



School Nursing: Documentation, Recordkeeping, & Confidentiality

Colorado Department of
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Overview

Disclosure of student health information includes disclosures to the student, the student's parents, school staff, and other non-school third parties

School nurses are privy to a great deal of intimate information about the students with whom they work. The increased number of children in schools with health and learning challenges has resulted in more than the traditional screening and immunization information in a student's health records.

A complex web of laws and standards of professional practice define the responsibilities and rights of parents, students, school health staff and other school staff in the creation, updating, maintenance, control of, access to, and disclosure of student health records. Education reforms, such as inclusion, accountability, charter schools, homeless and migrant education, and safe schools may mean that schools will need to create more data about their students and consider whether and how to share it, both exclusively within the school setting and between the school and other organizations. Budgetary realities mean that fewer schools have only one person with day-to-day "control" of all health information about students. Increasing electronic technology for encoding, storing, and transmitting of data has resulted in new and heightened privacy concerns.

A school's need to document and share student health information must be considered against the student's rights to confidentiality for sensitive services or unwarranted disclosure of personal information and the parent's and student's rights to know what is in a student's record, to gain access to it for inspection or correction, and to control disclosure of that information.

This chapter discusses responsibilities of school staff in creating health records about a student, maintaining those records, and disclosing or sharing the information contained in those records. It also discusses the rights of parents and students in accessing these records and their rights to control release of these records.

School nurses may be the authors and/or custodians of many formal, legally mandated health records, such as Individualized Family Service Plans (IFSPs); Individualized Health Plans (IHPs), Individualized Emergency Plans, (IEPs), etc. Their files contain notes on individual students seen during the course of the school year, a student's medications, notes about the physical or mental health condition of a student or even a student's parents, reasons for





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There are three concepts behind privacy laws and confidentiality policies:

- *Notification- a school's responsibility to inform parents or students older than eighteen of the legal basis for compiling data and the limited circumstances under which records can be released or disclosed;*
- *Disclosure - access, release, or transfer of personal information in a file; and*
- *Informed Consent - the documented process by which a person is informed of their right to agree/not agree to the release of personal information and the terms of that release.*

visiting the health office, referrals made by the school nurse, or orders from a student's health care provider. The records may also contain notes about referrals for confidential services, for which the student did not obtain prior parental permission or notification.

School nurses are part of a team, and the realities of a school day mean that a number of scenarios may arise concerning student health information. What health

information is a school nurse likely to collect? What health information is a school nurse required to maintain in a formal document? What information from this record is the school nurse allowed to disclose and under what circumstances? The answers to these questions are complicated by the fact that often other school staff may be involved in the creating, updating, maintaining, and storing of health records, and responding to requests for access to those records.





Legal Considerations

School health records are considered to be part of a student's educational record

FAPE - Free and Appropriate Public Education

FERPA- Family Educational Records Privacy Act

HIPAA- Health Information Portability and Accountability Act

IDEA- Individuals with Disabilities Educational Act

LRE – Least Restrictive Environment

This section briefly describes the pertinent legislation and then goes through the "life stages" of a record, with the requirements of each particular law.

Privacy, Access and Disclosure

• Family Educational Rights & Privacy Act (FERPA)¹

The Family Educational Rights and Privacy Act (FERPA, sometimes called the "Buckley Amendment") is a federal law designed to protect the privacy of student education records that are maintained by a school. School health records are considered to be part of a student's educational record. The law applies to all schools receiving federal funds from the United States Department of Education. Basically, the law gives parents the right to inspect and review their child's educational records, to amend errors or inaccuracies in those records, and to consent to disclosure of those records. These rights transfer to the student, or former student, who has reached the age of 18 or is attending any school beyond the high school level. Health 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 accessed the records and when access occurs.²

• *The Individuals with Disabilities Education Act (IDEA) of 1990, 1997, and 2004; and the Americans with Disabilities Act (ADA) of 1990, and Section 504 of the Rehabilitation Act of 1973;*

These laws require schools to create certain health records about children with special health care needs.³ IDEA goes beyond FERPA with respect to records of children with disabilities who are eligible for special education services, and it guarantees parents the right to inspect and review all education records relating to their child that a public agency collects, maintains, or uses regarding the identification, evaluation, and educational placement and assures the provision of a "free and appropriate public education" (FAPE) to the child.⁴ IDEA also broadens the definition of a parent who can have access to records by including persons acting in the place of a parent or legal

¹ 20 USC §1232g; regulations are found in 34 CFR Part 99.

² National Center for Educational Statistics (1997). Guidelines for protecting confidential student health information. Kent, OH: American School Health Association.

³ IDEA's regulations on confidentiality 34 CFR §§300.560-300.577 contain several references to FERPA.

⁴ 34 CFR §§ 300.501 and 300.562.





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The exclusion of school health records from HIPAA regulations is explained by the fact that FERPA already protects those records and no further protection is deemed necessary

guardian or who might be legally responsible for a child's welfare, such as a grandmother, stepparent, or foster parent.

- **Health Insurance Portability and Accountability Act (HIPAA)⁵**

The Health Insurance Portability and Accountability Act (HIPAA), is a federal law requiring health care providers to keep confidential personally identifiable health records. The law covers individual health plans, health information, health clearinghouses, and health care providers that transmit health-related information electronically. Health care providers are providers (or suppliers) of medical or other health services or supplies. Because schools are not considered to be health entities, and because FERPA is as or more restrictive than HIPAA, schools are generally not bound by HIPAA regulations. The Office for Civil Rights at HHS, which administers the HIPAA regulations, has said that "individually identifiable health information of students under the age of 18 created by a nurse in a primary [elementary] or secondary school that receives federal funds and that is subject to FERPA is an education

record, but not protected health information."⁶

There are several instances in which HIPAA does impact schools. School based health centers, that are operated under the auspices of a hospital or health center must comply with the regulations that govern that organization and therefore must comply with HIPAA regulations. School districts that bill for Medicaid reimbursement must comply with HIPAA regulations because of the electronic dissemination of information from the school to billing agents and the state. And health care practitioners that share information with schools must comply with HIPAA requirements. This fact may lead to frustration on the part of schools when health care practitioners refuse to release information without the releases that they have in place. Sharing of immunization information, however, is not governed by HIPAA regulations. Schools are acting as a "public health authority" when they are statutorily required to track the immunization status of children at the school. HIPAA allows protected health information to

⁵ Health Insurance Portability and Accountability Act of 1996, Privacy Amendment Regulations, 45 CFR Parts 160 and 164, <http://www.hhs.gov/ocr/hipaa/finalreg.html>.

