OHIO School-Based Health Alliance
Healthy kids learn better

Navigating HIPAA and FERPA in a school-based health center

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Information sharing between school districts and their school-based health center (SBHC) partners is a critical component of any SBHC partnership. To support students effectively, school districts and SBHCs must work together across both the education and healthcare systems while navigating two distinct federal privacy laws: the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA).

Examples of situations where SBHC partners may need to understand and navigate HIPAA and FERPA include:

- Sharing information necessary to support attendance or return-to-school planning
- Coordinating care plans and follow-up support for students with medical and behavioral health needs
- Collaborating on medication administration, immunization compliance, or other school health needs
- Connecting students and families to community resources and supports

Understanding how these federal laws apply and interact within an SBHC partnership enables SBHCs and school districts to better serve students through strong care coordination and supports to improve health, well-being, and academic success. This resource provides an overview of FERPA and HIPAA and outlines practical strategies that can guide partners in navigating federal privacy laws to facilitate information sharing and strengthen cross-sector collaboration.

What is an SBHC?

SBHCs are an evidence-driven strategy that brings health care to where our youngest Ohioans spend most of their time — school. These centers are created through a partnership between a school and a community healthcare provider to provide access to, at minimum, comprehensive primary care services to students on a school campus. SBHCs may also provide behavioral, oral, and vision health services, as well as care coordination, social services, and other wraparound supports. The healthcare provider (also referred to as the SBHC operator) runs the day-to-day operations of the SBHC.

What is FERPA?

FERPA is a federal law that protects the privacy of students' personal records held by educational agencies or institutions, as well as organizations and individuals that contract, volunteer, or consult with an educational agency that meet certain conditions. FERPA governs how and when FERPA-covered entities collect, maintain, use, and disclose student education records. FERPA:

- Defines what student education information is covered under the law
- Protects student records from being shared with external entities without permission from a parent/guardian or an "eligible student" age 18 or older or enrolled in a postsecondary institution (referred to in this guide as the "authorized individual")
- Establishes the rights of parents/guardians and eligible students to review, request amendments to, and authorize the release of a student's education records
- Outlines the requirements for written consent to disclose education records, including who may authorize disclosure and what information must be included in the consent

What are FERPA-covered entities?	What information is protected under FERPA?
FERPA-covered entities are educational agencies and institutions, such as school districts and schools, that receive funding from the U.S. Department of Education.[1] This generally includes school officials acting on behalf of the educational agency or institution, such as teachers, principals, school nurses, and other school health staff employed by or contracted with a school.[2]	FERPA-protected information includes information maintained in a student's education record that is directly related to a student.[3] Health information is subject to FERPA if it is part of a student's education record. In other words, health records become part of a student's education record if they are created by an employee or contractor of a FERPA-covered entity, such as a school nurse. Health information that is subject to FERPA includes information like vaccine records, diagnoses, and medications that are listed in a student's school record.[4]

Why does FERPA matter for SBHC partnerships?

FERPA generally requires schools to obtain consent from an authorized individual before sharing information from a student's education record with external partners (e.g., an SBHC operator), including academic and health-related information. This is especially important in SBHC partnerships, where care coordination for a student often depends on collaboration between the school and SBHC operator. Certain information in a student's education record, such as attendance patterns, disciplinary incidents, or graduation progress, can help SBHC staff better understand and address factors affecting a student's health, school engagement, and ability to learn.

Examples

When it matters[5]

Scenario 1: A student is experiencing frequent absences. School administrators recognize a pattern of missed school days and, if authorized, share that information with the SBHC team. An SBHC clinician can then help identify underlying physical, behavioral, or social health concerns contributing to absenteeism and connect the student and family to services and supports that address those needs.

Scenario 2: A student is involved in a vaping-related disciplinary incident. If appropriately authorized, the school counselor may share information about the incident with the SBHC behavioral therapist who can provide substance use education, counseling, and connect the student to cessation services or other appropriate supports.

What is HIPAA?

