

## Contracts with Health Departments, Hospitals or Physician's Offices

Please note that local boards of education are responsible for compliance with all state and federal laws applicable to school health services. As laws tend to change over time, local school districts are cautioned to check for any updates or changes to state and federal laws. This guidance may be used as a review tool to ensure that the basics in law and regulation are covered by any contract with health providers or health departments who contract with school boards for student health services.

702 KAR 1:160, the School Health Services regulation, requires:

1. Preventive medical examinations for students;
2. Student vision examinations;
3. Student dental screenings or examinations;
4. Current Immunization certificate compliant with 902 KAR 2:060;
5. Continuous health supervision of all enrolled students;
6. Emergency care procedures;
7. First aid facilities compliant with 702 KAR 4:170;
8. Personnel trained in First aid and CPR;
9. Creation and maintenance of a cumulative health record for each student;
10. Reporting of all required student health data;
11. Designation of an appropriate school health coordinator for the district; and
12. Appropriate training for all unlicensed school personnel that have accepted delegation to perform medication administration in school.

School districts are required to use the Kentucky Student Information System (KSIS), to enter: (1) all health data required; (2) student health conditions; and (3) utilize The [Kentucky Department of Education \(KDE\) Recommended Infinite Campus ICD-10 Codes](#) document for appropriate ICD 10 codes to track student health conditions. For effective continuous health supervision, it is best practice to include the following in Kentucky Student Information System (KSIS), Infinite Campus (IC): (1) Student medications; (2) health room visits showing the student went back to class, home with a parent or called 911. Guidance on how to set up health office visits and other Infinite Campus information can be found [here](#). If this information is not entered into KSIS, a copy of these records must be provided to the school as a part of the student's educational health record.

Health departments acting as third-party contractors for school districts must treat student records as educational records subject to Family Education Rights and Privacy Act (FERPA). [eCFR :: 34 CFR Part 99 -- Family Educational Rights and Privacy](#). If this information is not entered into IC, a copy of these records must be provided to the school as it is a part of the student's educational health record. The Family Education Rights and Privacy Act (FERPA) provides that "education records" are records that are directly related to a student and that are maintained by an educational agency or institution, or by a party acting for the agency or institution. These are FERPA records, and the school must maintain them following the [Public School Districts Records Retention Schedule June 2022](#) school health records guidance.

[KRS 160.700](#) also defines “educational records” as data and information directly relating to a student that is collected or maintained by educational institutions or by a person acting for an institution including academic records and portfolios; achievement tests; aptitude scores; teacher and counselor evaluations; health and personal data; behavioral and psychological evaluations; and directory data recorded in any medium including handwriting, magnetic tapes, film, video, microfiche, computer-generated and stored data, or data otherwise maintained and used by the educational institution or a person acting for an institution.

In December 2019, the U.S. Department of Health and Human Services and the U.S. Department of Education updated their Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability (HIPAA) to Student Health Records. That document may be found [here](#). The purpose of this guidance is to explain the relationship between the Family Educational Rights and Privacy Act (FERPA) statute and implementing regulations and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. This document updates and expands on prior guidance to help address potential confusion on the part of school administrators, health care professionals, and others on how FERPA and HIPAA apply to records maintained on students.

This joint guidance document specifically addresses this question: Does FERPA or HIPAA apply to student health records maintained by a health care provider acting for a FERPA-covered elementary or secondary school that is not employed by the school?

Health records that directly relate to students and are maintained by a health care provider, such as a third-party contractor, acting for a FERPA-covered elementary or secondary school, would qualify as education records subject to FERPA regardless of whether the health care provider is employed by the school. HIPAA will apply to student records maintained by a health care provider that are not subject to FERPA only if the provider transmits any protected health information (PHI) electronically in connection with a transaction for which Health and Human Services (HHS) has adopted a transaction standard, e.g., health care claims, and the records contain PHI.