Purpose and Audience

This tip sheet, developed by the U.S. Department of Education (ED) in coordination with the the U.S. Interagency Council on Homelessness (USICH), will help state and local education agency (SEA and LEA) homeless education programs, housing and human service agencies, and organizations serving homeless families, children, and youths better coordinate their services by disclosing student data and information with each other. The tip sheet discusses the privacy rights and protections in the *Family Educational Rights and Privacy Act* (*FERPA*) and focuses on the following three areas of student data sharing:

1. Disclosure of aggregate data

2. Disclosure of individual student data with consent

3. Disclosure of individual student data without consent under applicable exceptions outlined in the law

The tip sheet also features observations from LEAs and communities that have implemented effective data sharing and integration strategies to serve homeless families, children, and youths more effectively.

Background

The federal government has promoted the use of data in interagency coordination, grant planning, and decision-making for decades, most recently through the enactment of the *Government Performance and Results Act* (*GPRA*) *of 1994*, reauthorized as the *GPRA Modernization Act of 2010*. The USICH 2010 publication *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* also promotes the use of data to further community coordination and effective decision-making on the use of available resources.

In 2010, the U.S. Government Accountability Office (GAO) issued a report recommending that agencies develop a common vocabulary and align their data standards to facilitate further coordination on homelessness prevention.[1] GAO later cited USICH as a promising example of smart governance and performance management across agencies,[2] and in a 2014 report, encouraged ED to continue its robust coordination with other USICH agencies, for k–12 as well as early childhood education programs and services.[3]

For the past several years, ED has encouraged staff in SEAs and LEAs to attend local and regional interagency meetings on homelessness and to share their state- and local-level data in compliance with applicable privacy laws. In fact, ED has made its state, school district, and school-level data on homeless students—for example, data on student performance on state assessments—increasingly available over the past several years. In doing so, privacy protections were applied to prevent the unauthorized disclosure of personally identifiable information (PII) from education records.[4] PII is defined by *FERPA* to include direct identifiers (*e.g.*, a student's name or identification number), and indirect identifiers (*e.g.*, a student's date of birth, or other information which can be used to distinguish or trace an individual's identity either directly or indirectly through linkages with other information).[5]

Challenges and Benefits of Sharing Data

While there are potential risks to parents and children if their

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1. See *Homelessness: A Common Vocabulary Could Help Agencies Collaborate and Collect More Consistent Data* at http://www.gao.gov/assets/310/306197.pdf.

2. See *Homelessness: To Improve Data and Programs, Agencies Have Taken Steps to Develop a Common Vocabulary* at http://www.gao.gov/assets/590/586998.pdf.

3. See *Education of Homeless Students: Improved Program Oversight Needed* at http://www.gao.gov/assets/670/665185.pdf.

4. To view state data on homeless students, go to http://eddataexpress.ed.gov, click "Build a State Table," select "states to review," click the + sign next to "Homeless Students," click "Homeless Student Achievement," and click "Display Report." School level data are available at http://www.data.gov. Click on "education," then "data," and search by dataset name.

5. See 34 C.F.R. § 99.3 for definitions, including "personally identifiable information" at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34#se34.1.99_13.

homelessness and similar data are disclosed to another entity, such as a child welfare or law enforcement agency, there are also potential benefits, such as allowing these children and parents to have more direct and efficient access to services. It can also enable agencies to better comprehend the needs of their constituents and request additional resources, as necessary.

Many homeless assistance providers and advocates report difficulties in obtaining SEA or LEA data on homeless students who are identified and served by public schools. An increasing trend, however, is for SEAs to publish annual homeless student enrollment totals, by school district and other outcome data, such as graduation and dropout rates. (See text box with web links to examples from Colorado, Virginia, and Florida.)

Data Disclosure and *FERPA*

SEAs and LEAs may be reluctant to disclose student data out of a concern for possibly violating *FERPA*.[6] However, there are opportunities for SEAs and LEAs to legally disclose helpful data to the appropriate parties through de-identification, consent, and certain exceptions to consent under *FERPA*. Homeless assistance organizations in many communities report the benefits of having these data for planning, coordination and evaluation purposes. (See text boxes.)

