



Sharing Information: Teaming for School Safety and Mental Health

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What Are We Talking About?



1. **Sharing personally identifiable information (PII) across systems related to threats of school violence and mental health teaming**
2. **Examine scenarios and consider laws and responsibilities of the school district related to access, disclosure, and maintenance of records**

Disclaimer



- ★ This presentation is intended as a guide.
- ★ This presentation is intended solely to provide general information and nothing written here shall be understood to constitute legal advice or a legal service.
- ★ For specific legal advice, your local attorney should be consulted.



No Need to Panic



Review the Basics Any Time!

- Online modules for basic understanding:
<https://dpi.wi.gov/wise/data-privacy/training>
- Publications:
 - [Student Records and Confidentiality](#) (2018 version)
 - [Sharing Information Across Systems](#) (2018 version)
 - [Records Retention Schedule for School Districts](#) (2015 version)
 - [Parent, Persons Acting As a Parent...](#) (2018)

Student Records Part 1

Resources

Student Records: Part 1

Categories of Student Records

Student Services/Prevention and Wellness Team
Wisconsin Department of Public Instruction
Web: <http://dpi.wi.gov/sspw>

What Laws Must Schools Follow?

- Family Educational Rights & Privacy Act (FERPA) (34 C.F.R. § 99)
- Individuals with Disabilities Education Act (IDEA) (34 C.F.R. § 300.610-.627)
- Wis. Stat. § 118.125 Pupil Records
- Wis. Stat. § 146.81-84 Patient Health Care Records
- Wis. Stat. § 51.30 Treatment Records



Don't Forget Board Policy



Pupil Records in Wisconsin

- Progress Records (keep 5 years)
- Behavioral Records (keep no more than 1 year)
- Patient Health Care Records (keep 5-7 years)

**See handout Categories of Pupil Records for examples*

The background of the slide features a photograph of the Wisconsin State Capitol building. The building is a large, white, neoclassical structure with a prominent dome. The dome is topped with a golden statue. The building is surrounded by green trees, and the sky is a clear, bright blue. The photograph is taken from a low angle, looking up at the building.

A 9th Grade Student - James



Depression Screener



- Which type of consent is needed?
- What about assent?
- What type of record is created?
- Where do you store it?
- Who can access it?
- How long do you maintain it?



Consent & Assent

- [Protection of Pupil Rights Amendment \(PPRA\)](#)
- [Consent and Notification in a Multi-level System of Support Document DPI](#)
- [Title IVA Requirements - Parents Right to Know](#)
- How can you ensure students understand their right to opt out?