⁶ HIPAA regulations, which became effective in 2003, also do not apply to FERPA records designated as education records under Parts B, C, and D or the Individuals with Disabilities Education Act (IDEA); Memorandum from. Family Policy Compliance Office, U.S. Department of Education. (February 2002).





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be disclosed to public health authorities for such purposes.⁷

• **No Child Left Behind Act⁸**
Section 1061 of the No Child Left Behind Act (NCLB, sometimes referred to as “Nickle-B”) contains a major amendment to the Protection of Pupil Rights Amendment (PPRA) that gives parents more rights with regard to certain non-emergency medical examinations based on political affiliations or beliefs of the student or the student’s parent; mental or psychological problems of the student or the student’s family; sex behavior or attitudes; illegal, anti-social, self-incriminating, or demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; religious practices, affiliations, or beliefs of the student or student’s parent; or income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

⁷ Colorado Department of Public Health & Environment (2004). Memo: HIPAA, patient authorizations, and releasing information to schools and child care centers.

<http://www.cdphe.state.co.us/HIPAA/letterreauthorizationsandreasestoschools.pdf>.

⁸ 20 USC §1232h and the regulations (as of June 2002, not yet updated) in 34 CFR Part 98.

• **Colorado Public Records Act⁹**

Colorado law¹⁰ incorporates FERPA for all public school in the state. Basically, school districts are required to maintain the confidentiality of *any* medical, psychological, sociological, and scholastic achievement data collected concerning individual students, as well as the addresses and telephone numbers of students enrolled in public elementary and secondary schools within the school district. School districts may not release the education records of a student to any person, agency, or organization without the prior written consent of the parent or legal guardian of the student except as otherwise permitted in FERPA. Release of records within the district (internal sharing) is permitted on a need to know basis for “legitimate educational interests.” Suspected child abuse or neglect must be made to Child Protective Services or the police and individuals that report are given confidentiality protection. While parents may access these records, the Family Policy Compliance Office (FPCO) has advised that the school may remove the name of the reporter from the copy of the form provided for parental inspection.¹¹

⁹ CRS §22-1-123(5).

¹⁰ CRS §22-1-123 (1).

¹¹ Schwab, N.C. & Gelfman, M.H.B. (2001) Legal issues in school health services: A resource for school administrators, school attorneys, school nurses. p. 307. Sunrise River Press, North Branch, MN.





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The Life Stages of a School Health Record

The life stage of a record includes its creation, its maintenance and storage, limitations to access of the record, and retention after the student leaves the school program.

What is a Record?

FERPA protects eligible students' privacy interests in "education records," which are defined as "those records, files, documents, and other materials which - (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution."¹² The rights under FERPA belong to the parents of students under the age of 18 at the elementary/secondary level and transfer to the student when he or she becomes an "eligible" student at age 18.

Under FERPA and Colorado law, education records include information directly related to a student, which are maintained by the school in any recorded way, such as test scores, disciplinary records, transcripts, etc. They do not include records made by school personnel that are kept solely in their own possession and are not revealed to anyone

else. A school nurse's *personal* notes or diary would not be an official school health record, unless the nurse shared them with others as part of her work.¹³

Federal and state laws generally prohibit disclosure of information in the record without the consent of the parent or eligible student. There are exceptions. Disclosure without prior consent is permissible under limited circumstances:

- to other school officials, including teachers, who have specific and legitimate educational interests in the information for use in furthering the student's academic achievement or maintaining a safe and orderly learning environment;
- to officials of a school at which the student seeks or intends to enroll;
- to state or local officials or authorities if the disclosure concerns the juvenile justice system;
- to comply with a judicial order or a lawfully issued subpoena, after a reasonable effort is made to notify the student's parent or legal guardian in advance; and
- in connection with an emergency if the information is necessary to protect the health or safety of the student or other individuals.

¹² 20 USC §1232g(a)(4)(i) and (ii); see also 34 CFR § 99.3.

¹³ 20 USC §1232g(4)(B).





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In Colorado, if a school creates or collects medical or health records on a student, those records are considered the student's Cumulative Health Record (CHR), and they are part of the student's academic record. The CHR contains:

- the student record card with health history;
- summary of relevant health office interactions including significant accidents and illnesses, and summary of medications given (including the name of the medication, dosages, and start and stop dates);
- the latest individualized health care plan;
- most recent and completed immunization record;
- results, recommendations, and follow-up related to all screening; and,
- other information that is deemed relevant by the school nurse.¹⁴

Who Creates School Health Records?

Since school staff members other than the school nurse contribute to a student's health needs, it follows that they could also contribute to a school health record. Staff who might contribute to the record could include education support professionals (including

registered nurse, licensed practical nurse, nurses' aide, classroom staff, health or therapist aide/technician); outside health provider; school psychologist; or school social worker. Because this pool of possible contributors is so wide, the school should have a clearly articulated system of how records are created and templates for reporting, so data is kept in a coherent fashion. For example, dates and names should be written in consistent formats, full name of recorders should be included in the record, and the school nurse should have overall responsibility for the records.