HIPAA is a federal law that governs how and when HIPAA-covered entities (including health care providers) collect, maintain, use, and disclose protected health information (PHI). HIPAA:

- Defines what and how PHI is covered under the law
- Protects PHI from being shared without patient authorization except in limited circumstances permitted by law
- Establishes the rights of individuals, including a parent or guardian acting on behalf of a minor in most circumstances, to access and request amendments to medical records
- Defines the authorization process for disclosing PHI, including who may authorize disclosure and what information must be included in a release of information form
- Provides a separate authorization requirement for the use or disclosure of psychotherapy notes, which receive heightened protection under HIPAA

What are HIPAA-covered entities?	What information is covered by HIPAA?
HIPAA-covered entities generally include health plans, healthcare clearinghouses, and healthcare providers that transmit health information electronically in connection with certain transactions.[6] This may include hospitals, health systems, Federally Qualified Health Centers, physician practices, and other healthcare organizations that operate SBHCs. HIPAA also applies to business associates of covered entities, which are persons or organizations that perform certain functions or activities on behalf of, or provide certain services to, a covered entity that involve the use or disclosure of PHI.	Protected health information (PHI) is individually identifiable information related to a patient's past, present, or future physical or mental health condition, the provision of healthcare, or payment for healthcare.[7] PHI includes information such as diagnoses, medications, immunizations, treatment plans, photographs, and demographic information that could identify the patient.

Why does HIPAA matter for SBHC partnerships?

SBHCs work closely with schools to support students and coordinate care. Because of this close working relationship and shared goals, certain health information maintained by an SBHC operator may be important for certain school staff to know in order to support the student during the school day. This health information can also help schools and SBHCs work together to support a student's overall health, well-being, and readiness to learn.

When PHI needs to be shared between an SBHC and school personnel, parents or guardians generally authorize this disclosure through a HIPAA-compliant release of information form. This information may include a student's health action plan, medication instructions, immunization status, allergies, diagnoses, or recommendations related to management of a communicable illness or chronic condition in the school setting.

Examples

When it matters

Scenario 1: A student is diagnosed with uncontrolled asthma that is interfering with attendance and participation in class. It would be helpful for an SBHC clinician to share that information with a school nurse, if appropriately authorized by the parent/guardian, to ensure the student has access to medication during the school day and that appropriate supports are in place to manage symptoms at school.

Scenario 2: A student is diagnosed with a communicable illness that may place other students or staff at risk of exposure. If authorized, an SBHC clinician may want to share relevant health guidance with designated school health staff to support appropriate response measures, reduce the risk of transmission within the school community, and support the student's safe return to school.

Which law applies?

Importantly, FERPA and the HIPAA Privacy Rule can never apply to the same records at the same time because HIPAA explicitly excludes education records from the definition of protected health information.

Health records maintained by an SBHC operated by a HIPAA-covered healthcare provider are generally subject to HIPAA. Alternatively, education records, including health information maintained by a school or school employee, are generally subject to FERPA.

Understanding which laws apply under different circumstances is an important part of building effective information-sharing practices between schools and SBHC operators.

How do HIPAA and FERPA apply to SBHC partnerships?

To support strong SBHC partnerships, it is important to establish clear practices and shared expectations for how data and information will be exchanged, protected, used, and disclosed in compliance with FERPA, HIPAA, and other federal and state privacy laws. For example, some SBHCs may need to be in compliance with 42 CFR Part 2 if they provide diagnosis, treatment, or referral for substance use disorder (SUD) services.

These information-sharing practices between school districts and SBHC healthcare operators should be clearly documented through formal agreements and supporting policies and procedures (referred to broadly in this guide as information-sharing agreements).

This section outlines considerations for developing information-sharing agreements and navigating common situations where FERPA and HIPAA may apply within SBHC partnerships.

What should be considered when developing information sharing agreements?

Because SBHC partnerships operate across both healthcare and education systems, it is important that information-sharing agreements are developed collaboratively between the school district and SBHC healthcare operator, with input from legal counsel, compliance staff, and operational leadership as appropriate. Agreements should clearly define each partner's roles, responsibilities, and processes related to information sharing, consent management, data stewardship, and confidentiality.

As partners develop information-sharing agreements, the following table may help guide the development of agreement terms, practices, and policies.

Guiding question	Example considerations
What types of information or data will be shared between partners?	Clearly define the types and categories of information that may be shared between the school and SBHC operator to support identified goals. School-shared information could include, but may not be limited to, attendance records, academic performance, disciplinary incidents, behavioral concerns, or immunization records. SBHC operator-shared information could include, but may not be limited to, medication information, care coordination updates, or health assessment findings. Limit disclosures to the information necessary to accomplish the intended purpose. Avoid broad or blanket authorizations whenever possible.
What is the purpose of sharing the information, and how does it support student health or educational outcomes?	Agreements should identify how information sharing supports care coordination, chronic disease management, behavioral health supports, attendance interventions, academic success, disciplinary intervention, or other student-centered health and education goals.
How will each partner obtain and document appropriate consent or release-of-information authorizations?	SBHCs and school districts are each responsible for obtaining written parent/guardian consent to disclose information. In addition, each partner should create a process to document completed releases. Additional guidance regarding this process is discussed in the next section.