FERPA generally prohibits the disclosure of PII from student education records without the prior written consent of the parent/guardian or eligible student (students who

are at least 18 years old or attending a postsecondary institution at any age). *FERPA* requires that the written consent specify the records that may be disclosed, state the purpose of the disclosure, and identify the recipient party or class of parties.[7]

However, SEAs and LEAs may disclose de-identified student data without consent.[8] The *FERPA* standard for the need for de-identification assesses whether a "reasonable person in the school community who does not have personal knowledge of the relevant circumstances" could identify individual students based on reasonably available information. This includes other public information released by an agency, such as a report presenting detailed data in tables with small-size cells.[9] The standard used by SEAs and LEAs to determine whether statistical information or records have been sufficiently redacted prior to release should be whether such a "reasonable person" (*e.g.*, a rational individual) in the school community could identify a student because of some well-publicized event, communications, or other similar factor.

To protect the identity of students, SEAs and LEAs may aggregate student data in alternate ways, such as by school rather than grade level, or county rather than LEA level, but this may require additional preparation by the disclosing agency.

There are a number of exceptions

to the *FERPA* prohibition against non-consensual disclosure of PII from student education records.[10] In April 2014, ED released guidance on the most commonly used *FERPA* exceptions to consent.[11] One of those is the directory information exception.[12] "Directory information" is defined as information contained in the education

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6. See 20 U.S.C. § 1232g and 34 C.F.R. § 99 at http://www2.ed.gov/policy/gen/guid/fpco/pdf/2012-final-regs.pdf. See the ED webpage on the *Family Educational Rights and Privacy Act* for more information at http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html.

7. See 34 C.F.R. § 99.30 at http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33#se34.1.99_130.

8. See 34 C.F.R. § 99.31(b) for conditions in which prior consent is not required to disclose information at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34#se34.1.99_131.

9. See 34 C.F.R. § 99.3 at http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33#se34.1.99_13 and § 99.31(b)(1) at http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33#se34.1.99_131.

10. See 34 C.F.R. § 99.31 at http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33#se34.1.99_131.

11. See the Privacy Technical Assistance Center's *FERPA Exceptions Summary* at http://ptac.ed.gov/document/FERPA-exceptions-summary.

12. See 34 C.F.R. § 99.31(a)(11) at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34#se34.1.99_131 and § 99.37 at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34#se34.1.99_137.

Data Sharing Between Homeless Services Continuum of Care CoC and Washington, D.C. Schools

The Office of the State Superintendent of Education (OSSE), the District of Columbia's State Education Agency (SEA), and The Community Partnership for the Prevention of Homelessness (TCP), the District's CoC Lead Agency and Homeless Management Information System (HMIS) lead, worked together for nearly two years to develop and put in place a data-sharing memorandum of understanding (MOU). This MOU ensures effective and ongoing coordination between the SEA and CoC, enabling both to better address the needs of homeless students.

Each month TCP exports client-level data, in compliance with applicable law, from the HMIS, and uploads it to OSSE's State Longitudinal Education Database (SLED)—providing the school system with information on homeless students. OSSE in turn provides CoC staff with access to SLED, allowing homeless services staff working directly with children and families to have access to education data on the homeless populations they serve. These are families and children meeting the HUD and District of Columbia (D.C.) definition of "homelessness," as articulated in the *Homeless Services Reform Act of 2005* (*HSRA*).

Moreover, TCP and its partners within the CoC have implemented a system of coordinated assessment and intake tools into homeless services programs. OSSE has become a key partner in this work. TCP has trained local liaisons from over 20 public and public charter schools on these tools and provided them with access to the HMIS for entering client assessments. OSSE and TCP are working to get all local liaisons trained on the coordinated intake and assessment system by the end of 2015. Additionally, OSSE staff work onsite at the Virginia Williams Family Resource Center, the CoC's coordinated intake facility for families. OSSE staff members provide real-time technical assistance to homeless services staff at the resource center and help explain the benefits to parents of sharing their children's data.

