate the information described above with the student's social worker, probation officer, or attorney instead of the education rights holder, if direct communication between a caregiver and the education rights holder is inappropriate.

CASE PLAN REQUIREMENTS

Senate Bill 233 requires that court reports, prepared by a social worker or probation officer for periodic review of a child's case, include a factual discussion of the health and education of the minor, including a copy of the complete health and education summary pursuant to [Welfare and Institutions Code Section 16010](#), and including the name and contact information of the person or persons currently holding the right to make educational decisions for the child. It should be noted that health information referenced above shall not be included if it is otherwise confidential under existing law. This bill requires such contact information to be redacted or withheld from the court report in instances where it is determined that disclosure of the contact information poses a threat to the health and safety of that individual or those individuals. The SB 233 expands the required elements of a case plan for a child in foster care to include:

- The health and education summary including the name and contact information of the person or persons currently holding the right to make educational decisions for the child;
- The requirement that contact information be redacted or withheld in instances where it is determined that disclosure of the contact information poses a threat to the health and safety of that individual or those individuals;
- The health and education summary including the contact information for the nearest foster youth services coordinating program;
- An assurance that the placement agency provided the health and education summary to the current caregiver, explained to the caregiver his or her rights and responsibilities, and assisted any caregiver in obtaining the information needed for the health and education summary.

TRAINING REQUIREMENTS

The SB 233 requires resource family applicants' pre-approval training to include training on the importance of the caregiver's role in education, educational protections specific to youth in foster care under state and federal law, and the rights and obligations of caregivers to access and maintain educational and health information. The SB 233 emphasizes the importance and responsibilities of caregivers in the educational success and well-being of children in foster care. Caregivers who are regularly informed of a child's progress in school can better support a child's day-to-day educational needs and ensure their educational success.

If you have any questions concerning this letter, please contact the Placement Services and Support Unit, at (916) 657-1858, or by emailing FosterCareEducation@dss.ca.gov.

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division