Depression Screener - Type of Record

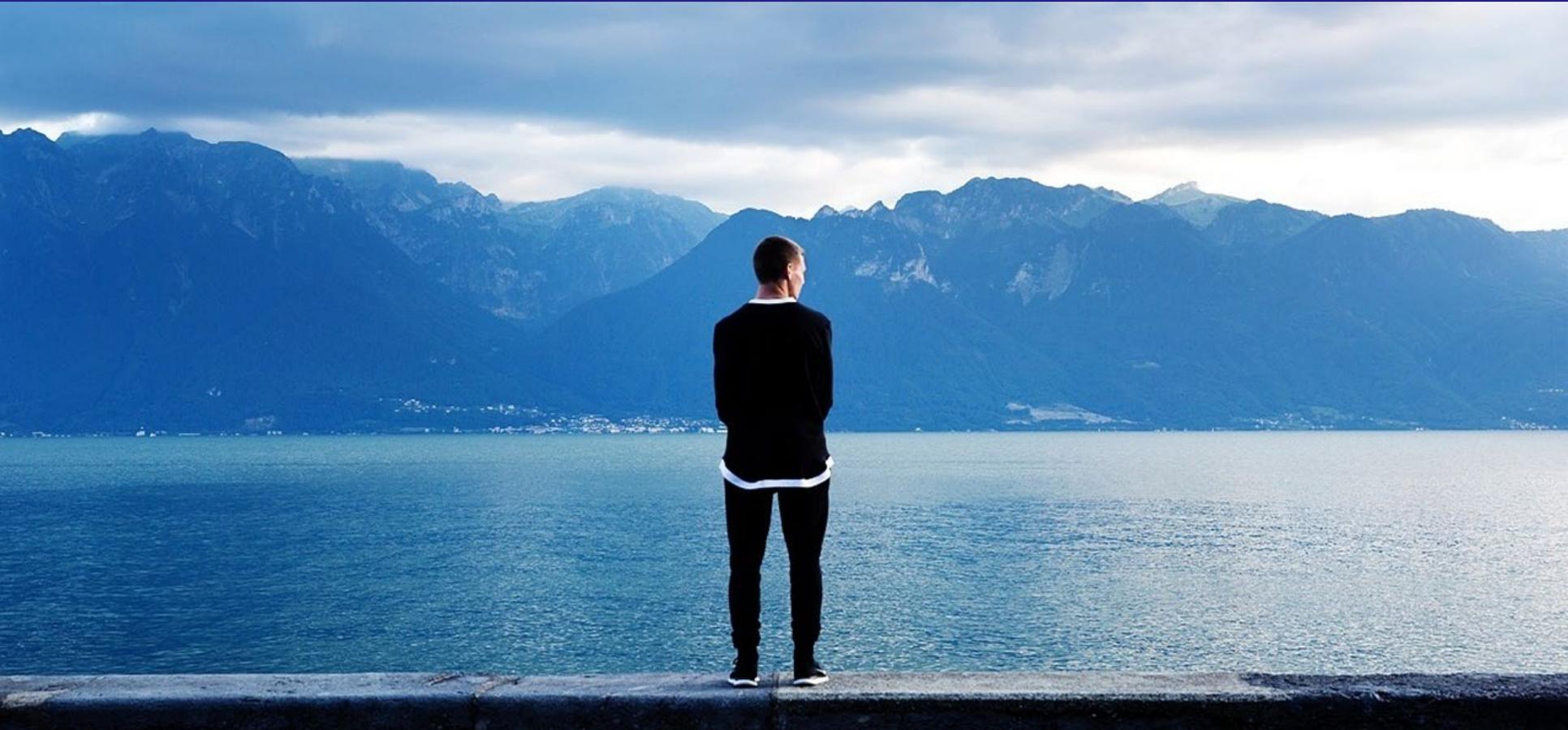
- Consider [Wis. Stat. § 118.125\(1\)\(a\)](#) Behavioral records
 - Includes “psychological tests”, “personality evaluations”, and “any other pupil records that are not progress records”
- Consider [Wis. Stat. § 118.125\(2\)\(b\)](#) Confidentiality and Disclosure
 - Includes right or pupil, or parent/guardian of minor pupil access
- Statute does not dictate where districts must maintain records
- [Wisconsin Records Retention Schedule for School Districts](#)
- Consider [Wis. Stat. § 118.125\(3\)](#) Maintenance
 - No behavioral records may be maintained for more than 1 year after student ceases to be enrolled [in the district]

Depression Screener



- Which type of consent is needed?
- What about assent?
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Risk for Depression - Moderate



Group for Inclusion, Support, Skill Building



- Which type of consent is needed?
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School-based Mental Health Team

- Best practice to get consent of James parents to discuss James
- Board could designate in board policy contract staff as 'school officials' for purpose of MH team

[Wis. Stat. § 118.125\(2\)\(d\)](#); [34 CFR 99.31](#)