The data shared by OSSE with the CoC is related solely to a student's education records, for which a parent/guardian or the eligible student has provided signed consent, and does not include other data points captured at the CoC point of entry. The data shared between the SEA and the CoC only include information about families that meet HUD- or HSRA-eligibility criteria for homeless assistance services. The SEA does not disclose student information on identified homeless children who are ineligible for HUD or *HSRA* homeless assistance, including families doubling up or staying in motels. For information disclosed by the CoC to OSSE, once OSSE confirms that a a child is enrolled in public schools in D.C., it enters into HMIS some information based on a unique student identifier, in compliance with applicable law. D.C.'s HMIS is robust and includes restrictions to ensure that only authorized parties have access to the collected data.

The OSSE state coordinator for EHCY recommends that SEAs and/or local educational agencies and CoCs work to generate system-wide and community buy-in for data sharing from the very beginning of any such efforts, highlighting the mutual benefits to all families and children who will be served. Another good practice is to involve each agency's attorney from the beginning to avoid a scenario where agencies have invested significant time and energy, only to find out that certain data-sharing strategies cannot be implemented.

According to the state coordinator, data sharing makes it easier for all parties involved to work together to understand the full picture of what is happening with a child and to enable systems to act quickly on a student's behalf to remove barriers and ensure the provision of services without delay. Moreover, as a result of the data-sharing initiative, the D.C. government allocated additional funds to schools to serve homeless children.

records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. This includes a student's name, photograph, date and place of birth, and enrollment status (full-time or part-time).[13]

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13. See 34 C.F.R. § 99.3 for a definition of "directory information," at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34#se34.1.99_13.

A school may disclose directory information without consent if it has given public notice about the types of information it has categorized as directory information, the parent's or

eligible student's right to restrict the disclosure of this information, and the period of time within which a parent or eligible student has to notify the school that he or she does not want any or all of those types of information designated as directory information.[14]

The disclosure that a student is homeless would very likely be harmful to that student, and so would not

be an allowable disclosure under directory information exception to consent. Additionally, under *FERPA*, a school may not disclose properly designated directory information that is linked to non-directory information, which would include a student's homeless status.

SEAs, LEAs, and their interagency collaborators should be clear about what kinds of data should be disclosed and for what purpose. ED has increased technical assistance and guidance on these important

disclosure considerations.[15]

Joint Planning of the Point-in-Time Count

USICH uses data released by the U.S. Department of Housing and Urban Development (HUD) based on annual community point-in-time (PIT) counts to track progress on Opening Doors. HUD requires these counts of all of its local homeless assistance

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14. See 34 C.F.R. § 99.37 regarding what conditions apply to disclosing directory information at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34#se34.1.99_137.

15. See the Privacy Technical Assistance Center's *Frequently Asked Questions—Disclosure Avoidance* at http://ptac.ed.gov/sites/default/files/FAQs_disclosure_avoidance.pdf.

Data Sharing between HUD and Waco (Texas) Independent School District (ISD)

The Homeless Management Information System (HMIS) for the Heart of Texas Continuum of Care (CoC) and Waco ISD's data systems are independent, but coordination between the two systems facilitates the provision of vital services for homeless families, and children. The school district relies on the support from HUD-funded homeless assistance programs to fully address the needs of homeless families; furthermore, is it critical that the HUD-funded agencies know what specific services are most needed by homeless families with school-aged children.

Using the HMIS, Waco ISD shares the number of homeless students and their housing needs with HUD-funded agencies. To facilitate this process, a memorandum of understanding (MOU) between Waco ISD and the city of Waco, which leads the CoC and manages the HMIS, was developed. Confidentiality for homeless students and their families was a primary consideration.

Waco ISD obtains a signed "release-of-information waiver (ROI)" from participating homeless families and assures them that no student's personally identifiable information will be shared with any agency not specified in the waiver. The ROI is constructed in compliance with FERPA, and so written consent is provided by a parent or legal guardian or an eligible student (any student who is at least 18 years old or attends a postsecondary institution at any age). This consent allows the disclosure of personally identifiable information from a student's education records to other entities that will provide homeless assistance services to these students or their families.