Guiding question	Example considerations
How will each partner store, safeguard, and limit access to protected information? How will information be transmitted securely between partners?	Each partner should consult their legal and technology teams to develop FERPA and HIPAA compliant processes for safeguarding and sharing information. Generally, partners will need to address: • Secure storage requirements for electronic and paper records • Role-based access controls that limit access to only those individuals with a legitimate educational or healthcare need • Password, authentication, and device security requirements (e.g., multi-factor authentication, password complexity standards, automatic logoff, device encryption) • Procedures for onboarding and removing user access when staff roles change or employment ends • Record retention and destruction requirements • Audit logs and monitoring procedures to track access to protected information • Requirements for secure transmission of protected information • Incident response and breach notification procedures • Staff training requirements related to privacy, confidentiality, and data security
How will partners address emergencies, health and safety concerns, or other situations requiring more immediate or timely information exchange?	Written procedures for responding to emergencies and urgent situations that may require timely disclosure of information should be developed. HIPAA and FERPA allow information to be disclosed without consent in limited circumstances. For example, HIPAA permits disclosures without authorization for certain public health activities, reporting suspected abuse or neglect, and to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public.[8] FERPA permits educational agencies and institutions to disclose education records without consent to appropriate parties when knowledge of the information is necessary to protect the health or safety of a student or others during an emergency. Partners should consult legal counsel to ensure emergency disclosures meet the specific requirements of each applicable law.[9]
How will information-sharing practices be reviewed, updated, and communicated to relevant staff over time?	Partners should develop a formal process for periodically reviewing and updating information-sharing policies, procedures, agreements, and related workflows to ensure ongoing compliance with FERPA, HIPAA, other applicable state laws, and evolving operational needs. At a minimum, information-sharing practices should be reviewed annually, and whenever there are significant changes in laws or regulations, technology systems, staffing structures, service delivery models, organizational responsibilities, or partnership agreements.

Types of agreements

It is important for SBHC operators and school district partners to understand the different types of agreements that can support SBHC partnerships and information-sharing practices. Two of the most common agreement structures used in Ohio are contracts and memorandums of understanding (MOU). The primary difference between the two is legal enforceability.

Contracts are legally binding agreements that establish enforceable obligations and may include provisions related to confidentiality, compliance, liability, reimbursement, data sharing, and dispute resolution. In other words, a contract is generally assumed to be legally binding and can be enforced in court if one party does not fulfill its obligations.

MOUs are considered a more flexible and relationship-oriented document used to formalize collaboration, shared understanding, and partner expectations without providing presumptive legal enforceability. This means that an MOU is generally not assumed to be legally binding, and one party may not be able to take legal action simply because the other party did not follow it.

SBHC partners may utilize one or more agreement structures to support collaboration, clarify roles and responsibilities, and establish expectations. However, because information-sharing practices often involve legal, regulatory, privacy, and security obligations under federal and state law, partners should carefully consider which type of document is appropriate to clearly define responsibilities, accountability, and compliance expectations. In many circumstances, a contract may provide the strongest framework for ensuring both partners maintain compliance with agreed-upon information-sharing requirements.

How do information-sharing agreements and release of information processes work together?

Information-sharing agreements help establish the structure, expectations, and processes for how information may be shared between school districts and SBHC operators. However, these agreements alone do not authorize the disclosure of protected health information under HIPAA or student education information under FERPA between partners.

School districts and SBHC operators must also obtain authorization from a parent/guardian, eligible student and, in some instances, a minor patient before protected information may be shared.

Authorization for sharing student education information under FERPA

School districts also need a parent/guardian or eligible student to authorize the sharing of information included in FERPA-protected education records. When required, the release of information should clearly describe which education record information may be disclosed, the purpose of the disclosure, and who will receive the information.

FERPA includes limited exceptions that may permit disclosure without parent or guardian consent, such as the health or safety emergency exception (where sharing information is necessary to protect the health or safety of a student or others). It is important to note that most FERPA exceptions are "permissive" rather than "mandatory," meaning schools choose when to disclose education records without consent. However, because these exceptions are limited and scenario-specific, it is best practice for schools and SBHC partners to clearly address routine information sharing through written agreements and parent or guardian authorization.