Acknowledgement



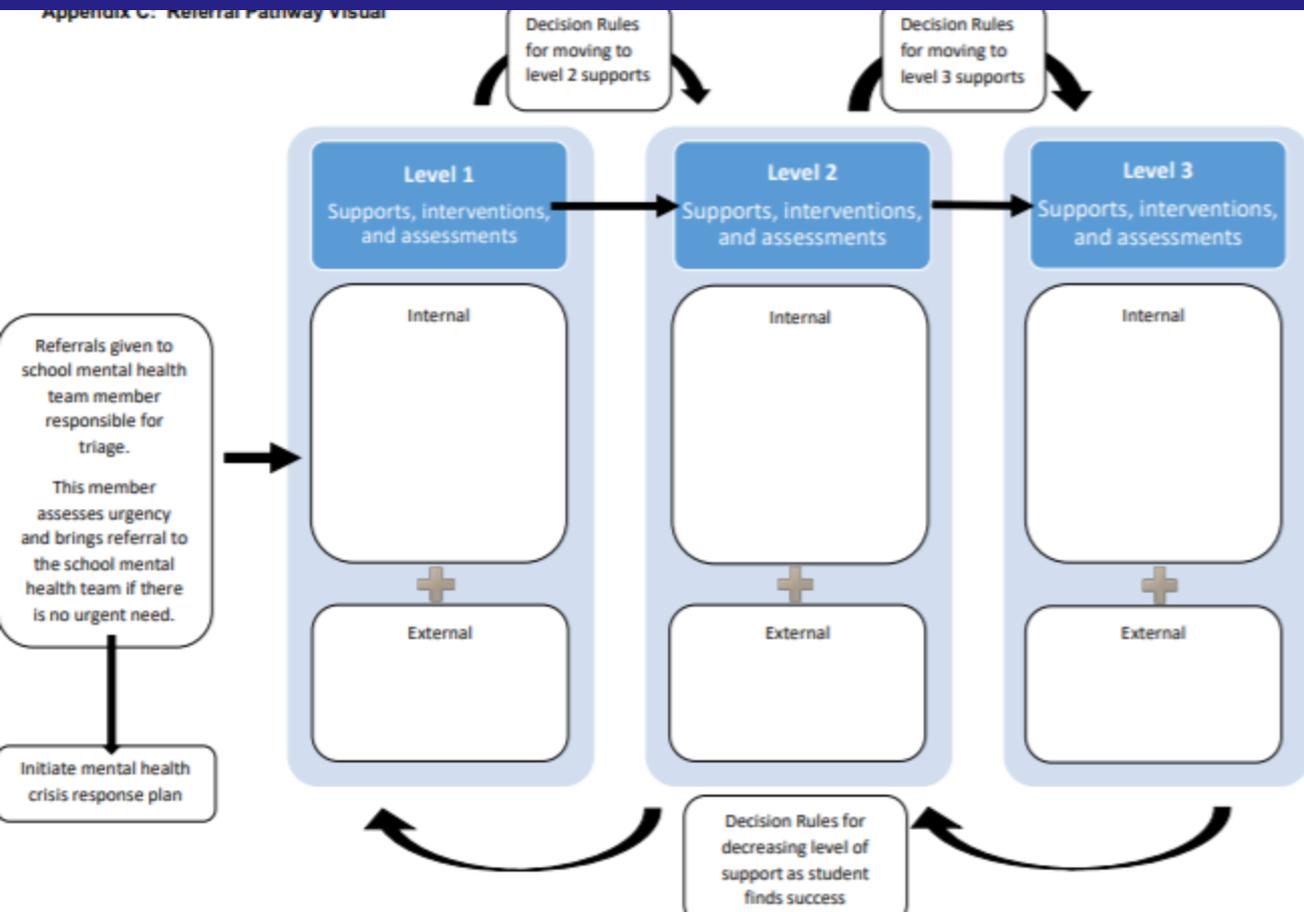
- **Designated School Officials Understand**
 - **having received instruction related to student records**
 - **information from confidential pupil records may only be used for the purpose of the disclosure**
 - **may not be re-disclosed**

Disclosure Outside the School

Does having an MOU in place remove the requirement for written parental authorization to disclose PII from pupil records?



