

When Does Confidentiality Become an Impediment Rather Than a Pathway To Meeting the Educational Needs of Students in the Foster Care System?

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Abstract

The benefits of public, child welfare and education collaborations are numerous. However, different privacy laws that dictate professional practice within each respective system may cause tensions to surface across service agencies in the interpretation and implementation of these policies. A new perspective on the interpretation of these confidentiality policies is offered to guide the child welfare and education workforce in cross-disciplinary decision-making that maximizes the educational well-being of children in care.

Key words: ethical decision-making; confidentiality policies; child welfare; educational well-being

1. Introduction

The foster care system involves people from various disciplines who play varying official and interpersonal roles. Included are governors, state legislators, and tribal leaders; state and county administrators of health, social, education, and workforce development; judicial leaders and state court personnel; case workers and other direct service providers; foster and adoptive families and relatives of children in care; and children's advocacy organizations. This list is among others who provide input into program and policy development. All play an essential role in the comprehensive care of youth in foster care. Currently, there is a lack of clear and consistent rules regarding hierarchy and problems with interagency communication, compounded by the sheer number of partners.

Specific questions exist that are still being debated by these various stakeholders, including which entity will make the best interest determination for a child to remain in the same school. For the child welfare agencies, safety is of the utmost priority for youth in care. For educators, the highest priority is their duty to provide foster care students with access to a free public education. These priorities do not necessarily align.

Sharing school and child welfare case information across systems is critical in the provision of adequate education. However, professionals in these systems often find the confidentiality and privacy policies that control the release of education and child welfare records to be unclear. When interpreted differently, these policies can hinder the appropriate transfer and disclosure of information. Youth in foster care suffer when the multitude of agency personnel responsible for making life-altering decisions fail to coordinate with one another, either from a lack of understanding of privacy and confidentiality laws or a failure to understand the impact of the decisions. As noted by Zetlin, Weinberg, and Shea (2006), “effectively addressing the educational needs of foster youth requires collaboration among the child welfare system, the schools, and other community resources Regrettably, however, these systems typically operate separately even though the actions of each affect the same children’s lives” (p. 166).

1.1 Purpose

This paper specifically examines the roles of schools and child welfare agencies and the laws that govern their efforts to meet the education needs of the population. This paper then describes two factual case studies to illustrate the relationship (or lack thereof) between child welfare and education professionals in service provision. Next, an analysis of child welfare and education system interaction is presented. In conclusion, authors discuss implications for policymakers, educators, child welfare professionals, and related practitioners on how to ethically address the educational needs of children in foster care.

2. Confidentiality Policies That Impact Decision Making

Two policies have been instituted to protect the privacy of young people who are in the child welfare and education systems: the Child Abuse Prevention and Treatment Act of 1974 (CAPTA, 42 USC 5101 et seq; 42 USC 5116 et seq) and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g). Let us consider each briefly.

2.1 Child Abuse Prevention and Treatment Act of 1974

The Child Abuse Prevention and Treatment Act (CAPTA) was the first major federal regulation of the child welfare system. Last reauthorized in 2010, CAPTA has influenced law, policy, and practice changes in state and county child protective services (CPS) for more than 35 years. Prior to its passage, the nation’s government allowed states and local government authorities to decide how they were going to address child maltreatment, providing only weak federal policy guidance (“About CAPTA: A Legislative History,” n.d.; Pecora et al., 2009; Trattner, 1998). CAPTA draws authority for its confidentiality mandates from the Social Security Act (CAPTA, 1974, sec. 205.5). This is the case because funds from the Social Security tax finance the child welfare system.

