

School Medicaid and Contracted School Health Services

Information for Education Agencies

September 2026



Purpose

This information is intended to assist education agencies and their contracted partners in understanding the interaction between the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), and education agency record retention requirements. It is also intended to provide education agencies that participate in School Medicaid billing with information that they may want to incorporate into their contracts.

This information is provided for informational purposes only and does not constitute legal advice. Use of this document is not required and nothing included in this document constitutes the imposition of additional requirements on education agencies. Education agencies are encouraged to consult their legal counsel to ensure compliance with applicable state and federal laws and regulations.

Definitions

The Family Educational Rights and Privacy Act (FERPA): a federal law that protects personally identifiable information in students' education records from unauthorized disclosure. It affords parents the right to access their child's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student ("eligible student") (34 CFR Part 99).

Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule: a federal regulation that establishes national standards to protect medical records and personal health information (PII), limiting how health plans, healthcare providers, and clearinghouses use and disclose that data (45 CFR Part 164, Subpart E).

Health Insurance Portability and Accountability Act (HIPAA) Security Rule: a federal regulation that requires covered entities and business associates to implement administrative, physical, and technical safeguards to protect electronic personal health information (e-PII) (45 CFR Part 164, Subpart C).

School Based Health Services (School Medicaid) Supporting Documentation Requirements

To bill School Medicaid, services must be supported by documentation. Supporting documentation includes written notification and parent/guardian consent, evaluations, assessments, screenings, Individual Plans of Care (IPOCs; when applicable), and service documentation (also referred to as clinical records, service logs, case notes, etc.).

Practitioners must provide and document services within their scope of practice and in compliance with their board rules and regulations. This means each practitioner follows the requirements for service documentation set by their respective board, and documentation may differ somewhat between practices. Medicaid may have additional requirements for service documentation, but they do not supersede or replace board rules and regulations.

Medicaid requires supporting documentation to include the:

- Date of service,
- Child or young adult's full name,
- Medicaid ID,
- ICD-10 code,
- Name of the education agency,
- Name of the individual performing the service,
- Name of the practitioner supervising the service (when applicable),
- Medically necessary and appropriate need for the service,
- Location and duration of the service, and
- Nature, extent, or units of service.

Notes and considerations for Medicaid requirements and billing:

- These elements may exist in more than one document, such as evaluations/assessments, a plan of care, and a practitioner's service documentation.
- Unplanned services may not have a plan of care, in which case the practitioner's service documentation must contain all required elements to support School Medicaid reimbursement.
- Medicaid claims must also include a procedure code and service minutes. The education agency may consider having practitioners include these on their service documentation.

School Medicaid Contracting Considerations

Education agencies may want to consider the following information when developing contracts with external health services staff.

- For accuracy and compliance with Medicaid requirements:
 - Medicaid has required elements for [supporting documentation](#), including what must be in the service documentation. Depending upon the board, some elements, such as an ICD-10 code, may be in addition to the practitioner's Board requirements.
 - Claims submission requires a procedure code. The education agency may consider having practitioners include these on their service documentation.
 - Medicaid has record retention requirements in accordance with Oregon Administrative Rule (OAR) 410-120-1360 which includes retaining clinical records for seven years from the date of payment.
 - Medicaid requires supervisory-level practitioners to enroll as Oregon Health Plan (OHP) providers. Consider ensuring practitioners' agreement to enroll.
- To mitigate risk and ensure no duplicate billing, services rendered and documented on behalf of the education agency should be clearly differentiated from those of the contracted staffing agency. Meaning that the clinical documentation/service logs that are shared with the education agency for the school health services rendered should not also contain services provided that are not part of the contract with the education agency.
- It may be necessary to include language around cost-based rate setting with contracted partners to ensure no duplicate cost reporting or billing occurs. What to include in agreements will be influenced by the billing arrangement (i.e., which agency is billing and receiving Medicaid reimbursement). Considerations include:
 - Amounts charged to the education agency:
 - Salary and benefits, materials, supplies, travel and supervision costs for practitioners performing agreed upon services.
 - Salary and benefits of supervision and support services provided to practitioners.
 - Names, licensure type, FTE (full-time employees) and paid hours of practitioners.
 - Dates and deadlines for reporting costs to the education agency who is submitting costs and billing cost-based rates to the Oregon Health Authority (OHA.)

Applicability of FERPA to Contracted School Health Providers

[Guidance](#) from the U.S. Department of Health and Human Services states:

"If a person or entity acting on behalf of a school subject to FERPA, such as a school nurse that provides services to students under contract with or otherwise under the direct control of the school, maintains student health records, these records are education records under FERPA... As education records, the information is protected under FERPA and not HIPAA."