Referral Pathway - Connect to Provider



- [DPI Referral Pathway Guidance](#)
- Parent signs HIPAA compliant Release of Information (ROI) to exchange info
- School point person has regular follow up communication with provider

Treatment Records

- Consider [Wis. Stat. § 51.30](#)
- School staff need HIPAA compliant release to obtain information
- Student and parent consent



Hospitalization



- New ROI with hospital
- Re-entry and support plan
- How much should teachers know?
- Discharge summary

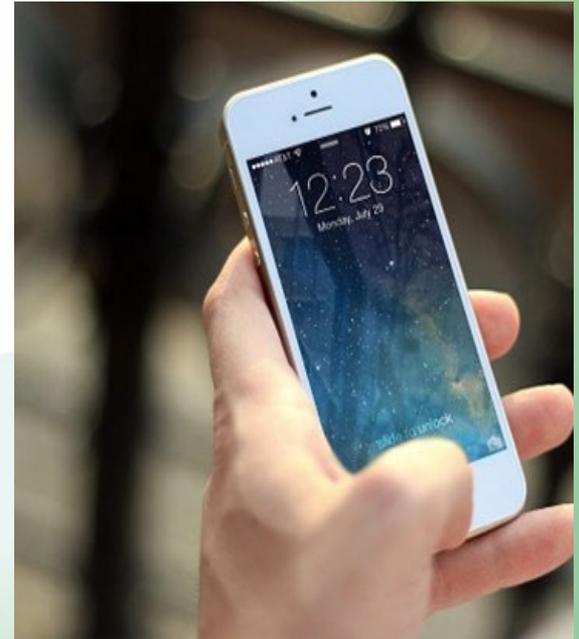
Threat to Safety

- Consider: Mandated Reporting of Threats of School Violence [Wis. Stat. § 175.32](#)
- Can law enforcement access pupil records?
- Must a parent consent to threat assessment?
- What type of record is a threat assessment?
- Can parents obtain a copy?
- Can parents demand record be destroyed?



Reporting Threats of School Violence

- **All school employees shall report, by telephone or personally**
 - **to a law enforcement agency**
- **If the employee believes, in good faith,**
 - **based on a threat regarding violence in or targeted at a school**
 - **there is a serious and imminent threat to the health or safety of a student or school employee or the public**



Wis. Stat. §§ 118.07 (5), 118.126 (1)(c), 175.32

Law Enforcement Access



- Consider [Wis. Stat. § 118.125\(1\)\(d\)](#) SROs and School Officials
- Consider [Wis. Stat. § 118.125\(2\)\(n\)2](#)
 - Concern the Juvenile Justice System and System's ability to effectively serve the pupil
 - related to an ongoing investigation or pending delinquency petition
 - records will not be redisclosed
- Consider [Wis. Stat. § 118.125\(2\)\(p\)](#) Health or safety of any individual

Observations

- FERPA does not prohibit a school official from releasing information about a student that was obtained through the school official's personal knowledge or observation, rather from records.
- Consider social media posts

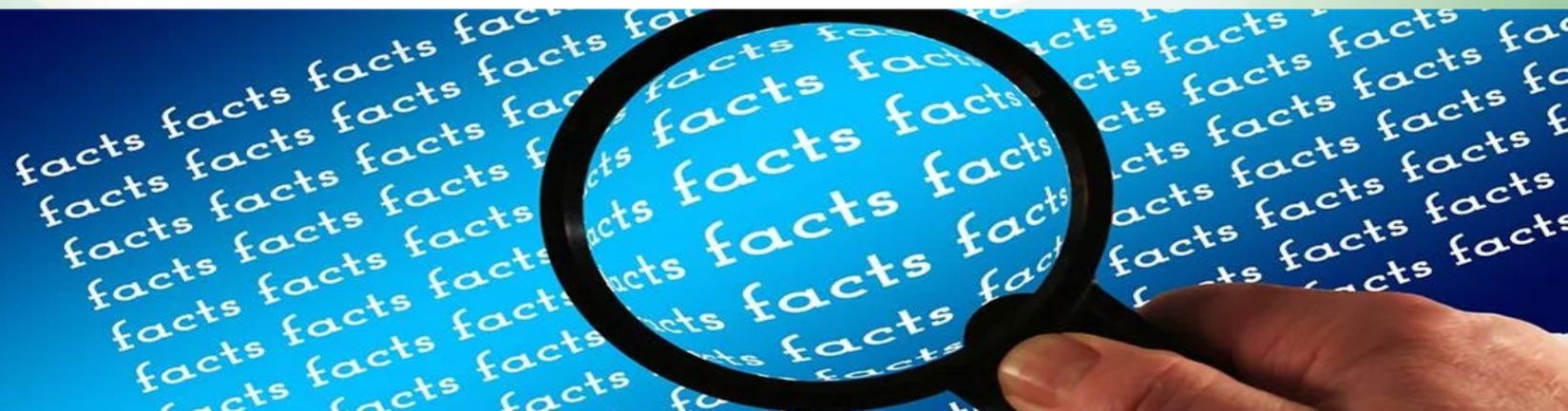
USDOE - [School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act \(FERPA\)](#)



