



STATE AND FEDERAL STATUTES APPLICABLE TO CFPT REVIEWS

State Statutes

§ 7B-1400. Declaration of public policy.

The General Assembly finds that it is the public policy of this State to prevent the abuse, neglect, and death of juveniles. The General Assembly further finds that the prevention of the abuse, neglect, and death of juveniles is a community responsibility; that professionals from disparate disciplines have responsibilities for children or juveniles and have expertise that can promote their safety and well-being; and that multidisciplinary reviews of the abuse, neglect, and death of juveniles can lead to a greater understanding of the causes and methods of preventing these deaths. It is, therefore, the intent of the General Assembly, through this Article, to establish a statewide multidisciplinary, multiagency child fatality prevention system consisting of the State Team established in G.S. 7B-1404 and the Local Teams established in G.S. 7B-1406. The purpose of the system is to assess the records of selected cases in which children are being served by child protective services and the records of all deaths of children in North Carolina from birth to age 18 in order to (i) develop a communitywide approach to the problem of child abuse and neglect, (ii) understand the causes of childhood deaths, (iii) identify any gaps or deficiencies that may exist in the delivery of services to children and their families by public agencies that are designed to prevent future child abuse, neglect, or death, and (iv) make and implement recommendations for changes to laws, rules, and policies that will support the safe and healthy development of our children and prevent future child abuse, neglect, and death. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1401. Definitions.

The following definitions apply in this Article:

- (1) Additional Child Fatality. – Any death of a child that did not result from suspected abuse or neglect and about which no report of abuse or neglect had been made to the county department of social services within the previous 12 months.
- (2) Local Team. – A Community Child Protection Team or a Child Fatality Prevention Team.
- (3) State Team. – The North Carolina Child Fatality Prevention Team.
- (4) Task Force. – The North Carolina Child Fatality Task Force.
- (5) Team Coordinator. – The Child Fatality Prevention Team Coordinator. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1402. Task Force – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex

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officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force.

The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- (7) The Superintendent of Public Instruction;
- (8) The Chairman of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of Health and Human Services;
- (11) The Director of the Administrative Office of the Courts;
- (12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
- (15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
- (16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
- (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
- (18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
- (18a) A representative from the North Carolina Domestic Violence Commission, appointed by the Speaker of the House of Representatives upon recommendation of the Director of the Commission;
- (19) One public member, appointed by the Speaker of the House of Representatives;
- (20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
- (21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
- (22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
- (22a) A representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore of the Senate upon recommendation of the Executive Director of the Coalition;
- (23) One public member, appointed by the President Pro Tempore of the Senate; and
- (24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member.

In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term. (1991, c. 689, s. 233(a); 1991 (Reg. Sess., 1992), c. 900, s. 169(b); 1993, c. 321, s. 285(a); 1993 (Reg. Sess., 1994), c. 769, s. 27.8(d); 1996, 2nd Ex. Sess., c. 17, s. 3.2; 1997-443, s. 11A.98; 1997-456, s. 27; 1998-202, s. 6; 1998-212, s. 12.44(a), (b); 2004-186, s. 5.1.)

§ 7B-1403. Task Force – duties.

The Task Force shall:

- (1) Undertake a statistical study of the incidences and causes of child deaths in this State and establish a profile of child deaths. The study shall include (i) an analysis of all community and private and public agency involvement with the decedents and their families prior to death, and (ii) an analysis of child deaths by age, cause, and geographic distribution;
- (2) Develop a system for multidisciplinary review of child deaths. In developing such a system, the Task Force shall study the operation of existing Local Teams. The Task Force shall also consider the feasibility and desirability of local or regional review teams and, should it determine such teams to be feasible and desirable, develop guidelines for the operation of the teams. The Task Force shall also examine the laws, rules, and policies relating to confidentiality of and access to information that affect those agencies with responsibilities for children, including State and local health, mental health, social services, education, and law enforcement agencies, to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect children from preventable deaths, and, if so, recommend changes to them;
- (3) Receive and consider reports from the State Team; and
- (4) Perform any other studies, evaluations, or determinations the Task Force considers necessary to carry out its mandate. (1991, c. 689, s. 233(a); 1996, 2nd Ex. Sess., c. 17, s. 3.2; 1998-202, s. 6; 1998-212, s. 12.44(a), (c).)

§ 7B-1404. State Team – creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Prevention Team within the Department of Health and Human Services for budgetary purposes only.

