

The background of the slide is a composite image. The top left portion shows a line of yellow school buses parked outdoors. The bottom left portion shows the interior of a classroom with blue walls, decorated with colorful balloons and framed pictures. Several white student desks and black chairs are arranged in the room.

Protecting Student Health Information: HIPAA vs. FERPA

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Kentucky Department of
E D U C A T I O N

Personal Identifiable Information (PII):

- Personally identifiable information for education records is a Family Educational Rights and Privacy Act (FERPA) term referring to identifiable information that is maintained in [education records](#) and includes [direct identifiers](#), such as a [student's](#) name or identification number, [indirect identifiers](#), such as a student's date of birth, or other information which can be used to distinguish or trace an individual's identity either directly or indirectly through linkages with other information.
- See [Family Educational Rights and Privacy Act Regulations, 34 CFR §99.3](#), for a complete definition of PII specific to education records and for examples of other data elements that are defined to constitute PII. Additional information is available in the PTAC publication [Protecting Student Privacy While Using Online Educational Services](#).

HIPAA:

- Health Insurance Portability and Accountability (HIPAA) Act 1996, Public Law 104-191
- [CDC Definition of HIPAA.](#)
- Initially developed to protect insurance coverage for those who had lost or changed jobs
- Prevented denial of health insurance by new insurer based on pre-existing medical conditions
- Intended to ensure that “personally identifiable information” (PII) is appropriately protected.

Health Insurance Portability and Accountability Act (HIPAA):

- Prior written consent for sharing PII is required
- Consent must include:
 1. Specific records to be disclosed
 2. Purpose of disclosure stated
 3. Part or class of parties of whom disclosure may be made are identified

Please Return to School

Consent for School Health Services
Madison County School District
CHILD / STUDENT INFORMATION

Reviewed by: _____
Entered: ☐

Grade _____ Team _____ Homeroom Teacher _____

Child's Last Name _____ First Name _____ MI _____
(Please give child's complete legal name)

Child's Birth Date _____ ☐ Male ☐ Female

Street Address _____ City _____ Zip _____

Mother _____ Hm Ph _____ Wk Ph _____ Cell Ph _____

Father _____ Hm Ph _____ Wk Ph _____ Cell Ph _____

Legal Guardian _____ Hm Ph _____ Wk Ph _____ Cell Ph _____

Emergency Contact Person **OTHER** than guardian or parent _____

Home Phone _____ Cell Phone _____ Work Phone _____

Has your child **EVER** attended a Madison County School? ☐ Yes ☐ No

If YES, what SCHOOL(s) did student attend in the past : _____

Child's Medical History:

Important medical history the nurse should know about: _____

Medications taken every day: _____

Is your child ALLERGIC to: (check only if apply)

☐ Medications: please LIST: _____

☐ Peanuts or other NUTS: EXPLAIN REACTION: _____

☐ Bee/Wasp Stings: EXPLAIN REACTION: _____

☐ OTHER: EXPLAIN REACTION: _____

Child's Medical Insurance:

Does your child have a KY Medicaid Card ☐ Yes ☐ No Does child have other medical insurance? ☐ Yes ☐ No

My child **HAS** the following **life threatening condition** that may need **EMERGENCY TREATMENT or MEDICATION** (EPI-PEN, Glucagon, Diastat, Asthma Inhaler etc... at school:

☐ Diabetes ☐ Asthma ☐ Seizures ☐ Severe Allergies ☐ Other _____

Child's Health Care Provider _____ Child's Dentist _____

Consent for Health Services

I consent to care for my child that may include screening, exams, assessments, treatment, first aid, over-the-counter medicine, as listed on MCSD-SHC 1, and any other health service given to me/my child by staff of this school health clinic site. I understand that no guarantees are being made as to the effect of any exam or treatment on me/my child. I authorize the school health clinic to receive and release medical /dental and immunization information about my child to his/her individual school, primary care, immunization registry, or dental provider as needed or requested.