When developing FERPA releases of information, schools should clearly define what information is necessary to support care coordination, how family preferences regarding information sharing will be documented, and how information will be shared in ways that protect student privacy. Authorization may be included within the SBHC enrollment packet. However, the option to authorize information sharing under FERPA should be separate from the option to authorize information sharing under HIPAA. This allows parents and guardians to make a separate decision about what types of information may be shared by and between the school and the SBHC.

Authorization for sharing protected health information under HIPAA

Under the HIPAA Privacy Rule, SBHC providers may use and disclose protected health information (PHI) without separate written authorization for purposes of treatment, payment, and healthcare operations, including care coordination with other HIPAA covered entities. However, when PHI is shared with school personnel who are not part of the healthcare system and are not covered by HIPAA— such as the school nurse, school counselor, teachers, administrators, or other district staff — authorization by a parent/guardian or eligible student is generally required unless another legal exception applies. Because coordinated care in an SBHC often depends on communication between the healthcare team and school staff, release of information authorization forms must comply with HIPAA. HIPAA has very specific requirements governing the authorization forms themselves. Because the SBHC is the entity bound by HIPAA, the SBHC is the entity that must obtain appropriate authorization from the patient or their parent/guardian to share information.

Developing the SBHC release of information forms alongside an information-sharing agreement is a best practice, as the terms of the agreement often shape the legal language needed in release of information forms. SBHCs should prioritize legal compliance, transparency, family choice, and sharing the minimum necessary information needed to support safe and effective care coordination when designing the HIPAA release of information form.

Minor consent and the ability to authorize disclosure of information

Under Ohio law, minors may consent to certain healthcare services without the permission of a parent or guardian. Those services include:
(1) physical examination by a physician, physician assistant, certified nurse specialist (CNS), certified nurse practitioner (CNP), or certified nurse-midwife (CNM) of a minor who is a victim of a sexual offense;
(2) diagnosis and treatment of a venereal disease by a licensed physician, CNM, CNS, or CNP;
(3) outpatient mental health services of limited duration provided the minor that is at least 14 years of age;
(4) diagnosis and treatment by a licensed physician for substance abuse for any condition which is reasonable to believe is caused by a drug of abuse, beer, or intoxicating liquor; and
(5) emergency medical treatment to preserve life and prevent serious impairment.[10]

When a minor is legally authorized to consent to their own care, they also control the sharing of such health information. SBHCs should consult legal counsel to ensure policies and practices align with legal requirements for health services that minors may consent to receive independently.

HIPAA/FERPA recommended practices for SBHCs

- Train staff on HIPAA and FERPA and applicable obligations under each federal law.
- If there is a Memorandum of Understanding or contract between a school district and an SBHC that includes additional restrictions or requirements, train staff on those limitations.
- Know the situations under state law in which a minor can unilaterally consent to treatment. Draft or revise your Minor Consent to Treat form to reflect state law.
- Draft policies and procedures related to disclosure and access to student records.
- Develop compliant forms authorizing release of records when appropriate. Know which federal and state laws apply to the situation and who can consent to the release of information and execute the release.
- Document any executed release in the appropriate record.
- Know when an SBHC can share with a school and when a school can share with an SBHC.

Conclusion

Navigating HIPAA, FERPA, and other federal or state laws when establishing information-sharing processes between school districts and SBHCs can be complex. However, one of the powers of the SBHC model is its ability to bridge healthcare and education systems to better support students. When information sharing processes are overly limited or unclear, it may become more difficult for partners to work together to coordinate care, identify student needs, respond to concerns, and implement timely and effective interventions. Clear and collaborative information-sharing can help strengthen coordination between systems and improve outcomes for students, families, and the school community.

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Notes

1. See 20 U.S.C. § 1232g(a)(3); 34 C.F.R. § 99.1(a).
2. See 34 C.F.R. § 99.31(a)(1)(i)(B).
3. 34 C.F.R. § 99.3 defines "education records" as "those records that are: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution."
4. U.S. Department of Education & U.S. Department of Health and Human Services, Joint Guidance on the Application of FERPA and HIPAA to Student Health Records (2008).
5. In both scenarios, a parent or guardian must consent to the student receiving services from the SBHC unless otherwise permitted under Ohio law. Consent to receive care through the SBHC is separate from authorization to share information between the school and the SBHC.
6. See 45 C.F.R. §§ 160.103, 164.502.
7. Ibid.
8. See 45 C.F.R. § 164.512(a)–(j)
9. See 20 U.S.C. § 1232g(b)(1)(I)
10. More information on Ohio minor confidentiality laws is available here: https://codes.ohio.gov/ohio-revised-code/section-3798.07