

Confidentiality Subcommittee Minutes

6/22/10

In attendance: Honorable Christine Keller, Cathy Foley Geib, Terri DeFrancis, Susan Pearlman, Fran Carino, Amy D'Amaddio, Roger Bunker

The minutes from the March 31, 2010 were reviewed and one correction was noted. The Advisory Counsel for the Open Court Project should be referred to as the Juvenile Access Pilot Advisory Board. Roger Bunker made a motion to accept the amended minutes and Terri DeFrancis seconded the motion.

Fran Carino suggested consolidating different state agency confidentiality/ information sharing committees. There are several committees that request the attendance of members of this group, and it may make sense to combine the agendas.

1. Update on Confidentiality / Information Sharing Guide-

- Rebecca Morton is researching the privilege provision
- Elizabeth Duryea is researching the information sharing guidelines and case law
- Amy D'Amaddio is the CSSD and the confidentiality subcommittee liaison

2. Legislative Updates

- DCF Bill # 5271
 - The bill did not pass this year
 - Suggestions to remedy the information sharing dilemmas that continue to be a problems given the above bill did not pass
 - Judicial could put it in the omnibus – amend 46b-124
 - Discussed which agency would be in a position to raise the bill in the next legislative session.
- Open Court Pilot
 - Judges survey
 - 56 judges do not agree that Child Protection court should be open
 - Majority of judges don't think delinquency court should be open
 - Law too restrictive- needs to be expanded
 - Interim pilot was previously passed. Judges voted to make the Open Court permanent.
- Raise the Age Legislation
 - Legislation passed to allow for technical provisions
 - Expanded certain motor vehicle cases
 - Allows judges to send cases back to juvenile court

- Court Services Officers (CSO)
 - The language that would mandate CSOs to store the court ordered evaluations did not pass

- Allowing Attorneys to access to educational records
 - Did not pass
 - Ideas to provide attorneys access to their clients educational records include the judge issuing a standing court order or a subpoena for the purpose of allowing attorneys representing children on the delinquency, FWSN and/or child protection docket access to educational records.

- Automatic Erasure
 - Did not pass
 - Judicial does not have the technical capacity

- Judicial shall notify DMV for purposes of administrative sanctions

- Licensed Clinical Social Workers (LCSW)
 - The law allows for LCSWs to report alleged abuse/ neglect but the law does not compel them to testify if the child/parent exercises privilege
 - If a child and/or parent raise the issue that the conversations with the LCSW / records are privileged, then the LCSW can not testify unless an attorney makes a case that establishes “good cause” and the need for the psychological records outweighs the child’s right to privilege.

- Family Relation Counselor
 - Now are mandated reporters

- Educational Stability Law
 - What is the role of a surrogate parent in terms of establishing “best interest”?
 - Can release the educational records
 - It was suggested they don’t have any role in this determination as it is not a program issues but a safety issue- best interest issue.
 - If motion is filed in court, DCF will be told they must remedy the noted concerns
 - DCF anticipates that 85% of the foster children will be returned to their school of origin
 - DCF will be responsible to pay expenses for transportation that exceeds the typical per pupil expenditure.
 - Training for the Child Protection attorneys is recommended to take place in the summer 2011

- Must come up with a special rule for “no nexus” students
 - “nexus” is defined by which district pays the bills
 - “school of origin” is defined as the school that the child has come from; where the child has a connection

3. Other

- FERPA- CT does not have a state statute that conforms to the FERPA criteria for the juvenile justice exception. Having a CT law that aligns with the FERPA exception criteria will allow CT to have a less restrictive system of record exchange between the courts and the schools.
- FWSN Advisory Meeting-
 - Recommendation- to develop a means to allow information sharing between schools and courts and collect data to track outcomes
- Universal Releases-
 - Some states have been successful instituting a universal medical release system-
 - To be effective, states must have a law to force providers to accept the form.
 - Regarding educational records, ask the State Board of Education to agree on a universal release that will be accepted by the Local Education Agencies (LEA)
 - Amy D’Amaddio to research universal releases as it related to education
 - Detention Center educators occasionally encounter problems accessing educational records if a release has not been signed by the parent at the initial remand
 - Juvenile Probation has a policy that instructs probation officers to seek a parent’s consent on behalf of the educational providers in CSSD residential services at the time of remand, but parents occasionally refuse.
 - Committee suggests that if the parent refuses to sign the release when the child is remanded to detention, bring the case back into court and seek a court order
 - In the Child Protection venue, parents are ordered to sign releases for DCF
 - Is it possible to court order parents to sign the releases so the educational programs in Residential Services can access the educational records?
 - Form Task Force to explore potential new practice book rules regarding access to a child’s educational records
 - A concern was raised that parents may not understand the release language on the DCF consent for authorization form
 - For DCF committed kids, only the surrogate can sign releases for educational records....no one else has the authority to sign releases for educational records EXCEPT the surrogate.

The next meeting will be held on 9/14/10 from 2-4 pm at CSSD, 4th floor conference room.