



## UNITED STATES DEPARTMENT OF EDUCATION

### STUDENT PRIVACY POLICY OFFICE

#### **Know Your Rights** **FERPA Protections for Student Health Records**

##### ***Does FERPA protect a student's health records that are maintained by schools?***

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student "education records." Education records are, with certain exceptions, records that are directly related to a student and maintained by an educational agency (such as a school district) or institution (a school such as a public elementary or secondary school, and an institution of postsecondary education such as a college or university) that receives funding under any program that is administered by the U.S. Department of Education, or by a third party acting for an educational agency or institution. Private and faith-based schools at the K-12 level are generally not subject to FERPA.

Student health records *may* qualify as education records, but not always. For example, FERPA would protect the health records of a public elementary or secondary school student under 18 years of age that are maintained by the school in the school's health clinic or nurse's office. But FERPA would not apply to health information that a school official obtains through personal knowledge or observation – and not from an education record – unless the school official uses the information in a manner that produces an education record. FERPA's applicability to student health records depends on a number of factors that are described in the companion document, [Family Educational Rights and Privacy Act: Guidance for School Officials on Student Health Records](#).

##### ***If a student's health records are protected by FERPA, does that mean a school can't share the records?***

In general, schools are prohibited from disclosing personally identifiable information (PII) from a student's education records unless the parent or eligible student provides prior written consent. FERPA thus provides parents or eligible students (students who are 18 years of age or attending a postsecondary institution at any age) with the right to exercise some control over the school's disclosure of PII from the student's education records.

However, FERPA includes several exceptions to this requirement under which PII from a student's education records may be disclosed without consent. For example, in some instances, FERPA permits, but does not require, schools to disclose PII from education records, without consent, to school officials with a "legitimate educational interest" in the information. FERPA also permits, but does not require, schools to disclose PII from education records, without consent and subject to certain conditions, to comply with court orders or lawfully issued subpoenas; and to appropriate parties in connection with an emergency if that information is necessary to protect the health or safety of the student or other individuals. Whenever a school chooses to disclose PII from a student's education records without consent, the Department has advised school officials to consider the impact of such disclosure and to disclose the minimum amount of PII necessary for the intended purpose. For a broader list of the exceptions to FERPA's consent requirement, please refer to [Family Educational Rights and Privacy Act: Guidance for School Officials on Student Health Records](#).

##### ***Are a school's student health records also protected by the HIPAA Privacy Rule?***

Generally, no. Student health records that constitute education records or treatment records under FERPA are not protected under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, including education records and treatment records maintained by campus health care facilities and clinics.

This document provides a summary of the Student Privacy Policy Office's [Family Educational Rights and Privacy Act: Guidance for School Officials on Student Health Records](#). For more information regarding FERPA and health records, please review that document and visit <https://studentprivacy.ed.gov>.