Maintenance and Storage of Records

Storage and maintenance of records involve active records and historical records. The active records in the school nurse's office, whether they are paper or electronic, need to be secure when not in use, but accessible when needed by staff. Lockable filing cabinets or computers are important, but maintaining these documents in a safe and monitorable location is also essential.¹⁵

¹⁴ Colorado Department of Education (2004). Record retention. <http://www.cde.state.co.us/cdesped/nurseFAQ.asp>

¹⁵ Policy Studies Associates, Inc. under contract to the Council of Chief State School Officers. Protecting the Privacy of Student Records Guidelines for Education Agencies National Center for Education Statistics: 1997 http://nces.ed.gov/pubs97/p97527/Sec5_txt.htm





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For historical records, the Colorado Division of State Archives and Public Records mandates that districts develop policies that define how long student academic records must be retained. Each district will define the appropriate length of time. The law authorizes school officials to purge immunization and other health records from the student academic file after the student has graduated or left the district, provided that they have a records retention schedule approved by the State Archives.¹⁶

Who Can Gain Access to a Student's Record and Under What Circumstances?

Generally, under FERPA, Colorado Law, and IDEA, parents have the right of access to a student's school records. Eligible students have the right to inspect and review all records maintained by the school, to request correction of a school record(s); to appeal the denial of a request to correct; and to provide written consent to disclose, in the same manner as their parents.

- Under FERPA, a "parent" is defined as "a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or

guardian."¹⁷ A parent has the right to inspect and review all records maintained by the school and to request that a school correct records that the parent believes to be inaccurate or misleading. If the school decides not to amend the record, as requested, the parent then has the right to a formal hearing. If the school still decides not to amend the record, the parent has the right to place a statement with the record commenting on the contested information.

- Under IDEA, a school must respond to a parent's request to review a child's records without unnecessary delay and before any meeting regarding an IEP or a due process hearing involving a child, and in no case later than 45 days after the request.¹⁸ Schools may not charge parents for searching for or retrieving the records but they can charge a reasonable fee for copying.¹⁹ Parents also can request a list of the types of education records that are collected, maintained, or used by the agency, and where these records are kept.²⁰

¹⁶ CRS, §24-80-103 & <http://www.cde.state.co.us/cdesped/nurseFAQ.asp>

¹⁷ 34 CFR § 99.3.

¹⁸ 34 CFR §300.567.

¹⁹ 34 CFR §300.566 (b).

²⁰ 34 CFR §300.565.





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Directory Information:

Student name

Address

Telephone listing

Electronic mail address

Photograph

Date and place of birth

Major field of study

Enrollment status (e.g., undergraduate or graduate; full-time or part-time)

Participation in officially recognized activities and sports

Weight and Height of members of the athletic teams

Dates of attendance

Degrees and awards received

Previous educational agency or institution attended

34CFR §§ 99.31(a)(11); 99.37

Under both federal and state laws, parents must be informed annually of their rights of access, ability to limit disclosures, and ability to have knowledge of third party access to their child's records.

Who Else Can Have Access?

Generally under FERPA a school cannot release information, other than "directory information" from a student's record without prior written permission from the parent or the eligible student.²¹ Disclosure of "directory information" without prior written consent is allowed. "Directory information" is information that would not generally be considered harmful or an invasion of privacy if disclosed.

FERPA and Colorado laws allow disclosure of other information in a student's records, *without consent*, in certain specific situations:

- To school employees who have a need to know based on the "legitimate educational interests" of the student;
- To other schools to which a student is transferring;
- To certain government officials in order to carry out lawful functions;

- To appropriate parties in connection with financial aid to a student;
- To organizations conducting certain studies for the school;
- To accrediting organizations;
- To individuals who have obtained court orders or subpoenas;
- To persons who need to know in cases of health and safety emergencies; and
- To state and local authorities, within a juvenile justice system, pursuant to specific state law.

School district staff members with access to student records must be identified by title and each student's file must include a record of access, on which all school staff members must sign whenever they consult that student's file. Staff that provide services within the area of a specific record so not have to sign it out each time they use the record. However if a school nurse accesses psychological records, she must sign and a psychologist must do the same when accessing health records. Schools must notify parents and eligible students annually of their rights. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

IDEA requires the school to maintain a record of all parties who obtain access to a child's

²¹ USC §1232g(b)(1) and (b)(2)(A); 34 CFR § 99.30.





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educational records collected, maintained, or used under Part B of IDEA (with the exception of parents and authorized employees of the agency). This record should include the name of the person who accessed the records, the date, and the purpose for which the person was authorized to use the records (Section 300.563).

Colorado law specifically defines the content of a school request for written consent for the school district to release personally identifiable information concerning that parent's or legal guardian's child in education records other than directory information. The notice must include the specific records to be released, the reasons for the release, the identity of the person to whom the information will be released, the manner in which the release will be made (such as verbal, fax), and the parent's right to review or receive a copy of the records to be released.²² School nursing staff should maintain a log identifying those aside from regular health office staff, to whom access to the records has been given, when access occurred, and the specific records to which access was given.

²² CRS §22-1-123(6).

Transferring Records

FERPA permits schools to transfer any and all education records, including disciplinary records, on a student who is transferring to another school.²³ School-generated health reports and assessments are routinely transferred along with the student's general records when a student transfers to a different school or district. The parent's notification that a child is transferring is considered permission to transfer the child's records to the new school.

Pertinent medical information that relates to the ability of a school district to serve the student or to the protection, safety or welfare of others should be summarized by school personnel and placed in an appropriate document such as a 504 plan, an IEP, a behavior plan, or a health care plan. There is no regulation that specifically addresses transferring health records outside a school district about a student from an outside health provider, but districts should be aware of potential problems if they are shared without parent

²³ No Child Left Behind Act of 2001, §4155 allows schools to transfer disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school."





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permission. They should consult their own legal counsel, and consider implementing policies that require specific parental consent before those records are transferred outside the school district.

How Should Records from Outside Agencies or Individuals be Handled?

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 educational 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 degree 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 district's 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 apply to all records.²⁴

²⁴ Colorado Association of School Boards (2001). *Special care for health records and Revised sample policy: File JRA/JRC*. Denver, CO: author.





Documents and the Role of the School Nurse

Student health information concerns two types of records: an active student health record and a cumulative health record.