 **Signature:** _____ **Date:** _____
(Parent / legal guardian / emancipated student) (EXPIRES IN ONE YEAR) MCSD-SHC 2 (2019)



HIPAA and School Nurses:

Question: Do HIPAA privacy rule allow healthcare providers to disclose PII about a student to a school nurse?

Answer: 2008 USDHHS ruling: **Yes**, the HIPAA privacy rule allows covered health providers to disclose PHI about students to school nurses, physicians or other health care providers for treatment purposes, without the authorization of the student's parents.

Family Educational Rights and Privacy Act (FERPA)

- ✓ Enacted in 1974 to protect student education records
- ✓ Applies to all public and private schools that accept federal funds

What are Education Records?

- Records directly related to a student and maintained by the educational agency
- Student health records included in the cumulative folders (immunization, physical, vision and dental exams)
- Special education records
- Supportive services documents (school nursing notes)

Exception:

- Other than electronically billed statements, student health records in the educational setting are **EXEMPT** from HIPAA



FERPA Related/Supportive Services:

Anything that enables a student (especially ones with special healthcare needs) to:

- Attend school
- Maintain or improve health status during school day
- Progress toward independence in self-care
- Achieve educational success



Contents of Cumulative Health Record:

Required school forms

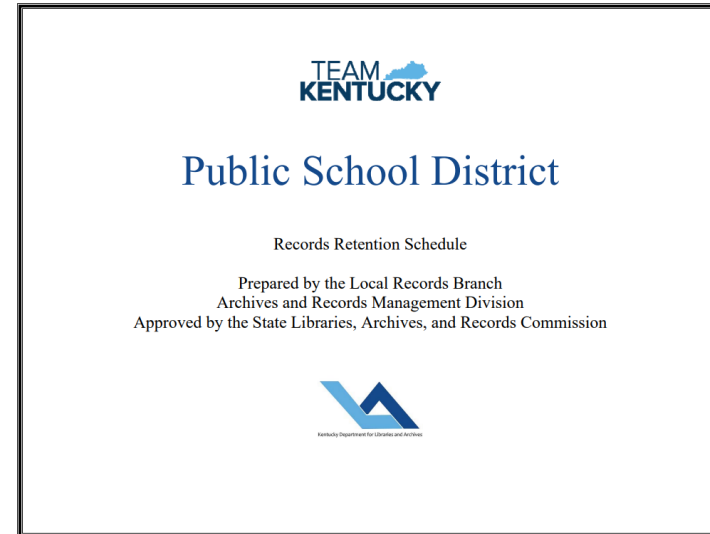
1. Preventative health exams (school physicals)
2. Immunization Certificates
3. Dental exam/screening
4. Vision exam
5. Results of health prevention screenings
 - ✓ Vision (Required)
 - ✓ Hearing (Required)
 - ✓ Body Mass Index (Optional)

LAST Name _____	First Name _____	MI _____	BD _____	F _____	M _____
<u>CONTENTS OF THIS FOLDER:</u>					
. School Health Clinic PINK CONSENTS . Immunization Certificate(s) . School Entry Physical . 6th grade Physical . Sports Physical(s) . Vision Exam . Dental Exam or Screening . Medication Administration Log Sheets . Any other medical records as needed					

Contents of Cumulative Health Records (Cont.):

6. Health office visits – if not electronically maintained in IC
7. Parental consent for health services
8. Communication (written or phone) with parent or health care provider
9. Retain for 6 years after student leaves the district, then destroy.