Specific provisions of CAPTA require that the secretary of the U.S. Department of Health and Human Services “shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data” [CAPTA, 1974, pt. sec. 103(C)(2)]. While CAPTA restricts access to identifying information, it allows for the involvement of a broad array of stakeholders. These stakeholders include government officials outside of the child welfare system (CAPTA, 1974). Therefore, schools can be included in the information exchange, according to this description in CAPTA: “other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose” (CAPTA, 1974, sec. Eligibility

Requirements (2)(A)(v)(VI)). In cases where states do not make special exceptions for schools, child welfare agencies are only allowed to share information about service recipients in very narrow circumstances: (a) in conjunction with a state plan for financial assistance, (b) in the case of an audit, and (c) in cases of suspected abuse or neglect. CAPTA also instructs child welfare agencies to share information only with entities that have the same rigorous level for ensuring confidentiality as they do. Another safeguard component is the provision that child welfare service recipients must give their consent before their confidential information may be shared (CAPTA, 1974). This protection may become problematic when a combative relationship exists between a child's family of origin and the child welfare agency because it may prevent the information sharing required to fully develop a child's education plan.

2.2 Family Educational Rights and Privacy Act of 1974¹

The Family Educational Rights and Privacy Act (FERPA) was instituted to create federal controls and national consistency for primary and secondary education. It arose during an era of civil rights reform that saw a great deal of attention paid to the concepts of privacy, government oversight, and federal tightening of funding mechanisms for higher educational institutions (Buchanan, 2009). As enacted, FERPA creates very strict controls on information sharing. In fact, only in very rare cases can someone who is not a student, a parent, or a school affiliate access identifying student data. These circumstances include possession of a court-ordered subpoena, health and safety emergencies, and when there is the consent of the student or parent. For instance, schools may share information "in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals" [FERPA, 1974.-a, sec. (b)(1)(I)]. In such an emergency, schools may release information to "any person whose knowledge of the information is necessary to protect the health or safety of the student" [FERPA, 1974-b, sec. 99.36(c)].

FERPA allows some flexibility with its broad definition of parent. According to the law, a parent can be "a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian" [FERPA, 1974-b, sec. 99.3 (parent)]. This is particularly important to children who do not reside with their biological parents because it allows a range of caregivers to access their confidential information. Such information can aid caregivers in engaging in activities such as rewarding academic performance, securing tutoring services, creating a consistent behavior modification plan at school and home, etc.

The privacy provisions of CAPTA and FERPA are designed to protect children and families, preserve their dignity, and guard them from needless embarrassment; they create extensive hurdles to accessing and sharing records between the child welfare and education systems. Many of these hurdles are related to misunderstandings on how the laws should be interpreted. Regardless of the reason, it is problematic when decisions to withhold information subsequently cause harm, as the following case studies illustrate.

3. Case Examples

3.1 Case Study A: Allegra

The first case study involves Allegra (a pseudonym), a child who suffered a closed-head injury in a car accident when she was four years old. As a result of the accident, she experienced frequent seizures, an inability to walk without a leg brace, developmental delays in language and social skills, and behavioral problems, including severe tantrums. Due to the extent of her injuries, Allegra's parents were unable to care for her, and she was placed in a foster care home that was overseen by Agency X.

When Allegra was seven years old, Agency X transferred her case to Agency Y. At this time, a case worker at Agency Y noted that the state of neglect from Allegra's Agency X foster care placement was profound. Allegra's leg brace did not fit and she weighed only 45 pounds. In addition, the child's case file did not contain any recent school

records. As the new Agency Y case worker prepared to transfer Allegra to a school closer to her new foster home, she discovered that the absence of records was likely due to the fact that Allegra had not attended school in more than a year. Despite her absences, the child's school of origin did not file a truancy complaint with school administrators or make an official report of educational neglect to the public child maltreatment investigators. The physical and educational neglect depicted in this case study may have been prevented or ameliorated through the use of cross-system communication. Had the school reported Allegra's truancy to the child welfare system, her physical condition would probably have been discovered during the subsequent investigation.