The information that is entered into the HMIS helps to document the needs of families and unaccompanied homeless children and to monitor gaps in services. VISTA and Baylor School of Social Work interns assist with collecting and entering the data into the HMIS. As specified in the MOU, the HMIS administrator in the city of Waco maintains control of all data entered into the system; all contacts and requests are made through the administrator's office.

Waco ISD participates in the youth Point in Time (PIT) count by counting hotel families, unsheltered families, and unaccompanied children who are "couch surfing" (involuntarily doubled up in other people's homes; see footnote 19 for more information), and by providing aggregate data and demographics to the CoC.

As a result of data sharing between Waco ISD and CoC programs, HUD-funded program personnel are better informed of the needs of homeless families and children. This collaboration and sharing of information has led to improvements in existing housing options for homeless families and the creation of new housing options. Waco ISD is able to provide families and students with better access to services and can quickly identify students who become homeless during the school year. Families receive needed resources that help stabilize them during their periods of homelessness, and students are able to participate more fully in school.

community planning grantees, known as Continuum of Care (CoC) programs. Approximately 435 CoCs conduct an annual PIT count, usually during the last ten days of January. The PIT count includes people who meet HUD's definition of homelessness—those living in shelters or on the streets. It does not include children or families who are staying in motels or those who are sharing the housing of others due to loss of housing, economic hardship, or similar reasons.[16]

LEAs may find the following strategies helpful as they assist with the PIT count in their communities. Schools and school districts may:

- discreetly refer homeless youths and their parents or guardians to community organizations participating in the PIT count or hosting magnet events;

- advise PIT count staff and volunteers on where in the community homeless youths congregate; and

- review PII on homeless youths residing in the community provided by the PIT count staff, and participate in the deduplication of the PIT count across service-providing agencies by correcting the aggregate counts for subgroups when they can do so without disclosing any PII from education records.

USICH endorses SEA and LEA collaboration in the PIT count, as evidenced in a joint statement issued in August 2013 following the interagency youth PIT count initiative of 2012–13. But, it cautions that LEA staff administering PIT count surveys to

Data Sharing between HUD and Michigan's Wayne County Regional Educational Service Agency (RESA)

HUD-funded homeless assistance providers and the Wayne County RESA have had a partnership for 10 years. The data-sharing aspect of this partnership started five years ago. All Wayne County school districts now have a data-sharing memorandum of understanding (MOU) with Wayne County RESA.

All homeless students complete student identification forms. The second page of the form includes a place for parents to provide their written consent to allow schools to disclose specified data to agencies that are party to the MOU for certain purposes, such as to receive in a timely way extended services beyond those which the school provides. The completed form is provided to the RESA, and the RESA enters the following information on homeless students into the HMIS: school in which the student is enrolled, Social Security number, date of birth, gender, race/ethnicity, and grade.

All HUD-funded agencies are mandated to use the HMIS. Each person entered into the system is given a unique identifying number. While all data collected are aggregated in one record, only authorized school districts and RESA staff can see the complete record, based on each agency's data-sharing agreement.

Wayne County RESA works with schools to provide information for the PIT count. The RESA provides the number of students, by grade and nighttime residence, to the HUD-funded program, and this information is used to amend the PIT count report.

Data sharing enables HUD-funded programs to more clearly understand the number of local homeless families and children that are not being served due to the differences between the definitions of "homeless" used for programs administered by HUD and ED grantees (see footnotes 19 and 20 for additional information). Data sharing enables the RESA to obtain a more complete picture of homeless students, which helps with providing services and funding.

homeless students on school property or at school functions must be aware of the requirements of the Protection of Pupil Rights Amendment (PPRA) to the *General Education Provisions Act*. PPRA requires LEAs to adopt policies that provide parents or guardians with the right to inspect, upon request, surveys being administered to their children that concern specified sensitive areas and all surveys created

by third parties.[17] In addition, if the surveys being administered concern specified sensitive topics, then the PPRA also requires that LEAs directly notify parents, at least annually at the beginning of the school year, of the dates when the survey is scheduled or

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16. Students living in motels were 5.7 percent of all children identified as homeless by LEAs in school year 2012–13, and students in doubled-up situations were 75.5 percent of all children identified as homeless by LEAs in that same school year. EHCY national summary reports are available at http://www2.ed.gov/programs/homeless/performance.html or http://center.serve.org/nche/pr/data_comp.php.