- The former is an active record for a child currently in a particular school. It could also be a file, containing multiple records, such as a health record, an IEP, a Health Plan, etc.
- The latter Cumulative Health Record (CHR) is a compilation of the child's total health experience while in one school: the CHR typically follows the child from school to school.

The rules about confidentiality and disclosure apply to both types of records.

A great deal of a school nurse's time is spent around documents: nurse's notes; immunization records; an alphabet soup of plans; medication records; third-party billing; case management notes; referral notes; prescription orders, etc. Accurate, timely documentation of nurse-student interactions promotes high quality student health services, advances the efficiency and effectiveness of the school and district health program, and creates a legal record. Legal and ethical considerations require school nurses to document care and keep personal information confidential and secure.

The following section poses some frequently asked questions.

What Records Should I Create?

Standard nursing practice includes the following components: assessment, planning, implementation, and evaluation.²⁵

- Assessing a child's health requires collecting information from a variety of sources, such as the student, families, health care providers, school staff, and out-of-school organizations.
- Planning requires identification of action steps and interventions to promote, maintain, or restore health,

prevent illness, and/or provide rehabilitation for the individual student or a given population.

- Implementing the plan requires execution of the plan of care in a safe and appropriate manner.
- Evaluation is the systematic and ongoing appraisal of the effectiveness of the interventions as they relate to the outcomes and can result in identification of a need to reassess and revise health care plans.

Each component requires collecting information and compiling that information into some sort of document. Standards of practice require the nurse to document each step in each component.

Colorado state law is not prescriptive as to what a health record must contain, with the exception of an immunization record, and vision and hearing screening results. (For example, there is no Colorado law requiring an incident report to be written after a serious student injury.²⁶) Appropriate

documents for an active student health record could include, but are not limited to:²⁷

²⁵ Minnesota Department of Health. (11/96). Minnesota School Health Guide. Section Two: Direct Services To Students. Chapter 6: Nursing Practice In The School Setting. <http://www.health.state.mn.us/divs/fh/mch/CA/REweb/schoolhealth/chapter6.html>.

²⁶ US Centers for Disease Control and Prevention. State Level School Health Policies and Practices SHPSS Study Item 3.8 http://www.cdc.gov/nccdphp/dash/shpps/report_cards/pdf/colorado.pdf.

²⁷ New Jersey Department of Education, Office of Educational Support Services (1997), School Health Services Guidelines 97 Topic





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- nurse's notes on students evaluated in the health office
- medication orders and records of administration;
- directives for limitation of physical activity;
- reports of physical examinations;
- reports of referrals;
- copies of health summaries for IEP Team referrals;
- health component of IEP;
- 504 Accommodation plan;
- emergency health plan;
- transportation plan;
- other forms as directed by district policy;
- student's health history;
- annual record of health screenings;
- documentation of referrals to outside medical and social sources;
- sensitive services;
- exclusions for communicable diseases;
- accident/incident reports of serious injuries;
- notifications to parents/guardians of immunization requirements, immunization records, including notation of granted provisional admission for medical or religious exemptions; and,
- record of transfers in or out of the file.

What About My Personal Notes?

Under federal law, a school nurse's personal notes or calendar log would be considered a protected educational record, only as long as the school nurse kept them in her sole possession and did not share the actual notes.²⁸ Current federal regulations define the "sole possession" exception: as records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Examples of this type of record would include written (handwritten, and possibly electronic) notes that are typically thrown away once the writer's memory was jogged, such as a calendar note to check on a referral, or a "post-it" or notes about a transient situation that does not impact academic achievement or safety that because of its sensitivity could cause harm or embarrassment

to the student in the future. A personal calendar note would be a personal (not protected) document; a formal log or sign in sheet would be a protected document. While these documents do not have to be made available to parents, they

7D: Student Health Records. pp. 104-107
<http://www.state.nj.us/nided/parents/shg.pdf>.

²⁸ 20 USC 1232g(4)(B).





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may be requested in court proceedings and must be produced if they are requested.

What About Daily Logs?

If kept, daily logs should contain only the name of the student and the time of the student's arrival and the time that the student left the office. All other information must be entered on the student's individual record of health office visits and treatment, because it is confidential.

Health Care Plans

Health-related information that is necessary to benefit student health, education, and/or safety should be included in health care plans for students with special health care needs who have IEPs or 504 plans. IEP or 504 teams, including school nursing personnel, should determine whether health information should be included in these 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 have access to

any health-related information should be provided with information about confidentiality policies and consequences for inappropriately sharing such information.

What Are Basic Principles of Documentation?

These principles apply to any formal document written by a school nurse (regardless of practice site) and whether it is an "active" health record or retained as part of a larger record, such as a CHR. The document could be hand-written, typed on a typewriter, or on a computer. If your school practice is charting by exception, there should be a WRITTEN, corresponding school policy that states the NOT charting an event means that it WAS done.

- Be accurate, objective, concise but thorough, timely, well-organized, and legible.
- Write handwritten notes in ink.
- Write legibly and spell correctly.
- Accompany every entry by the nurse's name, date, and time of service.
- Document any nurse or school health action taken in response to a student problem.
- Include positive and negative findings in any assessment documentation.
- Include only essential information.
- Be precise about measurements, spelling, and standard abbreviations.





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- Update all records, including progress notes, IEPs, IHPs at least annually and when changes occur.
- Use nursing classification language.
- Be consistent over time with regard to frequency of documentation, based on district policy, nursing protocols and standards, and as the acuteness of the student's health status demands.
- Record the student's (or parent's) own words.
- Document only objective data, relevant to the student's care-- not personal judgements and nurse opinions.
- Do not reference district problems, such as staff shortages.
- Avoid terms suggestive of error, such as *"accidentally"* or *"by mistake."*
- Don't erase or use "white out." Draw a line through the error, initial the line, and then write the correct entry.
- Note an entry in the wrong student's file, by a line through the incorrect material, your initials, and the notation: "Entry made in error."
- Avoid late entries; when they are absolutely necessary, indicate late entries with a notation "Late entry."
- Detail any variation from standard protocols and any unusual student circumstances of situations.
- Document in detail notifications regarding changes in a student's health status or any unusual findings.
- Document content of any telephone consultations and direction to assistive personnel
- Include any prescriber orders and referral orders in health record.
- Document medications given, stating when the medication was started and ended, at the end of the year, at the end of a course of medication, or when the dose changes, i.e. 1/5/02 – "Ritalin 10 mg daily." 5/20/02 – "Ritalin 10 mg daily stopped per MD order." OR "Ritalin 10 mg daily from 8/15/2001 to 1/10/02; Ritalin 20 mg daily from 1/11/02 to 5/12/02." Once this information has been recorded, prescriber orders may be discarded.²⁹
- Document the name and title of anyone to whom access to a child's health record was given.³⁰

It is critical that the documentation display accurate descriptions of events, conditions, and actions

²⁹Harrigan, J.F., (2002). Overview of school health services publication. National Association of School Nurses.