3.2 Case Study B: University Q

In order to ensure the educational success of former court wards (i.e. youth who have aged out of care), one of the first foster care and higher education programs was founded in 2008 at a state university, "University Q", in the Midwest region of the United States. To maximize financial aid packages for foster youth on campus, University Q explored funding opportunities outside the university system. The federal Education Training Voucher (ETV) program, established under the Promoting Safe and Stable Families Amendments of 2001 (P.L. 107-133), increases college access opportunities to former foster youth by providing up to \$5000 a year for college-related expenses. To be eligible for ETVs, youth have to have been in foster care on or after their 14th birthdays, and when they were younger than 23 years old. The state administers the ETV program through a coordinator at a local, privately run, child welfare organization. The ETV coordinator was eager to assist the university in ensuring that eligible students were enrolled in ETV. All the university had to do was provide the ETV coordinator with the names and birth dates of the students who indicated that they were "wards of the court" on their Free Application for Federal Student Aid (FAFSA) forms. When the program requested the necessary FAFSA information from the university's financial

aid office, the office stated that the information could not be shared with the program or the ETV coordinator without individual students' signed consent, due to FERPA restrictions. The university refused to collect the necessary consent in its annual enrollment or financial aid processes. It was argued that adding additional questions to these application materials would make them more cumbersome. Furthermore, the costs associated with modifying these materials were thought to be too high given the small number of students likely to benefit. The university's resistance to gathering consent for cross system collaboration created a barrier for financial aid disbursement to hundreds of financially vulnerable students who could have otherwise benefited from the ETV program.

4. Analysis of the Application of Confidentiality Policies in the Case Studies

4.1 What makes something an ethical problem as opposed to a technical one?

The most important point to grasp is that the cases introduced in this manuscript do not simply reflect practical problems related to sharing information at the juncture of child welfare and education, but ethical failures as well. Yet, before we examine these ethical problems, we must first concern ourselves with a logical question: what makes something an ethical problem, as opposed to a technical or practical problem? In professional settings such as medicine, education, social work, or child welfare, all problems are, in a certain sense, ethical problems. Professions (as opposed to businesses) are values-driven institutions in that their ultimate purpose is not to generate profit, but to promote the good of others (Bayles, 1989). Professions are also characterized by *fiduciary* relationships (Bayles, 1989). Professional relationships are fiduciary because there is an imbalance of power requiring that one party to the relationship must trust the other party to act in his or her best interest. In this special kind of relationship, as opposed to commercial relationships, the professional possesses a great deal of subject matter knowledge

and skill and the clients are dependent upon the judgments of the professional. This asymmetry is especially evident when dealing with particularly vulnerable populations, such as children in foster care. Indeed, one widely accepted ethical principle is that when one party to a relationship is highly dependent upon the other, the second party has a correspondingly heightened obligation (Baier, 1992; McConnell, 1997). So, to the extent that foster children are especially vulnerable, the professionals and the organizations that care for them have a commensurately higher obligation to look after the well-being of these children. Therefore, the lapses in coordination between agency Y and Allegra's school and between University Q and the ETV program were not simple technical failures. These organizations shared an obligation to protect and promote the well-being of the vulnerable children and young adults receiving their services.

4.2 What kind of ethical problems do these cases represent?

These cases clearly reflect failures to properly discharge obligations to act in the best interests of the children in question. Ethical issues arise at different levels. Professional ethics may distinguish between two levels of ethical problems. Much of the history of professional ethics has dealt with ethical issues directly related to service delivery. These include ethical dilemmas related to serving clients, students, patients, and so on. Issues such as respecting client self-determination, promoting client well-being, establishing appropriate, professional boundaries, and maintaining confidentiality are common direct service ethical issues.

However, over the years, as professionals and organizations have tried to understand ethical issues that arise in the context of providing services, it has become clear that a thorough analysis and resolution of any ethical problem must be considered from a broader perspective. So, in the past twenty years or so, considerable attention has been given to so-called organizational ethics. Organizational ethics is concerned with the ethical decisions of organizations as moral agents in themselves, along with the internal and external forces at play

in those decisions (Boyle et al., 2001). These forces may be both formal – related to laws, policies and procedures – or informal, related to the internal and external relationships, the atmosphere of the workplace, and the way in which things tend to get done. Organizations, whether governmental, educational or social service, have obligations, which are spelled out in professional codes of ethics and organizational mission statements. Our cases contain ethical issues at both organizational and direct service levels. Let us consider them separately and then consider how they jointly give rise to the problems in our cases.