FERPA defines "education records" as records, with certain exceptions, that are:

- Directly related to a student; and
- Maintained by an educational agency or institution or by a party acting for the agency or institution. 34 CFR § 99.3.

Examples of Providers and Staff to Which This Guidance May Apply

- School nurses or other health professionals directly employed by the school district or education service district.
- Nurses employed by a private or public agency who provide school nursing services.
- Occupational therapists, physical therapists, and speech-language pathologists employed by a public or private agency who provide school health services.
- Behavioral health professionals or other mental health providers employed by a public or private agency who provide school behavioral health services.
- Other health professionals employed by public or private agencies performing a school service or function on behalf of the education agency that would otherwise be performed by education-agency employees.

Education Agency Right to Access Records

Under FERPA and according to federal guidance, when an education agency contracts or otherwise partners with a community agency, private therapy provider, nursing agency, or similar entity to perform an institutional service or function (school health services) for which the education agency would otherwise use employees, the third party is generally considered a party acting for the educational agency. The records generated in providing those services are education records subject to FERPA. Page 9 of the [Joint Guidance on the Application of HIPAA and FERPA to Student Health Records](#) states:

"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."

Because these are school district education records, the district must be able to access them to:

- fulfill its educational and legal responsibilities;
- respond to parent requests to inspect education records under FERPA;
- maintain records necessary for IDEA, Section 504, and other educational requirements;
- ensure appropriate continuity of services;
- bill Medicaid (if applicable); and
- meet record retention requirements per [OAR 166-400-0060](#).

As stated above, because a person or entity acting on behalf of a school subject to FERPA, such as a school nurse contracted or employed by the district, maintains student health records, these records are education records under FERPA, just as they would be if the school maintained the records directly. This is the case regardless of whether the health care at issue is provided to students on school grounds or off-site.

Duplicate Records and Record Location

FERPA does not prohibit duplicate records or copies of student health or service documentation from being maintained in more than one location. For example, a school district may maintain a copy of a service record while a contracted staffing or therapy agency also maintains a copy as part of its business records. Under FERPA, the existence of a duplicate record does not eliminate the school district's responsibility to maintain and provide access to the education records it is required to maintain.

As stated above, when a contractor is acting on behalf of the education agency in providing a school service, records maintained for that school service are subject to FERPA. The education agency should therefore ensure that its contracts and record-management practices establish appropriate access, confidentiality, security, retention, and procedures for responding to parent requests for access to education records.

Page 7 of the [Joint Guidance on the Application of HIPAA and FERPA to Student Health Records](#) states: "The HIPAA Privacy Rule specifically excludes from its coverage those records that are protected by FERPA by excluding such records from the definition of 'protected health information.'"

Therefore, according to this guidance, a contractor cannot unilaterally withhold these education records from the school district on the basis that the records are protected solely by HIPAA if the contractor is providing services on behalf of the education agency.

Data Sharing and Digital Privacy Considerations

As noted, when a contractor is acting on behalf of the education agency in providing a school service, records maintained for that school service are subject to FERPA. This includes records storage and electronic transmission. State and federal rules and regulations require that the education agency use reasonable methods to protect the confidentiality of education records (34 CFR 99.31, 34 CFR 99.35, 34 CFR 300.623, OAR 581-021-0265).

Additional requirements may apply when the information is electronically transmitted. FERPA governs the records as education records, and the parties should separately assess any HIPAA Security Rule obligations they may have based on the nature of the electronic information being transmitted.

Accordingly, when student health records are shared electronically between a contracted provider and an education agency, the education agency and contractor should clearly address how service logs and other student health information will be securely transmitted, accessed, stored, and retained, taking into account FERPA and other applicable privacy and security requirements.

References

- [Joint Guidance on the Application of FERPA and HIPAA to Student Health Records \(2019\)](#)
- [HHS FAQ: Does FERPA or HIPAA apply to elementary or secondary school student health records maintained by a health care provider that is not employed by a school?](#)
- [34 CFR 99](#): Family Educational Rights and Privacy Act (FERPA)
- [45 CFR Part 164](#): Health Insurance Portability and Accountability Act (HIPAA)
- [OAR 166-400-0060](#): Educational Service District, School Districts and Individual School Records.
- [OAR 581-021-0265](#): Confidentiality of Student Education Records
- [Student Privacy Considerations and Remote/Online Platforms](#)
- [School Medicaid Supporting Documentation Guidance](#)
- [School Medicaid Provider Enrollment Guide](#)

Contact

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