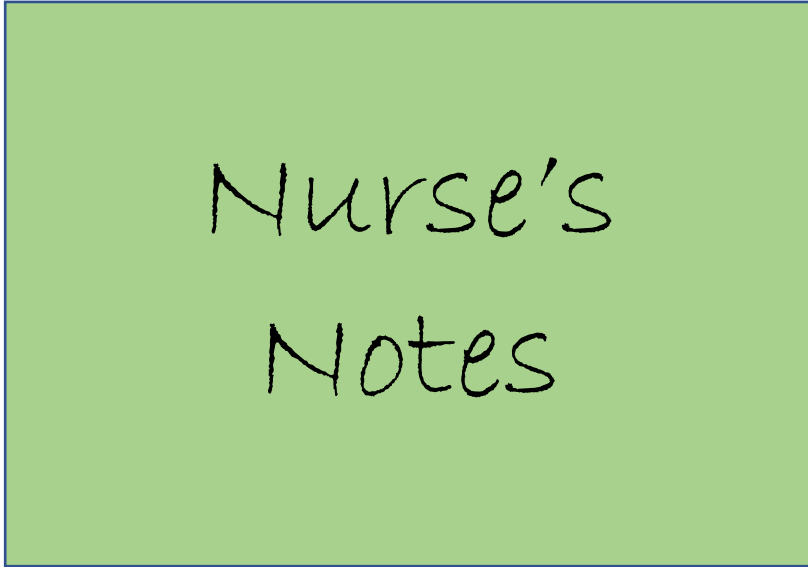
[KY Record Retention Schedule 2019](#)
page 116





What Should Not be Included in Health Records?

- ✓ Educational Records
- ✓ Nurse's personal notes (used only as a personal memory aid)



Nurse's
Notes

Things to Remember:

- ✓ Student visit should be recorded into individual student record
- ✓ Daily logs should not be kept
- ✓ When day is over, student paperwork/forms should be stored in a secured, locked location

May Schools Disclose Information about Cases of COVID-19?

- Sept, 24, 2020 - By: Kevin Herms, Director of the Student Privacy Policy Office [USDE Questions and Answers](#)
- Schools across the nation are working hard to keep students, teachers, and staff safe during the COVID19 pandemic. However, many schools are wondering whether the Family Educational Rights and Privacy Act (FERPA) allows them to disclose information about cases of COVID-19 to the community
- The Student Privacy Policy Office provided answers to these questions in our [March 2020 guidance](#)
- Subsequent to issuing the guidance, we have seen reports that states, cities, school districts and schools are continuing to face questions about disclosing COVID-19 cases

May a school disclose the number of students who have COVID-19 to parents and students in the school community without prior written consent?

- Yes, provided that the information the school shares with parents and students **does not allow for any individual student to be identified**. If a school discloses information about students in a non-identifiable form, then prior written consent from the parent or student (depending on the age of the student) is not needed under FERPA
- When determining what information may be shared without consent, the school must consider other reasonably available information that could potentially enable nonidentifiable information to become identifiable

For example:

- A school generally could release the fact that five students are absent due to COVID-19 without disclosing the students' identities
- This would be allowed under FERPA if there are a sufficient number of other students who attend the school and other students at the school are absent for other reasons
- However, we caution schools to ensure that in releasing such facts, they do so in a way that does not reveal information that, alone or in combination with other information, would allow a person in the school community to identify the students who are absent due to COVID-19

May a school disclose the number of students who have COVID-19 in order to provide general health data to the public (including the media) without prior written consent?

- Yes, provided that the information the school shares does not allow for any individual student to be identified. Similar to sharing information with the school community, if a school discloses information about students in a non-identifiable form, then consent is not needed under FERPA
- As discussed above, when a school determines what information may be shared without prior written consent, the school must take into account other reasonably available information that might allow non-identifiable information to become identifiable

May a school identify a particular teacher or other school official as having COVID-19?

- Nothing in FERPA prevents a school from telling parents, students, or the public that a specific teacher or other school official has COVID-19. This is because FERPA applies to students' education records, not records on school officials
- However, there may be state laws or other considerations that apply in these situations. Schools may also want to consult with public health officials and their district legal counsel on these matters
- [US Department of Education, May Schools Disclose Information About Cases of Covid-19](#)

Schools have a Significant Role to Play in Slowing the Spread of COVID-19 in the United States:

- Through appropriate information sharing and coordination with public health departments, schools can help protect their communities while safeguarding student privacy
- For additional information about student privacy, please visit the [Student Privacy Policy Office website](#)

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