³⁰ Student Health Services and Records (JLC) revised, the Colorado Association of School Boards (CASBE) After consultations with the Colorado School Health Advisory Board and the State School Nurse Consultant; Schwab, NC, Panettieri, MJ & Bergren, MD (1998). *Guidelines for School Nursing Documentation: Standards, Issues and Models*, 2nd Edition; National Association of School Nurses.





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Some people use Social Security numbers as identifiers, other places have other ways of personally identifying people because they don't want to use SS numbers. Before using a SS number on a record, you should make sure

- a) you don't have a policy forbidding it and
- b) You have a good reason for using it.

taken to minimize the danger that a student may suffer from misuse of a record in the future and to maximize the protection of the nurse and the district if a record is needed later to demonstrate that appropriate procedures were followed. Descriptions of student behavior and condition, backed up by whatever objective information may be available (such as vital signs, description of physical injury, etc.), comprise one of the most important documents in dealing with situations that may be controversial.³¹

What About Electronic Records?

Faxes, computers, hand held computers, and the Internet have revolutionized record keeping and sharing of information, but the same rules of confidentiality and security apply to computerized health records as hard copy. The school must assure protection of computerized health information from a list of potential problems, including: computer hacking or unauthorized access (intentional attack), natural disaster (including power surges); human error, viruses, computer crashes, inadvertent release (such as protecting an open computer file from being seen), and insecure transmission over the internet.

- Computers crash, often when you least expect it. Electronic records must have backup

systems (tape, floppy, hard drive, or network drive) that are used scrupulously, consistently, and often. Staff using computers must have basic computer skills, such as knowledge about the necessity of frequent updating. The electrical hardware serving the computer should be sufficient to protect against power surges, electrical storms, use of other equipment, etc.

- Shared electronic files must have controlled levels of access. Password protection in various levels helps to prevent unauthorized access to sensitive material either for viewing or amending. For example a health aide may have access to one level of a health record, but not files deemed to be "restricted" The school nurse will be able to access all records. "Read only" capacity protects earlier material from being deleted either erroneously or maliciously.
- To protect confidentiality, computer screens should be shielded from the casual visitor.³²

Some Ways to Promote Secure Maintenance of Automated Student Records

³² Schwab, NC, Panettieri, MJ & Bergren. National Association of School Nurses.10-22 CONFIDENTIALITY FAQs.doc – 6.

³¹ New Jersey SN Manual.





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- Document the date and reason for collecting information for each form and each data element, so that files may be kept current and not used for unintended or inappropriate purposes.
- Identify education record files and data elements within the files as restricted (confidential) or unrestricted (e.g., directory information).
- Develop a filing system for records, so that they can be retrieved easily and accurately when needed.
- Maintain complete and well-documented records on all changes and additions to files.
- Use passwords to limit access to parts of student files or to specific data elements.
- Monitor access closely through a record keeping system.
- Require users to change their passwords frequently, at a minimum of every three months.
- Include, where possible, a warning statement on the computer screen before access is permitted. This statement should stay on the screen for at least ten seconds to ensure that it is readable. It should be worded to convey the following message: *“Unauthorized access to personally identifiable information is a violation of Federal (and/or state) law and will result in _____ (prosecution or a maximum fine of \$_____ and/or imprisonment of up to _____ years, where applicable).”*

Users should be prompted to select whether to proceed. If it is not feasible for this statement to appear on the screen of the computer, it should be typed and attached to the monitor in a prominent location.

- Secure magnetic media storage devices, such as tapes, floppy diskettes, removable and fixed hard disks, in the same manner as if they were printed materials (e.g., locked in a secure cabinet when not in use, and only necessary copies made).
- Ensure that people involved in coding, entering, and processing the information have the necessary training and background to perform their tasks accurately and maintain strict confidentiality; and ensure they understand the criteria, context, penalties and other considerations.
- Avoid making excessive copies of back-up records. If back-up copies are made, label documents as “original” or “copy.”³³

what about verbal, faxed or electronic orders?

Written orders are preferable to faxed or verbal orders; faxed orders are preferable to verbal. In Colorado, faxed orders are acceptable. Verbal orders should be followed up within 48 hours by a written or faxed order.

³³ NCES document Exhibit 4.1
<http://nces.ed.gov/pubs97/p97527/>





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Personnel who have a legitimate **NEED to KNOW** – those employees, contract personnel or volunteers of an agency who provide direct services to the student or school officials with a legitimate educational interest as defined in the school records policy

Source: Schwab, N.C. & Gelfman, M.H.B. (2001) Legal issues in school health services: A resource for school administrators, school attorneys, school nurses. P. 307. Sunrise River Press, North Branch, MN.

What about keeping active health records?

Health records should be kept in secured locations, separate from other student records, preferably in the school health office.³⁴ Written information should be labeled “confidential.” Electronic records should be saved on secure locations, such as password-protected files; and floppy discs and zip drives should also be kept in secured locations.

How do I protect confidentiality?

The basic rule under FERPA and Colorado law is that medical diagnosis and other detailed health information should not be shared without informed consent from the student or the student’s parents except as permitted by law.