4.3 Direct Service Issues—Confidentiality and Client/Student Well-Being

In both of our cases, there was a reluctance to share information between organizations. Most professional codes of ethics contain language regarding appropriate and inappropriate sharing of information. The National Association of Social Workers (NASW) Code of Ethics states that, “Social workers should respect clients’ right to privacy” (National Association of Social Workers, 2008, sec. 1.07). It goes on to say, “[o]nce private information is shared, standards of confidentiality apply” (National Association of Social Workers, 2008, sec. 1.07) (While child welfare case workers come from many professions and academic disciplines, we focus on social work in this manuscript because it is the profession most closely related to providing child-welfare service). Similarly, the National Education Association Code of Ethics states that educators, “shall not disclose information about students obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law” (National Education Association, 2002-2012, Principle 1.8).

Confidentiality and privacy are traditional professional values, but other values and principles of professional ethics reinforce their importance. One such value is that of self-determination. People value the control they are able to exercise over their own lives. One area of life that people seek to control is the amount and type of information

available about themselves. That is, people value privacy and therefore want to regulate what others may know about them. Hence, the moral importance of confidentiality is a consequence of our more general commitment to self-determination. The connection between confidentiality and self-determination is made evident by reflecting on the fact that client consent is often required before disclosing private records. However, when the clients in question are children and youth, as they are in the cases described here, the ethical significance of self-determination is less than it would be for adults. Recall that in Case Study B, University Q would not identify which of its students were former wards of the court without their consent. That is, it would be up to the students to decide whether they want this information disclosed on their FAFSA forms.

Given that children's self-determination is limited, the obligation to promote and protect client well-being, another standard value in professional ethics, must take precedence. Clients are justified in expecting professionals to make judgments in their best interests. Maintaining confidentiality in the professional-client relationship allows the professional to help clients in that they would otherwise be reluctant to speak openly and honestly without the promise of confidentiality. Consequently, professionals would be limited in their efforts to act in the client's best interest. Breaches of confidentiality can also have harmful consequences. For example, some current and former foster children are embarrassed about having experienced abuse or neglect. As a result, they may be reluctant to share information about those experiences.

Along with traditional reasons for maintaining confidentiality or restricting the disclosure of information, there are some widely accepted justifications for allowing the sharing of information that would ordinarily be kept confidential. One of the strongest justifications for breaching confidentiality is to prevent harm to innocent outside parties – so-called duty-to-warn cases (McConnell, 1997; Congress, 1996). However, the protection of outside parties is not an issue in

either of these cases. Another common rationale for disclosing confidential information is to protect the persons involved or to promote their welfare. This is precisely the circumstance in these cases. Disclosing confidential information of competent, self-determining clients may be ethically problematic without their consent. Indeed, in the case of the foster children who are eligible for additional college financial aid, this is one kind of barrier. The eligible students are competent adults.

4.4 The Information-Sharing Organizational Ethics Issues

We have just discussed the ethical considerations related to confidentiality and the sharing of information in direct service as they relate to our two cases. But as noted above, any comprehensive examination and resolution of the problems in our cases require us to consider them from an organizational perspective. Social service agencies, such as those mentioned in our cases, are entrusted to protect and promote the well-being of their clients. To fail in this regard is not simply a failure of any individual, but of an organization. Whether it relates to education or social service, for almost every ethical failure, there is an organizational backdrop that contributed to it (Boyle, DuBose, Ellingson, Guinn & McCurdy, 2001). When this occurs, ethically responsible organizations conduct a so-called root-cause analysis. A root-cause analysis is an investigation of the causal sources of the problem (Rooney & Vanden-Heuvel, 2004). The rationale for this is that if the ultimate causal sources of the problem can be identified, then those sources can be addressed, so the ethical failure is less likely to reoccur in the future. Often, attempting to diagnose the causal source of ethical failure can be a complex process. Ethical problems can be systemic, meaning that the problem is a consequence of the system, as opposed to an individual's poor choice. In such cases, it may be that compliance with a law or policy leads to unforeseen ethical problems. For instance, a policy might make it difficult to do the right thing. In addition, the absence of laws requiring the proper conduct (e.g. interagency collaboration) can lead

to inaction when action is ethically justified. When that is the case, a root-cause analysis might reveal that the policy could be revised so its intended purpose is still achieved, but negative effects can be avoided.