(b) The State Team shall be composed of the following 11 members of whom nine members are ex officio and two are appointed:

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services, Department of Health and Human Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services;
- (8) The Director of the Administrative Office of the Courts;
- (9) The pediatrician appointed pursuant to G.S. 7B-1402(b) to the Task Force;
- (10) A public member, appointed by the Governor; and
- (11) The Team Coordinator.

The ex officio members other than the Chief Medical Examiner may designate a representative from their departments, divisions, or offices to represent them on the State Team.

(c) All members of the State Team are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1997-443, s. 11A.99; 1997-456, s. 27; 1998-202, s. 6.)

§ 7B-1405. State Team – duties.

The State Team shall:

- (1) Review current deaths of children when those deaths are attributed to child abuse or neglect or when the decedent was reported as an abused or neglected juvenile pursuant to G.S. 7B-301 at any time before death;
- (2) Report to the Task Force during the existence of the Task Force, in the format and at the time required by the Task Force, on the State Team's activities and its recommendations for changes to any law, rule, and policy that would promote the safety and well-being of children;
- (3) Upon request of a Local Team, provide technical assistance to the Team;
- (4) Periodically assess the operations of the multidisciplinary child fatality prevention system and make recommendations for changes as needed;
- (5) Work with the Team Coordinator to develop guidelines for selecting child deaths to receive detailed, multidisciplinary death reviews by Local Teams that review cases of additional child fatalities; and
- (6) Receive reports of findings and recommendations from Local Teams that review cases of additional child fatalities and work with the Team Coordinator to implement recommendations. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1997-443, s. 11A.99; 1997-456, s. 27; 1998-202, s. 6.)

§ 7B-1406. Community Child Protection Teams; Child Fatality Prevention Teams; creation and duties.

(a) Community Child Protection Teams are established in every county of the State. Each Community Child Protection Team shall:

- (1) Review, in accordance with the procedures established by the director of the county department of social services under G.S. 7B-1409:
 - a. Selected active cases in which children are being served by child protective services; and
 - b. Cases in which a child died as a result of suspected abuse or neglect, and
 1. A report of abuse or neglect has been made about the child or the child's family to the county department of social services within the previous 12 months, or
 2. The child or the child's family was a recipient of child protective services within the previous 12 months.
- (2) Submit annually to the board of county commissioner's recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.

In addition, each Community Child Protection Team may review the records of all additional child fatalities and report findings in connection with these reviews to the Team Coordinator.

(b) Any Community Child Protection Team that determines it will not review additional child fatalities shall notify the Team Coordinator. In accordance with the plan established under G.S. 7B-1408(1), a separate Child Fatality Prevention Team shall be established in that county to conduct these reviews. Each Child Fatality Prevention Team shall:

- (1) Review the records of all cases of additional child fatalities.
 - (2) Submit annually to the board of county commissioners' recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.
 - (3) Report findings in connection with these reviews to the Team Coordinator.
- (c) All reports to the Team Coordinator under this section shall include:
- (1) A listing of the system problems identified through the review process and recommendations for preventive actions;
 - (2) Any changes that resulted from the recommendations made by the Local Team;
 - (3) Information about each death reviewed; and
 - (4) Any additional information requested by the Team Coordinator. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1407. Local Teams; composition.

(a) Each Local Team shall consist of representatives of public and nonpublic agencies in the community that provide services to children and their families and other individuals who represent the community. No single team shall encompass a geographic or governmental area larger than one county.

(b) Each Local Team shall consist of the following persons:

- (1) The director of the county department of social services and a member of the director's staff;
- (2) A local law enforcement officer, appointed by the board of county commissioners;
- (3) An attorney from the district attorney's office, appointed by the district attorney;
- (4) The executive director of the local community action agency, as defined by the Department of Health and Human Services, or the executive director's designee;
- (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;
- (6) A member of the county board of social services, appointed by the chair of that board;
- (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
- (8) The local guardian ad litem coordinator, or the coordinator's designee;
- (9) The director of the local department of public health; and
- (10) A local health care provider, appointed by the local board of health.

(c) In addition, a Local Team that reviews the records of additional child fatalities shall include the following five additional members:

- (1) An emergency medical services provider or firefighter, appointed by the board of county commissioners;
- (2) A district court judge, appointed by the chief district court judge in that district;
- (3) A county medical examiner, appointed by the Chief Medical Examiner;
- (4) A representative of a local child care facility or Head Start program, appointed by the director of the county department of social services; and
- (5) A parent of a child who died before reaching the child's eighteenth birthday, to be appointed by the board of county commissioners.