- The school nurse has a legal and ethical responsibility to disclose confidential information about a student when:
 - child abuse is suspected,³⁵
 - there is an indication that the student may be suicidal or may be contemplating self-injury; or,
 - there is the potential for the student to injure another.³⁶
- The school nurse may share health related information

that will further a student’s academic achievement and/or maintain a safe and orderly teaching environment only with school staff that have a specific and legitimate educational interest in the information.³⁷ Making this decision requires the school nurse to exercise professional judgment and knowledge.³⁸

- It is not appropriate to post student names to a “Health Alert List” that is disseminated to all school staff. Not all staff members provide

services to all students and, therefore, not all staff needs to know the information on every student. Instead, a process should be implemented to identify individuals that have a legitimate educational interest and need to know the information in order for a student to function optimally in the school setting.

The Colorado Department of Education recommends some basic rules, in addition to

³⁴ Colorado Department of Education. (date) Special Care for Health Records.

³⁵ §19-3-304, CRS.

³⁶ §24-72-204(3)(d)(V)(e)(1), CRS.

³⁷ Memorandum, CDE Commissioner of Education, May 2002 Confidentiality of School Health Records, <http://www.cde.state.co.us/cdesped/download/pdf/nur-Confidentiality.pdf>.

³⁸ NASSNC Position Statement National Association of State School Nurse Consultants. http://207.28.33.2/swp/tadkins/nassnc/NASSNC_confid.html#CONFIDENTIALITY





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Colorado law and FERPA, to assure privacy:

- establish policies and procedures that specifically address the handling of school health records;
- keep health records separate from other academic records;
- inform students and families about how student health information will be handled;
- provide training to all employees about confidentiality issues and the importance of protecting information;
- when releasing data, provide only the minimum details necessary to benefit the student's education, health and/or safety; and
- assure security of records by assigning a trained individual to be accountable for health information security.³⁹

What about sensitive issues?

The rules about maintaining confidentiality are stricter in health care settings than in schools with regard to certain sensitive health information, such as HIV status, mental health issues, pregnancy, abortion, and sexually transmitted diseases. In health care settings, medical information of this nature may not be released without the *patient's* consent. These rules, however, do not apply in the school setting unless there are

specific school district policies that address those issues. Ideally, when situations involving sensitive issues arise in schools, decisions about the sharing of information should be decided on a case-by-case basis, with consideration for the specific situation, the age and level of maturity of the student, and the student's level of competency to manage the situation. School staff should always encourage a student to self-disclose to parents or guardians and may be instrumental in helping them do so.

A concern may arise if parents ask to see information in their child's health record when that

record might contain information about sensitive issues that the student does not want the parent to see. The school nurse must make sure that, if documentation of such information is contained in the student's record, the file can be compartmentalized in such a way that access to information about sensitive services can be protected from parental access until the student authorizes disclosure. (The advantages of electronic files for this type of information "layering" are obvious.)

FERPA and accompanying regulations define a "parent" as including both natural parents, custodial and non-custodial unless the school "has been

³⁹ Colorado Department of Education (2002). Confidentiality of school health records. <http://www.cde.state.co.us/cdesped/download/pdf/nur-Confidentiality.pdf>





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provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody, that specifically removes that parent's FERPA rights."⁴⁰ If a question exists as to whether or not medical information may be released to the parent or legal guardian, the school nurse should consult the appropriate administrator or officer in her school district to determine the district's definition of a "parent."

How Long Should Student Health Records be Kept?

Because student health records are defined by FERPA to be part of the academic record, they must be retained in the same way as the rest of the academic record.

The Colorado Division of State Archives and Public Records mandates that districts develop policies that define how long student academic records must be retained.⁴¹ It authorizes schools to purge immunization and other health records from the student academic file after the student has graduated or left the district provided that the district has a record retention schedule approved by the Division on State Archives.

The student cumulative health record (CHR) should be retained

along with other academic records. The only part of the CHR that is required by the Division of State Archives and Public Records to be retained is the immunization record for students who have withdrawn, but not yet graduated. The following records may be requested by students who have left the school, could be useful in protecting schools against liability if health-related questions arise, and should also be considered for retention:

- Student record card with health history, summary of relevant health office interactions, including significant accidents and illnesses, and summary of medications given,
- Individualized health care plan,
- Results, recommendations, and follow-up related to all screening,
- Other information that is deemed relevant by the school nurse.

"Relevant" health office visits, accidents, and illnesses do not mean every interaction. Consideration should be given to those situations that could have long term impact on the student's physical or mental well being or ability to achieve optimally in his/her academic program.

Summary of medications given should be entered on the CHR when the medication is started and ended, at the end of the year, at the end of a course of medication, or when the dose changes. Further guidelines for

⁴⁰ NCES document , Exhibit 5.1, FERPA regulations at 99.3, 99.4.

⁴¹ § 24-80-103, CRS





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recording related to medications can be found in *Medication Administration in the Schools: Guidelines*.⁴² If this information is recorded in the CHR, prescriber orders may be discarded.

The most recent health care plan should always be retained. The school nurse should decide whether earlier health care plans contain information that might have a long term impact on the student. Some may; others may not.

Referrals are part of follow-up and should be retained for mandated screenings and for “relevant” illnesses and injuries.

The student’s most recent immunization card should contain all immunizations the child has received. A system should be implemented by which the school nurse or health aide transcribes immunization information so that it is contained on one card.

What else can I do?

Identifiable health information can be disclosed in a multitude of ways: in talking to parents, maintained in a paper or electronic student health record, by sharing information with teachers and administrators, choosing an information system,

⁴² Colorado Department of Education (2003). Medication Administration in the Schools: guidelines. http://www.cde.state.co.us/cdesped/download/pdf/Medication_Admin_Guidelines.pdf.

faxing, email, etc. If the school district does not have written policies on school health records, the school nurse is in a position to:

- promote the development of standardized school health records system, with clear guidelines for local policies and procedures, and adherence to standards that protect student and family privacy;
- ensure that release of information to serve a “legitimate educational interest” is defined both in terms of those who need to know to benefit the student, and those who have the expertise to understand and interpret the health information and its relationship to educational needs;⁴³ and,
- develop mechanisms for internal communication of student health information to appropriate school staff, and external communication that encourages interagency collaboration and private partnerships as necessary to benefit the student.⁴⁴

⁴³ For example, Kansas Department of Health and Environment, Bureau For Children, Youth & Families Children & Families Section. (May 2002). School Nursing And Integrated Child Health Services: A Planning And Resource Guide For Schools, Health Departments, And Primary Care Providers In Kansas Communities http://www.kdhe.state.ks.us/bcyf/resource_guide/pdf_files/cover_acknowledgements.pdf.