As illustrated by the two case examples, lack of clarity on how to apply and interpret confidentiality policies across systems impedes the educational success of foster care youth. There is a culture of confidentiality such that, when in doubt, the tendency is to err on the side of not disclosing information. When the punishment for violating confidentiality is perceived to be more severe than that for failing to disclose information, the natural tendency will be not to disclose. Furthermore, improper attention to confidentiality and privacy concerns disallows professionals from properly discharging obligations to act in the best interests of foster youth. In many cases, education and child welfare professionals and systems can address the ethical concerns arising at their intersection, while adhering to the laws that govern them. In other cases, new policies are needed.

5. Recommendations for Ethical Policy and Practice

5.1 Practice Implications

For child welfare agencies, safety of youth is the utmost priority in care. For K-12 educators employed in publically funded institutions, the highest priority is to provide foster care students with access to a free public education. For publicly funded higher education institutions, the goal is to provide high quality and affordable education services. These priorities across child welfare and education agencies do not necessarily align.

The case of Allegra is a tragic example of how independent systems, designed to provide quality treatment, failed to understand how to work together to best serve a child in the foster care system. Individuals ignored the guidance from existing laws and the ethical codes of their professions. The school failed to report Allegra's chronic school absenteeism to the child welfare authorities

despite its legal mandate to do so. Furthermore, the original child welfare agency did not communicate with the school to coordinate services despite its ethical obligation to do so. Allegra was vulnerable, and, while each system could cite ethical reasons for not collaborating or disclosing information, the failure to collaborate constitutes unethical behavior: failing to report the neglect and failing to see they were collaborators, in addition to being service providers.

Personnel from each system interacted with Allegra independently. They viewed their ethical responsibility to her through the lens of their own professional duties, rather than through a lens of collaboration with other systems. This lack of interaction resulted in gross neglect.

According to the U.S. Department of Education's website (2004), when CAPTA and FERPA conflict, CAPTA supersedes FERPA. This suggests that it may be the responsibility of the education institutions to take the lead in providing information to the child welfare agency to ensure that young people do not miss out on critical resources necessary for educational success.

Schools can do more to develop and institutionalize policies and procedures for protecting this vulnerable population. Schools can educate their teachers and support staff about foster care, its impact on the child and learning, and strategies to improve outcomes. They can commit themselves to enrolling foster children, even if all the necessary documentation is not available. School administrators can make sure that school data are routinely entered into school records and that school records follow these students as they are placed and re-placed in foster-care homes.

The child welfare system can also do more to support the education of foster children by providing training to develop case worker awareness about the kinds of educational barriers that foster youth encounter. Child welfare professionals can make sure that appropriate consents are in place for school testing, services, and college financial aid package maximization. They can make tutors and mentors available for those foster youth who

experience high mobility, and can work intensively with older youth around good planning and decision-making with respect to their futures.

The high rate of school mobility of children in foster care must be reduced. Children should be placed in foster homes near where they have been living so they can remain in their original schools. When this is not possible, Title IV-E funds should be set aside to cover transportation as well as education costs, so that children living in foster placements outside their home neighborhoods are able to remain in their original schools.

Poor integration and coordination of the efforts of the child welfare system with the efforts of other public institutions continue to impact the educational success of foster care youth. In addition to implementation problems, the lack of coordination of initiatives impedes the ability to create and enforce accountability measures when outcomes are not achieved (e.g. attendance, retention, graduation rates, etc.). To maximize educational success, public child welfare agencies need to interact regularly with local education authorities, including intermediate school districts or regional education authorities and institutions of higher education to ensure that transitions between systems are as seamless as possible.