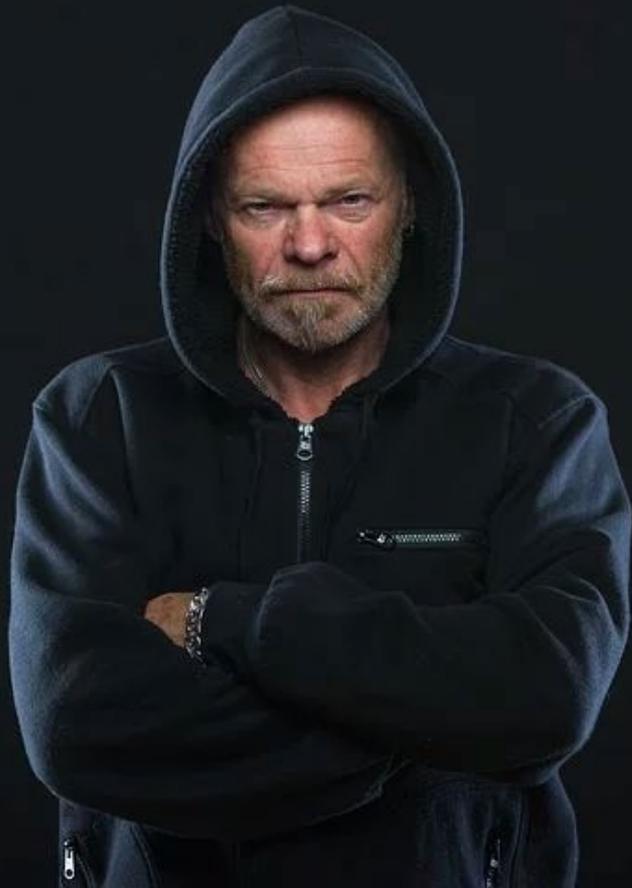
Threat Assessment Process

1. Inquiry stage: relatively informal stage needed to determine if a threat assessment is needed.
2. Formal stage: aligned with district policy completed by a multidisciplinary team.

Can a child or parent refuse to participate?



Parental Right to Copy of Assessment



- Consider [Wis. Stat. § 118.125\(1\)\(a\)](#) Behavioral Records
- Consider [34 C.F.R. 99.31](#) PII

Threat to Safety

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James is Transferring to a New School

- 1. Do you transfer all pupil records, including MH records and threat assessments?**
- 2. How long do you have to send records?**
- 3. What do you do with electronic records?**
- 4. What do you do if a parent asks you not to send a particular record?**

Transfer - Health Records

- If created by 'health care provider' in the school it's ok to transfer to next district ((Wis. Stat. §§ [146.81](#), [146.82\(2\)\(a\)12.](#))
- If created by 'health care provider' outside the school, need specific parental authorization to transfer (Wis. Stat. § [146.82\(5\)\(c\)](#))
- Mental health & AOD treatment records may be transferred without consent (Wis. Stat. [51.30\(4\)\(a\)](#))

HIPAA or FERPA Considerations

In a school setting, when does FERPA apply to the records and when does HIPAA apply?



→ FERPA applies to schools that receive federal funding.

Please Clarify...