⁴⁴ National Association of School Nurses (2004). Position statement: School Health Records. <http://www.nasn.org/briefs/2004briefrecords.htm>





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The school nurse can conduct a periodic review of how school health records are created and maintained in order to assure that school procedures fulfill written school policies concerning confidentiality and permitted access to records. Such review would assure that:

- student health records are maintained apart from student educational records or directory information;
- specific information concerning a student's health condition is not collected on forms that are handled by non-medical personnel;
- school staff members do not ask parents/guardians or students to discuss health concerns unless the setting provides privacy;
 - notations of relevant verbal encounters, *i.e.* telephone calls to parent regarding administration of previously discussed medication) are made in the record; and,
 - information concerning HIV status or drug/alcohol assessment is not recorded on a general health history and assessment form; and
 - records concerning information on alcohol or other drug use are stored separately from other student records.





§ 4. The School Nurse and Her Colleagues

School nurses are part of a team, and the realities of a school day mean that a number of scenarios can arise concerning student health information.

- The athletic director may need some information about a student in order to arrange the logistics for an "away" game.
- A law enforcement official from outside the school may request to see a student's record.
- The student may transfer schools or graduate and need records sent to his new school.
- A parent may request to see a child's record.
- An outside health provider may send a record about the child.
- At a team meeting, the school nurse may be asked to discuss a specific student with a school social worker and the student's teacher.
- The principal may need student health information to better assess budgeting the staffing levels of support services.
- A person who is contracting with the school or district to perform a special task, such as a medical consultant, therapist, club advisor, etc. may need information.

What is a school nurse to do? The basic answer is that: disclosure of confidential health information can be done only within the context of state and federal laws and school district

policy. Here are some everyday scenarios.

Sharing Health Information with the IEP Team

When participating on a team to assess the needs of specific students, or when asked to provide information concerning the health status of a student as part of an evaluation, the school nurse should start with general health status information that is not specifically protected by federal or state law. As more specificity may be required, the school nurse should consult the health record and provide information that is relevant to the child's educational needs rather than sharing the health record in its entirety with other team members.⁴⁵ The IEP team's "Need to Know" covers only the health information that directly impacts the student's specific educational needs and academic achievement goals.

Sharing Health Information with Other School Staff

School staff or school officials only have the right to access health information if they have a legitimate "need to know" specific information in the health record. The answer to this question is determined on a case-by-case

⁴⁵ Colorado Department of Education (May 2002). Confidentiality of School Health Records.
<http://www.cde.state.co.us/cdesped/download/pdf/nur-Confidentiality.pdf>





The School Nurse and Her Colleagues (continued)

basis both as to the requestor of the information and the information being sought. Again, the school nurse is an obvious resource to help answer these questions with respect to health information. For instance, if a child has an allergy to bee stings, information about that problem might be shared with classroom and physical education staff, playground staff, bus drivers and individuals who attend field trips with the child; if a child has diabetes, information should be shared with cafeteria staff as well as others, but not with everyone who works in the school. School health personnel, in conjunction with the student and his/her parents, should be involved in deciding which school staff should have access to health-related information about a student. Again, the health record itself does not have to be shared, but specific information and interpretation of that information should be provided by school health services staff to appropriate individuals.⁴⁶

⁴⁶ NASN on confidentiality CONFIDENTIALITY FAQs.doc – 4; The Manitou Springs School District limits access to “health records” (not defined) to: “professionally prepared members of the school health team, such as the school nurse, school psychologists, physical therapist, occupational therapist, and speech therapist/therapist and other staff members

Sharing Health Information with School Athletic Staff

Some schools, especially at the high school level may have sophisticated athletic health care teams. Athletic personnel could include administrators, coaches, parents and participants, as well as health professionals, such as certified athletic trainers, team physicians, consulting physicians, physical therapists, emergency medical services (EMS) personnel, dentists and other allied health care professionals.⁴⁷ These individuals may or may not be employed by the school.

Sharing health information with athletic staff is based upon the same principles involved with sharing information with other staff. Especially in high school, the student’s record may contain documentation of a sport’s physical examination. Possible scenarios of information exchange between the school health staff and the school athletic staff include evaluation and immediate treatment of injury and illness, with appropriate referrals; facilitating the rehabilitation and reconditioning of a student returning to school after a sports injury; facilitating the health needs

contained in district policy who have legitimate educational interest in the student.” (Policy JHC, 3/39/99)

⁴⁷ Association of School Athletic Coaches. Consensus Statement Appropriate Medical Care For Secondary School-Age Athletes. www.acsm.org





The School Nurse and Her Colleagues (continued)

of a student with special health needs wanting to play on a school

team; providing referrals for psychosocial consultation, etc.

Sharing Health Information with After-School Club Advisors

A school nurse works part-time/part week in a middle/senior high school with over 80 after-school clubs. Some of the club advisors may be school staff; others may not be school employees. How does the school nurse communicate with all of these advisors about medically fragile kids or kids with chronic health conditions? The issues here are twofold: getting the right information to the right people and sharing it in a manner that does not violate confidentiality.

The school nurse cannot issue a broadcast memo to advisors with the names of children and their medical issues. Although it will be time consuming to communicate with all club advisors, the school nurse can help those who are not school employees to develop a note asking parents to share health information about their child. If the parent is providing the information to the club advisor, it does not constitute release of health information by the school nurse to a non-school third party. Alternatively, all school clubs can require a signed consent from the parent for the school nurse to

share information with the club advisor. Staff members should

then be informed about what is considered appropriate and inappropriate access to the data and use of the information within the records.⁴⁸

What About Assistive Personnel with Delegated Responsibilities?

