



COLORADO DEPARTMENT OF EDUCATION

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Confidentiality of School Health Records

Overview

Recently there has been much discussion about confidentiality of health information and its application specifically to school health records. The federal government has recognized the need to standardize the electronic transmission of health information to protect the privacy of clients. The Secretary of Health & Human Services is currently developing regulations and privacy standards specific to health care settings that should be in effect by April 2003.

Although many individuals and groups have expressed concern that school health records should be included in these regulations that has not happened. The exclusion of school health records is explained by the fact that the Family Educational Right to Privacy Act (FERPA) already protects these records and no further protection is necessary.

Regulations

FERPA is a federal law designed to protect the privacy of student education records. School health records, according to FERPA, are part of a student's education record. The school must have written permission from a parent or student over the age of 18 years to release information from a student's record except in specific instances that are defined by the law. Health related information that will further a student's academic achievement and/or maintain a safe and orderly teaching environment may be accessed by school staff who have a specific and legitimate educational interest in the information. The school must maintain a written log of who accesses the records and when access occurs. (National Center for Education Statistics, 1997).

Records from Outside Agencies or Individuals

Health reports that have been generated by school personnel are part of the academic record and are stored, transferred, and destroyed in the same manner as other education records. However, records that have been received from health professionals outside the school present a quandary. Families and health care providers may expect a higher level of confidentiality with these health records than with other school records and may be reluctant to provide sensitive medical information that could be important to the student's school program if they are not provided assurance that the records will be protected from further disclosure. There is no regulation that specifically addresses these records, but districts should be aware of potential problems if they are shared without parent permission, consult their own legal counsel, and consider implementing policies that require specific parental consent before those records are transferred outside the school district. Within the district, FERPA regulations related to legitimate educational interest and need to know should be applied to ALL records (CASB, 2001).

Health Care Plans

The same principles should be applied when health care plans are developed for students with special health care needs who have IEPs or 504 plans. Health-related information that is necessary to benefit student health, education, and/or safety should be included in the plan. IEP or 504 teams, including school nursing personnel, should determine whether health information should be included in the plans. Information specific to the care of the student by school nursing personnel, but not essential to other personnel, should be contained in a separate, secure health care plan. Information that may impact the child's academic achievement must be shared with school staff that work directly with the student and who have a legitimate need to know the information. Information that has been obtained from health care providers outside the school should be distinguished from school-generated information. School staff that

has access to any health-related information should be provided with information about confidentiality policies.

FERPA continues to be the only regulation that specifically addresses school records, including school health records. There is currently no new legislation that overrides this law.

National Task Force on Confidential Student Health Recommendations

In 2000, the National Task Force on Confidential Student Health Information published *Guidelines for Protecting Confidential Student Health Information*. This document established eight guidelines for schools to consider in relation to student health records.

- I. Distinguish student health information from other types of school records.
- II. Extend to school health records the same protections granted medical records by federal and state laws.
- III. Establish uniform standards for collecting and recording student health information.
- IV. Establish district policies and standard procedures for protecting confidentiality during creation, storage, transfer, and destruction of student health records.
- V. Require written, informed consent from parents, and when appropriate, the student, to release medical and psychiatric diagnoses to other school personnel.
- VI. Limit the disclosure of confidential health information within the school to information necessary to benefit the student's health or education.
- VII. Establish policies and standard procedures for requesting needed health information from outside sources and for releasing confidential information, with parent consent, to outside agencies and individuals.
- VIII. Provide regular periodic training for all new school staff, contracted service providers, substitute teachers, and school volunteers concerning the district's policies and procedures for protecting confidentiality (National Task Force on Confidential Student Health Information, 2000).

Although these are guidelines, not regulations, school districts would benefit from evaluating their policies and procedures related to record keeping and making a commitment to the principle that students and their families have a right to personal data privacy and security (Bergren, 2001).

Colorado Department of Education Recommendations

An organization that values the right to privacy might consider the following steps, in addition to those required by FERPA:

1. Establish policies and procedures that specifically address the handling of school health records;
2. Keep health records separate from other academic records;
3. Inform students and families about how student health information will be handled;
4. Provide training to all employees about confidentiality issues and the importance of protecting information;
5. When releasing data, provide only the minimum details necessary to benefit the student's education, health and/or safety;
6. Assure security of records by assigning a trained individual to be accountable for health information security (Bergren, 2001).

References

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4. Colorado Association of School Boards (2001). *Special care for health records and Revised sample policy: File JRA/JRC*. Denver, CO: author.