Can a school nurse call a doctor, **without authorization from a parent**, and ask them to clarify their instructions regarding medication the nurse will administer at school?

Yes.

But....



Records of Disclosures

- When parents do not give written consent, a record of requests for information from student records and disclosures must be maintained
 - Schools do not needed to document disclosures to school officials
 - Records of disclosures must include
 - What was disclosed
 - To whom the records were disclosed
 - Date of the disclosure
 - Authorization for the disclosure 34 CFR § 99.32, 300.614
 - Release forms & court orders can document disclosures

Emergencies



May disclose to
protect the
health or safety
of any individual

(Wis. Stat. 118.125(2)(p); 34
CFR 99.31, 99.36)



School Scenario - Threat Assessment

A teacher notices a student sketching a diagram of the cafeteria and sees the word 'bomb' written in a few places on the sketch. The teacher asks the student about the drawing and the student says 'nevermind, it's nothing, it's just a game' and walks away. The teacher asks students at the table what the student was drawing. One says that the student said they were drawing where to put bombs when they come to blow up the school on Tuesday, but they don't think he's serious. The teacher has been worried about the student's behavior for some time.

1. With whom should the school discuss this information with?
2. What must be considered in relation to sharing information with each of those individuals in this situation?
3. The parents want to see all documents relating to the assessment and then want them deleted. What must you consider?
4. The student is brought on charges to the court. The court needs pupil record information in its proceedings. May the school disclose pupil records?

FERPA and HIPAA

Data Privacy in School Nursing: Navigating the Complex Landscape of Data Privacy Laws (Part 1) - <https://www.networkforphl.org/asset/tzqw3y/Data-Privacy-in-School-Nursing-Navigating-the-Complex-Landscape-of-Data-Privacy-Laws-Part-1.pdf>

Family Educational Rights and Privacy Act (FERPA) and H1N1 (October 2009) - <https://studentprivacy.ed.gov/resources/ferpa-and-h1n1-virus>

FERPA and HIPAA Comparison Tool (SAMHSA) - https://opi.mt.gov/Portals/182/Page%20Files/Suicide%20Prevention/Documents/NITT_HIPAA-FERPA%20Tool_021517_508.pdf

FERPA and Public Health, (Ellen Campbell of the Family Policy Compliance Office), Nov 12, 2010, Presentation Slides - <https://www2.ed.gov/about/offices/list/osdfs/ferpapubhealth.pdf>

US DHS and US DOE Joint Guidance on the Application of FERPA and HIPAA to Student Records (Nov. 2008) - <https://www2.ed.gov/policy/gen/guid/fpco/doc/ferpa-hipaa-guidance.pdf>

Resources on Services for Youth in WI

Confidential Services Available to Youth in Wisconsin (DPI) -

<https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/confid.pdf>

Reporting Requirements for Sexually Active Adolescents (DPI)-

<https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/sswreporting-requirements-2018.pdf>

Rights of Children and Adolescents in Outpatient Mental Health Treatment (DHS) -

<https://www.dhs.wisconsin.gov/publications/p2/p20470b.pdf>

Rights of Minors Receiving Services for Developmental Disability, Mental Health, and Substance Use (DHS) - <https://www.dhs.wisconsin.gov/publications/p01844.pdf>

Additional Resources

- [DPI - **Community Mental Health Providers in Schools: Guidelines for Schools**](#)
- [National Center for School Mental Health Teaming Playbook](#)
- [National Center for School Mental Health Sample MOU](#)
- [DPI - **School Mental Health Resources** - Including **Referral Pathway Guidance**, **Screening Guidance**](#)
- [Ready, Set, Go, Review: Screening for Behavioral Health Risk in Schools, SAMHSA](#)
- [School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act \(FERPA\)](#)



Help Staff Understand Laws/Policies



Key Takeaways

- Each school district sets their on policies in accordance with law
- Need to look at both federal and state law, and board policy
- Consider the best interest of the student
- Just because another system thinks they have access to pupil records, they may not, double check
- Train staff



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