(d) The Team Coordinator shall serve as an ex officio member of each Local Team that reviews the records of additional child fatalities. The board of county commissioners may appoint a maximum of five additional members to represent county agencies or the community at large to serve on any Local Team. Vacancies on a Local Team shall be filled by the original appointing authority.

(e) Each Local Team shall elect a member to serve as chair at the Team's pleasure.

(f) Each Local Team shall meet at least four times each year.

(g) The director of the local department of social services shall call the first meeting of the Community Child Protection Team. The director of the local department of health, upon consultation with the Team Coordinator, shall call the first meeting of the Child Fatality Prevention Team. Thereafter, the chair of each Local Team shall schedule the time and place of meetings, in consultation with these directors, and shall prepare the agenda. The chair shall schedule Team meetings no less often than once per quarter and often enough to allow adequate review of the cases selected for review. Within three months of election, the chair shall participate in the appropriate training developed under this Article. (1993, c. 321, s. 285(a); 1997-443, s. 11A.100; 1997-456, s. 27; 1997-506, s. 52; 1998-202, s. 6.)

§ 7B-1408. Child Fatality Prevention Team Coordinator; duties.

The Child Fatality Prevention Team Coordinator shall serve as liaison between the State Team and the Local Teams that review records of additional child fatalities and shall provide technical assistance to these Local Teams. The Team Coordinator shall:

- (1) Develop a plan to establish Local Teams that review the records of additional child fatalities in each county.
- (2) Develop model operating procedures for these Local Teams that address when public meetings should be held, what items should be addressed in public meetings, what

information may be released in written reports, and any other information the Team Coordinator considers necessary.

- (3) Provide structured training for these Local Teams at the time of their establishment, and continuing technical assistance thereafter.
- (4) Provide statistical information on all child deaths occurring in each county to the appropriate Local Team, and assure that all child deaths in a county are assessed through the multidisciplinary system.
- (5) Monitor the work of these Local Teams.
- (6) Receive reports of findings, and other reports that the Team Coordinator may require, from these Local Teams.
- (7) Report the aggregated findings of these Local Teams to each Local Team that reviews the records of additional child fatalities and to the State Team.
- (8) Evaluate the impact of local efforts to identify problems and make changes. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1409. Community Child Protection Teams; duties of the director of the county department of social services.

In addition to any other duties as a member of the Community Child Protection Team, and in connection with the reviews under G.S. 7B-1406(a)(1), the director of the county department of social services shall:

- (1) Assure the development of written operating procedures in connection with these reviews, including frequency of meetings, confidentiality policies, training of members, and duties and responsibilities of members;
- (2) Assure that the Team defines the categories of cases that are subject to its review;
- (3) Determine and initiate the cases for review;
- (4) Bring for review any case requested by a Team member;
- (5) Provide staff support for these reviews;
- (6) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law; and
- (7) Report quarterly to the county board of social services, or as required by the board, on the activities of the Team. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1410. Local Teams; duties of the director of the local department of health.

In addition to any other duties as a member of the Local Team and in connection with reviews of additional child fatalities, the director of the local department of health shall:

- (1) Distribute copies of the written procedures developed by the Team Coordinator under G.S. 7B-1408 to the administrators of all agencies represented on the Local Team and to all members of the Local Team;
- (2) Maintain records, including minutes of all official meetings, lists of participants for each meeting of the Local Team, and signed confidentiality statements required under G.S. 7B-1413, in compliance with applicable rules and law;
- (3) Provide staff support for these reviews; and
- (4) Report quarterly to the local board of health, or as required by the board, on the activities of the Local Team. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

§ 7B-1411. Community Child Protection Teams; responsibility for training of team members.

The Division of Social Services, Department of Health and Human Services, shall develop and make available, on an ongoing basis, for the members of Local Teams that review active cases in which children are being served by child protective services, training materials that address the role and function of the Local Team, confidentiality requirements, an overview of child protective services law and policy, and Team record keeping. (1993, c. 321, s. 285(a); 1997-443, s. 11A.118(a); 1998-202, s. 6.)

§ 7B-1412. Task Force – reports.

