

SHARING STUDENT HEALTH INFORMATION OUTSIDE THE SCHOOL SYSTEM IN THE EVENT OF A HEALTH OR SAFETY EMERGENCY

Scope: This policy applies only to actual health or safety emergencies as declared by the Superintendent.

Purpose: This policy addresses the sharing of student health information with first responders and healthcare personnel in the event of a health or safety emergency at public schools that provide elementary, secondary or postsecondary education.

Definitions:

1. "Directory information" refers to information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (*e.g.*, undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.
2. "Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.
3. "Education record" means 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. Student health records maintained by a school nurse are part of the education record subject to FERPA.
4. "FERPA" refers to the Family Educational Rights and Privacy Act as codified under 34 CFR § 99.
5. "School official" refers to a School Administrator or other designated school personnel who have determined that there is an articulable and significant threat to the health or safety of any student or other individuals.

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Policy:

FERPA is a federal law that protects the disclosure of personally identifiable information from a student's education records. HIPAA does not apply to education records governed under FERPA.

Under FERPA, a parent or eligible student (a student who has reached 18 or attends a postsecondary institution), generally must provide a signed and dated written consent before RSU 34 discloses personally identifiable information from education records. However, FERPA allows schools to make necessary disclosures without consent to address health and safety emergencies.

The protected health information of patients held by a healthcare provider continue to be governed under the Health Insurance Accountability and Portability Act (HIPAA).

This policy establishes requirements for the sharing of information from education records with first responders and healthcare providers in the event of a health and safety emergency.

Requirements:

1. **Emergency Information Medical Authorization.** RSU 34 will maintain a copy of an emergency information medical authorization on file for each student. This form will authorize the school official or designated representative to release pertinent information from the student's education record to a physician or hospital or medical facility in the event of an emergency.
2. **Release during a Health or Safety Emergency.** RSU 34 may disclose personally identifiable information to law enforcement officials, public health officials, first responders, trained medical personnel, parents, and other appropriate personnel, in connection with an emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals. (34 CFR § 99.36(a)) This exception applies only for the duration of the emergency.
 - a. To rely on this exception, RSU 34 may take into account the totality of the circumstances pertaining to a threat to the health and safety of a student and others. The threat must be related to an actual, impending or imminent emergency, such as a natural disaster, terrorist attack, shooting or hostage situation, outbreak of epidemic disease, etc.

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- (1) The release of student information should be limited to what is required to address the emergency. If directory information is all that is required for the emergency, then only directory information should be released.
 - (2) The release of non-directory information is generally not a blanket release. School officials should determine which information needs to be released.
- b. Those persons receiving personally identifiable information must not re-disclose this information to any other party without the consent of the parent or eligible student.
 - c. RSU 34 must record in the student's education records, within a reasonable amount of time after the emergency, the threat that formed the basis for the disclosure and the parties to whom the information was disclosed. (34 CFR § 99.32(a)(5))
3. **Emergency Preparedness Activities.** The emergency exception under FERPA does not apply to emergency preparedness activities.
- a. Properly designated "directory information" on students whose parents have not opted out of disclosure of directory information may be disclosed for emergency preparedness activities.
 - b. If school officials believe it is necessary to disclose to its emergency preparedness partners, information on students with disabilities, who have special needs, or who are taking medications to plan for transportation or other accommodations, parents or eligible students must provide consent for this disclosure.
4. **Medical Treatment Records.** Records created and maintained by healthcare providers, including hospitals, during the course of providing treatment during a health or safety emergency continue to be governed by HIPAA.

References:

Family Educational Rights and Privacy Act at 34 CFR § 99

HIPAA Privacy Rule at 45 CFR §§ 160, 164

Maine Revised Statutes, Title 22 § 1711-c(3-B)

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