

The following document is a template for the use of local CBCs and School Boards who desire to share student information electronically. The template is designed to address FERPA-compliance issues: both Florida Department of Education and Florida Department of Children and Families have reviewed this language and agree that the method described herein permits data sharing in compliance with FERPA and state child welfare confidentiality laws.

This document is a template only. Local child welfare agencies and school boards may revise this document to meet their local needs.

**ELECTRONIC DATA SHARING AGREEMENT
BETWEEN FLORIDA DEPARTMENT OF CHILDREN & FAMILIES;
LOCAL CBC; CBC PROVIDER AGENCIES AND LOCAL SCHOOL
DISTRICT**

THIS AGREEMENT is made and entered into this _____ day of _____, 2012 by and between

THE FLORIDA DEPARTMENT OF CHILDREN & FAMILIES (“the Department”) the state agency required by Florida law to contract for the provision of child welfare services;

AND

CBC [name], the local not for profit agency and independent contractor that provides case management and related services through contract with and on behalf of the Florida Department of Children & Families in [describe geographic area] to “children known to the department”, as that term is defined in § 39.0016, Fla. Stat.;

AND

CMOs [names], [repeat this paragraph for each of the CMOs providing services within the locale of this school district] a local not for profit agency and independent contractor that provides specific case management and related services, as defined in contract with CBC, to children known to the department;

AND

THE [School Board - name] (“School Board”), the local education agency required by Florida law to provide K-12 education services to the students of _____ County, Florida, collectively hereinafter referred to as the “**PARTIES**,” with the Department, [names: CBC and CMOs] collectively hereinafter referred to as “**Child Welfare**”.

WHEREAS, § 39.0016, Fla. Stat. requires the Department to enter into agreements with district school boards, which agreements must include a protocol for the sharing of information for children known to the Department; and § 39.0016(2)(b)1.c, Fla. Stat. requires each School Board or other local educational entity to access the Department’s official system of record, Florida Safe Families Network (“FSFN”) to obtain information about the children known to the Department; and

WHEREAS, Title IV-E of the Social Security Act (42 U.S.C. § 675(1)(c)) requires child welfare agencies (the Department and its providers) to maintain the “educational

reports and records” for children known to the Department in the children’s case plans;
and

WHEREAS, the Fostering Connections to Success Act (P.L. 110-351) requires the Department to provide an assurance in each case that the child's placement in foster care takes into account the appropriateness of the child’s current educational setting; and

WHEREAS, the parties respect the fact that the mutual sharing of data, including electronic data, by and between them is subject to state and federal confidentiality provisions, including:

A. Florida law, including Florida Statutes:

§ 39.0132(3): court records of dependency proceedings confidential;

§ 39.0132(4): information obtained by the Department (and other entities) during the dependency court process confidential;

§ 39.202(2): all records held or generated by the Department concerning reports of child abuse, etc. confidential;

§ 39.202(5): name of person reporting abuse, etc. confidential;

§ 39.202(6): records and reports of child protection team of the Department of Health confidential;

§ 39.809(3), (4): all hearings, court records and Department records concerning termination of parental rights confidential and closed to public;

§ 383.412: information held by State Child Abuse Death Review Committees that reveal identities of surviving siblings, family members, or others living in home of deceased child confidential;

§ 409.821: any information identifying an applicant or enrollee of the Florida Kidcare program held by the Department is

confidential;

B. Federal law, including

The Child Abuse Prevention and Treatment Act (“CAPTA”), 42 USC § 103(c)(2) of the act; and 5104(c)(2);

The Family Educational Rights and Privacy Act (“FERPA”) 20 U.S.C. 1232g and its implementing regulations at 34 C.F.R. Part 99, which prohibit the disclosure of personally identifiable information (“PII”) except upon the written consent of a parent as defined therein; or pursuant to a court order or court-issued subpoena; or pursuant to specific exceptions relating to the conduct of research studies, audits and evaluations; and

WHEREAS, children known to the Department are significantly less successful in school than their peers. The Department conducted a test analysis of youth who aged out of care in 2007 and found 40% had dropped out of school, compared to 16% of all youth. That same year, only 26% of youth aging out of care received a standard high school diploma, compared to 47% of all youth in that year. The barriers facing children known to the Department are outlined in the “Guide to Improve Educational Opportunities for Florida’s Foster Youth”, which is incorporated in the Statewide Educational Interagency Agreement and which details the following barriers:

- School instability: Youth in state care frequently move to a new home and each move typically results in a change in school.
- Youth in state care have higher rates of physical, developmental and mental health problems.
- Youth in state care have higher rates of truancy, discipline problems and school dropout rates.
- Youth in care may not have a consistent adult to advocate for educational services and support educational goals.
- Youth in state care want post-secondary education, but they are far less likely than their peers to achieve it.
- A large number of youth in the child welfare system have undiagnosed disabilities.
- Most youth who enter state care have experienced some form of trauma that will have long lasting effects on their physical, developmental and mental health which places these students at greater risk of exposure to criminal prosecution, placing youth who are the victims of abuse and neglect into the “school to jail pipeline.”

NOW, THEREFORE, the parties hereby agree to share electronic student data across systems, in full compliance with state and federal confidentiality requirements, particularly FERPA, to provide and improve services and resources needed to meet the needs of children, families, and caregivers; to achieve continuous

improvement across programs; and to make informed public policy decisions all to improve the level of educational achievement for children known to the Department through an examination of barriers and promising practices, enabling the creation of individual and collaborative programs to eliminate barriers and include promising practices, without duplication of services.

ARTICLE I – FERPA AND CONFIDENTIALITY COMPLIANCE

1.1 School Board’s access to the Department’s Florida Safe Families Network (“FSFN”). § 39.0016(2)(b)1.c., Fla. Stat. requires each School Board to access FSFN to obtain information about the children known to the Department. The Department will extend direct access to FSFN to School Board upon School Board’s completion of a data sharing protocol.