The school nurse may delegate limited access rights to specific non-nursing staff, but such staff should not be granted access to records for which they do not have specific, current, assigned responsibilities.

What About Staff Training Needs?

The school nurse must be assured that all school staff, contracted service providers, substitute teachers, assistive personnel, and school volunteers receive regular, periodic training concerning the district's policies and procedures for protecting confidentiality. This includes staff who do not have access to individual student records, as well as those who have been delegated limited or full access to confidential health information. Training should include principles of confidentiality, access rights, disclosure and re-disclosure of

⁴⁸ Agencies National Center for Education Statistics (1997). Protecting the Privacy of Student Records: Guidelines for Education http://nces.ed.gov/pubs97/p97527/Sec5_txt.htm.





The School Nurse and Her Colleagues

(continued)

health information, and responsibilities for safeguarding the confidentiality of data.⁴⁹

What If I See a Student Committing a Crime?

Nothing in either FERPA or Colorado law prevents school staff from disclosing to local law enforcement authorities information that is based on that person's personal knowledge or observation and not from an education record.⁵⁰ For example, if a school nurse were to observe that a student was selling drugs, the law would not prevent that school nurse from reporting the student to law enforcement authorities. Should the authorities decide to investigate the nurse's observations and wish to review the student's education records, they could then obtain a subpoena.

⁴⁹ Policy Studies Associates, Inc. under contract to the Council of Chief State School Officers. Protecting the Privacy of Student Records Guidelines for Education Agencies National Center for Education Statistics: 1997 http://nces.ed.gov/pubs97/p97527/Sec5_txt.htm.

⁵⁰ §24-72-204 CRS.





§ 5. COLORADO RESOURCES

Colorado Association of School Boards CASB
Revised Sample Policy
JRA/JRC.Special Care for Health
Records:
<http://www.cde.state.co.us/cdesped/download/pdf/nurSpclCr4HthRec.pdf>

Student Records/Release of
Information on Students (Revised
Sample Policy):
<http://www.cde.state.co.us/cdesped/download/pdf/nurStuRcdsRelRSP.pdf>





§ 6. NATIONAL RESOURCES

Family Education Rights and
Privacy Act

Family Policy Compliance Office
U.S. Department of Education

[http://www.ed.gov/offices/OM/fpc
o/ferpa/index.html](http://www.ed.gov/offices/OM/fpc
o/ferpa/index.html)

Information on Privacy of Records
in Schools

Sharing Information: A Guide to
the Family Educational Rights
and Privacy Act and Participation
in Juvenile Justice Programs

[http://www.ed.gov/offices/OM/fpc
o/pubs/sharing_info.html](http://www.ed.gov/offices/OM/fpc
o/pubs/sharing_info.html)

Policy Studies Associates, Inc.
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(1997). Protecting the Privacy of
Student Records Guidelines for
Education Agencies National
Center for Education Statistics

[http://nces.ed.gov/pubs97/p97527
/CONTENTS.HTM](http://nces.ed.gov/pubs97/p97527
/CONTENTS.HTM)

HIPAA

Health Privacy Rules and
Proposed Security Rules as a
Guide

U.S. Health and Human Services

[http://aspe.os.dhhs.gov/admnsim
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http://www.nga.org/cda/files/HIPAA_A_PRIVACY.pdf

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Family Policy Compliance Office, U.S. Department of Education. (February 2002). Memorandum: "The interface of HIPAA with FERPA," available on line at: <http://www.ed.gov/offices/OM/fpc/ferpa/library/hippa.html>.

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Appendix I
CDPHE clarified its position on HIPAA rules relating to signed consent forms and disclosure of immunization information. The HIPAA Privacy Rule now allows a provider to share protected health information with another provider for treatment: *A covered entity may disclose protected health information for treatment activities of a health care provider.* 164.506 (c) (2). **Therefore you may share the immunization information with a provider who is treating the child, without first having to obtain a signed consent.**

With regard to school or child care locations, CDPHE offered the following examples provide guidance for sharing/releasing information:

1) A daycare center or school calls the local health department requesting a copy of a child's immunization record. It is acceptable for the health department to share the immunization record with the daycare center or school without the parent's/legal guardian's written or verbal consent.

2). A school or daycare center receives a request from a parent/legal guardian, local health department or doctor to forward a child's immunization record to the health department or a doctor's office. It is acceptable for the school or daycare center to share the immunization record with any

of the entities listed without prior written or verbal consent from the parent/legal guardian.

3). A parent/legal guardian calls school where their child is enrolled and requests that a copy of their child's immunization records be sent to another governmental agencies such as the Women, Infant and Children (WIC) Program or the Temporary Assistance for Needy Families (TANF) Program. It is acceptable for the school to share the immunization record with these agencies without prior written or verbal consent from the parent/legal guardian.

4). A school nurse calls a local health agency requesting the immunization record on a child that is enrolled or trying to enroll in school. It is acceptable for the local health agency to share the immunization record with the school nurse without prior written or verbal consent from the parent/legal guardian.

CDPHE warned that "As of today [9/9/02], it appears that private providers who are not public health authorities may need to have parent/legal guardian authorization prior to sharing any immunization information with a school or daycare.

Contact Rebecca Jordan at 303 692-2795 or email: rebecca.jordan@state.co.us, for any





References (continued)

specific immunization record
sharing questions

Memorandum:Re: Sharing
Immunizations Records.
September 9, 2002. To: Local
Public Health Agencies, County
Nursing Services, VFC Providers,
School Nurse Supervisors,
Temporary Assistance to Needy
Families Program, WIC
Coordinators, and DayCare
Centers, From Ann McNulty,
HIPAA Compliance Coordinator,
and Rebecca Jordan, Program
Manager, Immunization Program,
Colorado Department of Public
Health and Environment
[http:](http://)





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