5.2 Policy Implications

The two policies discussed in this manuscript do a good job of protecting the privacy and confidentiality of the children involved in their respective systems. Both systems have strengths related to cross system collaboration. For instance, CAPTA allows states to legislate permission for schools to access child welfare data. In addition, CAPTA allows for exchange of information in cases of suspected abuse or neglect. Similarly, FERPA condones dissemination of protected information in the face of health or safety emergencies. Furthermore, both CAPTA and FERPA empower service recipients to restrict access to their files by requiring their consent for data release in routine situations. With its flexible definition of parent, FERPA creates opportunities to consider the

unique needs of foster youth. As a result, child welfare professionals with temporary legal custody of youth can access student data more easily.

While these laws can work well together, they also may conflict at times. When CAPTA and FERPA conflict, CAPTA supersedes FERPA (U.S.D.O.E., 2004). This hierarchy may limit the amount of information that education institutions can receive from child welfare agencies about a particular student. Despite this potential for one-way transmittals, educators must continue to share data with child welfare professionals in order to best serve vulnerable youth. Our two case studies illustrate the potential for young people to miss out on critical resources necessary for educational success if education systems fail to communicate with child welfare agencies.

Despite inherent advantages in the inter-agency communication framework created by CAPTA and FERPA, several gaps exist in the provision of cross system service. These shortcomings are most apparent when professionals fail to take advantage of the possibilities for collaboration allowed under the laws. Our case studies represent such examples. To fulfill ethical obligations and to ensure that the best interests of children are met in out-of-home care, some additional policies should be considered: McKinney-Vento Homeless Assistance Act (McKinney-Vento, 101 Stat. 482, 42 U.S.C. § 11301 *et seq.*) the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections, P.L.110-351) and the Uninterrupted Scholars Act of 2013.

5.2.1 McKinney-Vento Homeless Assistance Act of 1987

The McKinney Vento Act is a federal law designed to increase the school enrollment, attendance, and success of children and youth experiencing homelessness (Julianelle, 2008). It was first enacted in 1987, reauthorized as part of the No Child Left Behind Act in 2001, and amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH) of 2009. Although originally designed to address

the educational stability of homeless youth, the act has been providing education stability for some children in out-of-home-care (Legal Center for Foster Care & Education, 2011), including children and youth awaiting foster care placements, lacking a home, or living in a transitional setting. The law requires assessment of the best educational setting for children, and it provides supports, such as transportation, to keep students in stable educational placements (McKinney-Vento, 1987). For this policy to fully support the pressing educational needs of foster youth, child welfare and educational systems must share information with one another. Local education agency representatives and child welfare case managers have identified communication about the best interests of foster youth as a best practice (McKinney-Vento, 1987).

5.2.2 Fostering Connections to Success and Increasing Adoptions Act of 2008

Fostering Connections responds to a range of issues and concerns raised (some for more than a decade) by child welfare administrators, child welfare advocates, as well as children and youth who have been or are currently in foster care (Stoltzfus, 2008). This manuscript highlights portions of the law related to collaboration between education and child welfare agencies. Title II of the Act helps youth in foster care achieve their educational goals by requiring that state child welfare agencies coordinate with local education agencies to make sure that youth attend school. Agencies are mandated to ensure that foster youth remain in their same school, even if their placement changes, unless it is not in the child's best interest to do so (*Fostering Connections*, 2008). When a move to another school is necessary, enrollment and the transfer of educational records should be seamless (McNaught, 2009; Julianelle, 2008). The Act also clarifies that federal Title IV-E funds, or "foster care maintenance payments," can be used to fund transportation costs connected to maintaining students in their schools (McNaught, 2009). The Fostering Connections legislation also increases supports for youth who are going to college by

expanding eligibility of the ETV program to children 16 and older who have moved from foster care and are adopted or in guardianship (Center for the Study of Social Policy, 2009).

While there is evidence that Fostering Connections seeks to improve the educational outcomes of foster care youth, key issues have yet to be addressed. Education advocates have also rallied around the *Fostering Success in Education Act* in the 111th Congress (S. 2801 and H.R. 5868, respectively) and reintroduced it as an amendment to the Elementary and Secondary Education Act in the 112th Congress (H.R. 5868) as a way to close the gaps in the Fostering Connections Act. In order to fully implement the education provisions of the Fostering Connections Act, child welfare agencies need the full cooperation of state and local education agencies.