1.2 Child welfare’s access to School Board data – Parental Consent or Court Order required. Data may only be provided to child welfare by School Board pursuant to FERPA and its regulations, as detailed below.

1.3 Child Welfare’s Process for Obtaining parental release or court order. This data sharing agreement applies to children who are placed by the court in all available placement types, including licensed foster care, placement with relatives or other adults, as well as children who are permitted to remain in, or be returned to, their own homes under Departmental supervision.

The Department, through its lawyers in Children’s Legal Services (“CLS”), who appear in dependency court on behalf of the State, secures a parental release or a court order at the beginning of the dependency court process (either at shelter hearing or the arraignment hearing if the child is not initially sheltered) which recognizes the parent’s¹ authorization for School Board to release records to child welfare. If the parent fails to appear in court or is otherwise unavailable to sign the release, the court order itself authorizes the release if the court finds this release is in the child’s best interest.

Where appropriate, child welfare will seek a release from the child’s foster parent for child welfare to access personally identifiable student information.

When child welfare obtains the parental consent, foster parent’s consent or court order, CLS will promptly enter the date the release and/or court order was obtained into FSFN.

¹ “Parent” in this context is the child’s biological or adoptive parent or legal guardian from whom the child has been removed due to that parent’s alleged or actual abuse, abandonment or neglect of the child.

1.4 School Board's verification of parental release or court order. School Board may, at any time, access FSFN in accordance with a confidentiality protocol, to verify that a parental release or court order authorizing the release of student records has been entered by CLS in FSFN for each child whom Child Welfare has included in its data request to the School Board.

1.5 Confidentiality of Exchanged Information. The Parties acknowledge that, during the term of this Agreement, confidential information of a special and unique nature will be disclosed to each other. Each Party will protect Confidential Information received from the other Party in a manner that will not permit the personal identification of a child or his or her parent, including foster parent, by persons other than those authorized to receive the records.

ARTICLE II – DATA SHARING

2.1 Data Exchange.

Child Welfare will provide a list of names of children known to the Department and under active supervision of the Department. This list of names will be provided from the Department's official system of record (FSFN) and will be limited to those children for whom it is has secured a parental release or court order. School Board will provide child welfare an agreed-upon set of data elements in a format consistent with that which the School Board uses to report the data elements to DOE as part of Survey 5 or other related standardized reporting process.

2.2. Specifics of exchange.

Provide a detailed description of the particular project including a description of the specific data that will be exchanged, how often the exchanges will be conducted, and the method of conveyance.

ARTICLE III

DURATION OF AGREEMENT

3.1 This Agreement shall commence on _____, 2012 and will continue in effect until terminated by either Child Welfare or School Board. The parties will review and amend this Agreement as necessary.

Instructions: may insert necessary articles concerning assignment, confidentiality, dispute resolution, breach of agreement, contract management, etc.

In witness whereof, the parties hereto cause this AGREEMENT to be executed by their duly authorized representatives:

[agency] _____] _____
[individual] _____
[principal place of business] _____
Date: _____
School Board

[agency] _____] _____
[individual] _____
[principal place of business] _____
Date: _____
CBC

[agency] _____] _____
[individual] _____
[principal place of business] _____
Date: _____
CMO

[add additional signatures here]

APPENDIX I

COURT ORDER AUTHORIZING DISCLOSURE OF MEDICAL AND EDUCATION RECORDS

ORDER AUTHORIZING ACCESS TO CHILD’S MEDICAL AND EDUCATIONAL RECORDS

THIS CAUSE came on to be heard concerning the Department’s and Case Management’s access to the medical and educational records of _____, a child.

The Court finds:

A. As to medical records and information:

___ _____, mother/father of _____, the child, consents to the entry of this order, and to the court's providing access to the child's medical records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's medical information to the court.

___ No parent or legal guardian of the child is available or able to consent to the entry of this order, or the parents withhold consent to providing access to the child's medical records and/or to providing the requested medical information.

___ Access to the child's medical records and information is necessary to provide services to the child.

B. As to educational records and information:

___ _____, mother/father of _____, the child, agrees to sign a written consent authorizing the release of the child's educational records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's educational information to the court.

___ _____, mother/father of _____, the child, consents to the entry of this order, and to the court's providing access to the child's educational records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's educational information to the court. ___ _____ mother/father of _____, the child, also consents to the release of the child's educational records by the department, its contract agencies, and any guardian ad litem and attorney for the child, for the purposes of evaluation and treatment of the child.

___ No parent or legal guardian of the child is available or able to consent to the entry of this order, or the parents withhold consent to providing access to the child's educational records and/or to providing the requested educational information.

___ Access to the child's educational records and information is necessary to provide services to the child.

Therefore, it is Ordered:

The department, _____ (name of CBC), its contract agencies, _____ (name), guardian ad litem, and _____ (name), attorney for child, are authorized to access the (child's name)'s medical and educational records and information, until further order of this court.

___ This order does not address the child's privacy rights to any of these records or information that may exist under Florida law. The child may assert to this court any objection under privacy rights to the release of this information.

ORDERED on(date)....., in, County, Florida.

Circuit Judge

Copies to:

(Check all that apply)

- Attorney for THE DEPARTMENT:(name).....
- Caseworker:(name).....
- Guardian ad Litem:(name).....
- Attorney for mother:(name).....
- Attorney for father:(name).....
- Attorney ad litem for child:(name).....
- Child named above(name).....
- Other:
- Other: _____

APPENDIX II

**SAMPLE CONSENT AUTHORIZING RELEASE OF
EDUCATION RECORDS TO CHILD WELFARE**