The Task Force shall report annually to the Governor and General Assembly, within the first week of the convening or reconvening of the General Assembly. The report shall contain at least a summary of the

conclusions and recommendations for each of the Task Force's duties, as well as any other recommendations for changes to any law, rule, or policy that it has determined will promote the safety and well-being of children. Any recommendations of changes to law, rule, or policy shall be accompanied by specific legislative or policy proposals and detailed fiscal notes setting forth the costs to the State. (1991, c. 689, s. 233(a); 1991 (Reg. Sess., 1992), c. 900, s. 169(a); 1993 (Reg. Sess., 1994), c. 769, s. 27.8(a); 1996, 2nd Ex. Sess., c. 17, ss. 3.1, 3.2; 1998-202, s. 6; 1998-212, s. 12.44(a), (d).)

§ 7B-1413. Access to records.

§ 7B-1413. Access to records. (a) The State Team, the Local Teams, and the Task Force during its existence, shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this Article, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. The State Team, the Task Force, and the Local Teams shall not, as part of the reviews authorized under this Article, contact, question, or interview the child, the parent of the child, or any other family member of the child whose record is being reviewed. Any member of a Local Team may share, only in an official meeting of that Local Team, any information available to that member that the Local Team needs to carry out its duties. (b) Meetings of the State Team and the Local Teams are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local Teams may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any closed session shall be sealed from public inspection. (c) All otherwise confidential information and records acquired by the State Team, the Local Teams, and the Task Force during its existence, in the exercise of their duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential information and records created by a Local Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the Local Team. No member of the State Team, a Local Team, nor any person who attends a meeting of the State Team or a Local Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge. (d) Each member of a Local Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality. (e) Cases receiving child protective services at the time of review by a Local Team shall have an entry in the child's protective services record to indicate that the case was received by that Team. Additional entry into the record shall be at the discretion of the director of the county department of social services. (f) The Social Services Commission shall adopt rules to implement this section in connection with reviews conducted by Community Child Protection Teams. The Commission for Public Health shall adopt rules to implement this section in connection with Local Teams that review additional child fatalities. In particular, these rules shall allow information generated by an executive session of a Local Team to be accessible for administrative or research purposes only. (1991, c. 689, s. 233(a); 1993, c. 321, s. 285(a); 1998-202, s. 6; 2007-182, s. 1.3.)

§ 7B-1414. Administration; funding.

(a) To the extent of funds available, the chairs of the Task Force and State Team may hire staff or consultants to assist the Task Force and the State Team in completing their duties.

(b) Members, staff, and consultants of the Task Force or State Team shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as the case may be, paid from funds appropriated to implement this Article and within the limits of those funds.

(c) With the approval of the Legislative Services Commission, legislative staff and space in the Legislative Building and the Legislative Office Building may be made available to the Task Force. (1991, c. 689, s. 233(a); 1998-202, s. 6.)

-202, s. 6.)

Federal Statutes

Accessing Substance Abuse Records

Federal laws regulate accessing substance abuse/chemical dependency records. Substance abuse records cannot be released without the express written consent of the participant (42 C.F. R 2.31). The statutory exceptions, which allow disclosure without consent, are medical emergencies (42 C.F.R § 2.51), research activities (C.F.R § 2.52), and audit and evaluation activities (C.F.R. § 2.53). These regulations do not allow for access to substance abuse records by local child fatality prevention teams.

Family Educational Rights and Privacy Act (FERPA)

Family Policy Compliance Office (FPCO)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students

a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339. Or you may contact us at the following address: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-5920

A Guide for Local Child Fatality Prevention Teams - FERPA

Also known as the “Buckley Amendment”, was first enacted by Congress in 1974 and has been amended seven times since then, most recently through the Improving American’s Schools Act of 1994. This Act protects the privacy interests of parents and students with regard to “education records”, a term which FERPA defines broadly to ensure the confidentiality of a student’s personally identifiable information. The Act affects every public elementary and secondary school and virtually every postsecondary institution in the country.

Before releasing school records or information contained therein to a party outside the school system, FERPA requires that a school obtain the consent of the student’s parents unless the student is 18 years of age or older, in which case only the student can consent to the release, or unless the release falls under one of the exceptions to the consent requirement. Obtaining the consent of a student’s parents or the student is not an alternative available to a Local Team reviewing a case. Article 14, 7B-1413(a) provides that the State Team, the Task Force, and the Local Teams shall not, as part of the reviews authorized, contract, question, or interview the child, the parent of the child, or any other family member of the child whose record is being reviewed. Since a Local Team may not initiate contact with a student’s parents, the student, or a family member, it must rely on the exceptions to the prior consent requirement of FERPA when seeking educational information on the student or seek information from the school system that is not covered by the provisions of FERPA. The most noteworthy of these to a Local Team are as follows:

