

## **1200: SOONERSTART CONFIDENTIALITY AND DISCLOSURE REQUIREMENTS**

### **The Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) of 1974, also known as the Buckley Amendment, is a federal law that protects the privacy of student education records. An education agency, institution, or program that receives funds under a program from the U.S. Department of Education (which includes Part C Early Intervention Programs) must abide by the provisions of this law. SoonerStart is Oklahoma's Part C Early Intervention Program and adheres to all FERPA regulations. FERPA specifies that students and guardians have a right to know about the information kept as a part of their educational records.

Under FERPA, a "parent" means a parent of a child and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian (34 CFR § 99.3). Additionally, in the case of the divorce or separation of a child's parents, SoonerStart is required to give full rights under FERPA to either parent, unless the program has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights (34 CFR § 99.4).

The Part C privacy regulations incorporate the privacy protections of the IDEA Part B regulations and the protections and exceptions under FERPA. Signed consent is needed for Part C participating agencies to share personal information with any individuals or entities that are not a part of the Part C system.

However, IDEA Child Find provisions meet an exception under Part C Privacy Regulations that permits the disclosure of limited child find information (e.g., the child's name, date of birth, parent contact information, and reason for referral) to local educational agencies (LEA).

### **The Uninterrupted Scholars Act**

The Uninterrupted Scholars Act (USA) amendment to FERPA became effective in January 2014. This amendment creates a new exception under FERPA that allows education programs to release a child's educational or early intervention records to child welfare agencies without the prior written consent of the parents. The new amendment permits release of early intervention records to "an agency caseworker or other representative of a State or local child welfare agency, or tribal organization" who has the right to access a child's case plan and when the agency or organization is "legally responsible" for the child's "care and protection."

The USA also eliminates the requirement that education agencies notify parents before education records are released pursuant to a court order to any individual, when the parent is a party to the case where that order was issued.

### **Quinton Douglas Wood Act**

FERPA permits disclosure of education or early intervention records, or personally identifiable, non-directory information from education records without parent consent in connection with a health or

safety emergency under § 99.31(a)(10) and § 99.36 of the FERPA regulations. Oklahoma House Bill 3469 created the “**Quinton Douglas Wood Act**” which became effective November 1, 2014.

*“The Department of Human Services or other public or private agency or individual having court-ordered custody or physical custody pursuant to Department placement of the child, or conducting a child abuse or neglect investigation of the child who is the subject of the record... may inspect, without a court order and upon a showing of proper credentials and pursuant to their lawful duties, information that includes, but is not limited to:*

- a. psychological and medical records, and*
- b. nondirectory education records;*

#### **Record Disclosure Requirements for Uninterrupted Scholars Act and Quinton Douglas Wood Act**

Within the policies of the Part C lead agency, the Oklahoma State Department of Education (OSDE), SoonerStart records and information may be released to the Oklahoma Department of Human Services (OKDHS) or their contracting agencies without parental consent when the child is in the Department’s custody or is the subject of an active child abuse or neglect investigation. Upon receipt of a Request for Nondirectory Educational Records - Form 04MP070E and a scanned/faxed image of the OKDHS employee ID badge, personally identifiable information (PII) from the child’s record may be released as requested. SoonerStart policy permits release of the child’s Ages and Stages Questionnaire and results for children who have only received a screening. For children who have been evaluated and/or are receiving services the Multidisciplinary Child Assessment and Team Summary (MECATS) and/or most recent Individualized Family Service Plan (IFSP) may be released. Service Provider progress notes and Resource Coordinator case management notes should not be released without a subpoena.

If asked to verbally share information from the child’s SoonerStart record, SoonerStart staff are required to verify the identity of the OKDHS employee requesting information and the reason for the request (Child is subject of investigation or is in OKDHS custody). Verification can be obtained by asking the OKDHS employee to fax or email a scanned image of their official badge to the local SoonerStart office or provide an official employee ID number via telephone. Information shared with the OKDHS employee should be objective and factual. A note should be entered in the Contact Log of the child’s EdPlan record to document the OKDHS employee’s name, ID badge number and date and time of contact (Do not upload or file a faxed or scanned copy of the employee’s ID badge).

Any staff member having knowledge or suspicion of a specific situation of abuse or neglect involving a child in the SoonerStart program is required by law to report this information to the proper authorities immediately. (See Guidelines for Reporting Suspected Child Abuse or Neglect – Section 2510). Any new knowledge or suspicion must be reported regardless of previous contact with an OKDHS employee regarding an investigation.