If passed, the Fostering Success in Education amendment would ensure that education agencies fully cooperate with child welfare agencies by placing requirements on state and local education agencies that both mirror and extend beyond those requirements placed on child welfare agencies by the Fostering Connections Act (*Fostering Success in Education*, 2009). The Fostering Success in Education amendment clarifies a child welfare agency's education obligations under the Fostering Connections Act. Specifically, the amendment forbids states from segregating foster children by forcing them to attend separate and often inferior schools, such as schools at group foster homes, unless it is documented that particular foster children have disabilities that must be addressed in alternative education settings under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA, 20 USC §1400 et seq.). IDEA requires that state education authorities designate a foster care coordinator to work with state child welfare agencies on the implementation of the Act, creates a process for resolving disputes about whether it is in a child's best interest to remain in a particular school or transfer to a new school district, ensures that foster youth can transfer and recover credits when they change schools, and allows foster youth

who have attended high schools with different graduation requirements to graduate (Van Wingerden, Emerson, & Ichikawa, 2002).

6. Conclusion

Privacy involves the basic entitlement of people to decide how much of their property, thoughts, feelings, or personal data they will share with others (Koocher & Keith-Spiegel, 2009). In this sense, privacy seems essential to ensure human dignity and freedom of self-determination. This paper focused on the aspect of privacy related to the appropriate use and protection of information by assessing the legal and ethical implications of federally mandated privacy policies. Using this framework, we demonstrate that poor interpretation of laws and disregard of ethical mandates prevent students in foster care from receiving an adequate education or having opportunities to maximize academic achievement. As a result of changing schools and subsequent enrollment delays, foster care youth fall behind their peers, lose hope, and ultimately drop out of school at higher rates than their peers (McNaught, 2009). Only between 54 (Benedetto, 2005) and 58 percent of former foster youth graduate from high school by age 19, compared to 87 percent of students in the general population (Courtney, 2009). Those who do graduate from high school are often not encouraged to pursue advanced education. Foster care youth are less likely to attend college (Courtney, 2009) and those that do enroll are less likely to graduate (Day et al., 2011).

For these reasons, a large percent of foster youth will not attain the skills they need to support themselves financially as adults. More highly educated foster care youth are much more likely to be employed in stable, meaningful jobs and much less likely to experience negative outcomes like homelessness and incarceration (Leone & Weinberg, 2010). But school and child welfare systems neither nurture nor help foster children realize their educational aspirations. When children are removed from the family home and their care becomes the responsibility of the state, public

systems must ensure both their safety and their education. In the U.S., resources and technical capacity exist to deliver high quality education that accommodates the needs of this most vulnerable population of students. However, to date the public systems have chosen not to focus attention or energy on doing so. In addition to increasing high school graduation rates, the need for college or vocational education programs for court involved youth has never been greater. Either can serve as a route out of poverty and as a way of being able to provide an adequate standard of living for these youths. A bachelor's degree is an investment that yields returns over the course of an individual's work life: bachelor degree holders earn 61 percent more than those with only a high school diploma (Peters et al., 2009). Even though work life earnings primarily benefit individuals, the government benefits when these persons pay their taxes.

¹Note

A recent response to clarify the provisions of FERPA has come in the form of a bill that moved aggressively through the legislative process—the *Uninterrupted Scholars Act of 2013*. Introduced in August 2012 and signed into law in January 2013, this Act amends provisions of the Family Educational Rights and Privacy Act of 1974 that prohibit the Department of Education from funding educational authorities that release student educational records (or personally identifiable information other than certain directory information) to any individual, agency, or organization without written parental consent. It also expands the list of organizations exempt from such prohibitions (thereby permitting the public schools to release records or identifiable information without parental consent) to include a child welfare agency caseworker or other representative of a state or local child welfare authority to access a student's case plan when such agencies are legally responsible for the care and protection of the student.

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