Health

FERPA And Health Records

What is FERPA?



FERPA is the acronym for **Family Educational Rights and Privacy Act**. It is the federal law that defines what is considered a student's education records, and it protects the privacy of those records. It also gives parents rights in regards to their child's education records. FERPA applies to all schools that receives federal funds from the U.S. Department of Education. Private and faith-based schools at the K-12 level are generally not subject to FERPA.

What is HIPAA?



HIPAA is the acronym for **Health Insurance Portability and Accountability Act**. It is the federal law that aims to ensure individuals can continue their health insurance coverage when they change or lose their jobs, and to protect the confidentiality and security of patient health information.

Know Your Rights

The "know-your-rights" resource from the U.S. Department of Education explains that parents or eligible students have the right to exercise a certain degree of control over a school's disclosure of Personally Identifiable Information (PII) from the student's education records.

An important question is answered in this document: *Are a school's student health records also protected by the HIPAA Privacy Rule?* **Generally, no**. Student health records that qualify as education records or treatment records under FERPA are **not** protected under the HIPAA Privacy Rule, including education records and treatment records maintained by campus health care facilities and clinics.

Key Takeaways

- FERPA protects the privacy of students "education records." This applies to educational agencies and institutions that receive funds from programs by the U.S. Department of Education.
- Not all student health records qualify as education records.

Source

- The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.
- The HIPAA statute is found at Public Law 104-191 and the HIPAA regulations, as simplified, are found at 45 C.F.R.
- Adopted from U.S. Department of Education Issues New FERPA Guidance on Student Health Records | Insights | Holland & Knight
- Adopted from Know Your Rights: FERPA Protections for Student Health Records | Protecting Student Privacy