17. See 20 U.S.C. § 1232h(c), "Protection of Pupil Rights," p. 836 at http://www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap31-subchapIII-part4-sec1232h.pdf.

expected to be scheduled and provide them with the opportunity to opt their students out of participation in the survey.[18] It is particularly important to implement procedures for notifying parents in highly mobile homeless families who may not be in the area at the beginning of the school year when schools typically provide the opportunity to opt out. By definition, parental notification is difficult to provide for unaccompanied homeless youths under the age of 18. LEAs should be careful to explain consent forms and the potential consequences of sharing information to parents, guardians, and youths; such forms should be distinguished from routine enrollment paperwork. Discussing consent separately and specifically will allow parents, guardians, and unaccompanied youths to make informed decisions regarding consent.

LEA officials should address other questions about the liability of referring youths to volunteer organizations and events or using school computers to respond to online PIT count surveys based on considerations specific to their communities. However, these ways of referring youths to participate in PIT counts are not categorically prohibited by the PPRA or ED.

Interagency Homeless Data Integration

Some LEAs have integrated information from their data systems with their CoC's Homeless Management Information System (HMIS) that is required to be used by HUD grantees. (See text boxes.) This effort has yielded concrete benefits for homeless youths, such as additional

and better coordinated services. Decisions to integrate data across agencies were all made locally through interagency committees. It took years of planning to create memoranda of agreement and consent forms, as well as to set up protocols for what data should be disclosed and which individuals should have viewer and editing access to each data field, across participating agencies.

While USICH and ED are not recommending that all LEAs integrate or directly disclose PII to their local HMISs, they are aware that other agencies are merging their data systems with HMISs. Data integration is a major trend across other homeless person-serving agencies, such as the U.S. Department of Veterans Affairs and the U.S. Department of Health and Human Services (in its Runaway and Homeless Youth Act programs). It is worth considering for its potential benefits to populations of homeless youths who are perhaps more likely to be served by multiple agencies. These populations include preschoolers, and out-of-school, unaccompanied homeless, and sheltered and unsheltered youths.

If an LEA's k–12 homeless student population is mostly doubled up[19] and does not meet the criteria for HUD-funded homeless assistance,[20] there

may be less immediate benefit to data integration. However, data entry into HMISs may allow communities to answer questions about the number of episodes and duration of homelessness that most LEA data cannot provide.

In summary, the merging or linking of data systems enables city and county governments to

- create a more complete picture of the homeless populations served in the community;

- estimate the costs of serving homeless families, children, and youths across agencies; and

- enable agencies to serve homeless families, children, and youths more efficiently and effectively by evaluating the outcomes of services provided.

For More Information

U.S. Department of Education
Education for Homeless Children and Youth (EHCY) Program
www.ed.gov/programs/homeless

National Center for Homeless Education
800.308.2145
homeless@serve.org
www.serve.org/nche

18. See 20 U.S.C. § 1232h(c)(2), "Parental Notification," p. 836 at http://www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap31-subchapIII-part4-sec1232h.pdf.

19. Under the Education for Homeless Children and Youth (EHCY) Program authorized under *Title VII*, Subtitle B, of the *McKinney-Vento Homeless Assistance Act*, the definition of homeless children and youths includes those who are "sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason," which is sometimes referred to as "doubled up." See http://center.serve.org/nche/legis/mv-def.php for the full definition of "homeless children and youths" used under the EHCY Program.

20. The definition of "homeless" used by programs administered by the U.S. Department of Housing and Urban Development (HUD) differs from that used under the EHCY Program (see footnote 19). See http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap119-subchapl-sec11302.htm for the full definition of "homeless" used by HUD-funded programs.

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