1. **Directory Information.** School districts must establish a policy and give notice to parents as to the specific types of directory information they intend to disclose. If after receiving notice of a school district’s intention to do so, a parent does not retain the right to consent to the disclosure of directory information pertaining to his/her child, a school may disclose directory information from the student’s education record without prior parental consent. Directory information includes, but is not limited to, data pertaining to each student such as name, address and telephone, date and place of birth, major field of study, official activities, dates of attendance, height and weight for sports, degrees and honors received, most recent previous education institution, and photograph.
2. **Oral Information.** Educators are free to share information with other agencies or individuals concerning students based on their personal knowledge or observation, provided the information does not rely on the contents of an education record. Furthermore, oral referrals to other agencies based on personal observations are not subject to the provisions of FERPA.
3. **Health or Safety Emergency.** This exception is a common-sense acknowledgment that there are situations when the immediate need for information to avert or diffuse certain unusual conditions or disruptions requires the release of information. When a health or safety emergency exists, school may share relevant information about students involved in the emergency with appropriate parties – that is, those whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. Educators determine what constitutes an emergency, but FERPA requires that they construe the term strictly. An active protective services case by a county department of social services should fall within this exception, as well as the investigation of a

recent child fatality by the medical examiner or local law enforcement, especially, if siblings remain in the home. For your information, the provisions of N.C.G.S. 7A-544 appear to be consistent with this exception. It provides that a Director of a county DSS or the Director's representative may make a written demand for any information or reports, whether or not confidential, that may in the Director's opinion be relevant to the investigation of or the provision of protective services. It further provides that upon the Director's demand, a public or private agency or individual shall provide access to and copies of this confidential information and records to the extent permitted by federal law and regulations. Note, the delayed review of a child fatality case by a Local Team would probably not, at such a subsequent time, fall within the exception to FERPA as a health and safety emergency.

4. **Law Enforcement Unit Records.** Under FERPA, schools may disclose information from law enforcement unit records to anyone – federal, state, or local law enforcement authorities, social services agencies, or even the media – without the prior consent of the student's parents or the student. Law enforcement unit means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution. FERPA specifically exempts from the definition of "education records" the records that such a law enforcement unit of a school or a school district creates and maintains for a law enforcement purpose. Note: law enforcement unit records should not be confused with the records of a school's disciplinary actions or proceedings, which are education records.
5. **Court Order or Lawfully Issued Subpoena.** While exceptions to FERPA do not in general forbid an educational agency or institution to disclose personally identifiable information from the education records of a student, the exceptions do not require disclosure. Upon a school system's refusal to supply the requested information, even in light of an exception and, especially after a discussion with the superintendent and the school board's attorney, the only option available to a Local Team to acquire said information pertaining to the student is through a court order since neither the State Team, the Task Force, nor the Local Teams are provided with subpoena power under N.C.G.S. 143-571 et seq. For your information, N.C.G. S. 7A-544.1 provides that if any person obstructs or interferes with a protective services investigation, the Director of a county DSS may file a petition naming said person as respondent and requesting an order directing the respondent to cease the obstruction or interference. One of the grounds for seeking such an order from the juvenile court is a person's refusal to allow the Director, upon request, to have access to confidential information and records which has been discussed previously. Whether the filing of an obstruction/interference petition against a principal or superintendent upon his/hers refusal to make a disclosure would have an adverse impact on the DSS's long-term working relationship with the local school system is another matter entirely. Finally, recently enacted N.C. G. S. 7A-675(h) provides that the Chief District Court Judge in each judicial district shall designate by standing order certain agencies in the district authorized to share information on a juvenile after the filing of a juvenile petition. Agencies that may be designated as "agencies authorized to share information" include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Division of Juvenile Services of the Administrative Office of the Courts, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts. However, this provision is not limited to just the governmental agencies named therein. Thus, while a Local Team could not be included as a named agency to exchange information due to its own strict confidentiality requirements, a Local Team should explore with its Chief District Court Judge whether the standing order could also direct the named agencies to share information in their possession pertaining to a juvenile or the juvenile's family with one another at any meeting of Local Team reviewing the protective services case. If this were accomplished, it should make each of the named agencies, all of which including the local school system are probably already represented on the Local Teams, more comfortable about sharing information since the sharing would be pursuant to a court order.

