

DPI New School Social Worker Resource Sharing Sessions

Session 2 - Pupil Records & Confidentiality

Wisconsin Specific Pupil Records Resources

State and federal statutes provide specific protections to students and parents regarding pupil records. In some circumstances, the state law provides additional protection not included in federal law and vice-versa. In any case, school districts must comply with the most restrictive statute (i.e., the law that provides the highest level of protection). State and federal statutes also provide protection of student information maintained by community agencies and dictate how schools exchange information with agencies and systems outside of education.

- **Statutory Language**
 - [Link to Wis. Stat. § 118.125](#) (Pupil Records)
 - [Link to Wis. Stat. § 146.81-84](#) (Patient Health Care Records)
 - [Link to Wis. stat. § 51.30](#) (Treatment Records)
- [Student Records and Confidentiality Document](#) (DPI)- The Student Records and Confidentiality bulletin addresses some of the most frequently asked questions related to pupil records. The bulletin has been designed to help local school districts develop their own local policies regarding student records and confidentiality. It is not to be construed as legal advice.
- [Online Data Privacy Training for School Staff](#) (DPI)- DPI offers a two-part, online training to help educators understand how to manage pupil records consistent with both state and federal laws. These trainings can fulfill the requirement in the Individuals with Disabilities Education Act (IDEA) regulations to have employees who access special education records complete training (34 CFR 300.623).
- [Sharing Information Across Systems](#) (DPI) - Summarizes the circumstances allowed for in statute, other than informed consent or court order, under which schools and other systems (e.g., law enforcement, the courts and juvenile justice, social services, health) can share confidential information. This resource is designed to help local school districts and their community partners develop local policies, procedures, and agreements regarding how they will share information across systems. It is not to be construed as legal advice.
- [Records Retention Schedule for Wisconsin School Districts](#) - The Schedule serves as a guidepost against which to check the individual needs of each school district. A school district may adopt the entire Schedule, individual sections, or a modified version. The Public Records Board along with the Wisconsin Department of Public Instruction recommends that school districts adopt the WSDRRS and submit the Notification Form to the Wisconsin State Historical Society.
- [Student Data Privacy Webpages](#) (DPI) - Additional DPI webpages related to Student Data Privacy

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Family Educational Rights and Privacy Act (FERPA) Resources & Individuals with Disabilities Education Act (IDEA)

The Family Educational Rights and Privacy Act or FERPA (20 U.S.C. § 1232g; 34 CFR Part 99) provides certain rights for parents regarding their children's education records. The Individuals with Disabilities Education Act (IDEA) is a law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children. IDEA includes provisions to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained related to special education.

- **Statutory Language**
 - [Link to FERPA Regulations](#)
 - [Link to IDEA Regulations](#) -§ 300.610 Confidentiality
- [Protecting Student Privacy Webpages and Resources](#) (USDOE) - The U.S. Department of Education's Student Privacy Policy Office (SSPO) has many Resources, FAQs, and videos on FERPA. The SPPO is responsible for the administration and enforcement of federal laws relating to the privacy of students' education records, and for the provision of technical assistance on student privacy issues for the broader education community.
- [A Parent's Guide to FERPA](#) (USDOE) - This document was updated in July of 2021 and is intended to provide parents with general information about the Family Educational Rights and Privacy Act (FERPA).
- [FERPA General Guidance for Students](#) (USDOE) - This compilation of letters and guidance documents provides eligible students with general information about the Family Educational Rights and Privacy Act (FERPA).
- [FAQs on Photos and Videos under FERPA](#) (USDOE) - This document provides answers to frequently asked questions related to photos and videos as student records.
- [School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act \(FERPA\)](#)(USDOE) - This guidance document consists of questions about school districts' responsibilities relating to disclosures of student information to school resource officers (SROs), law enforcement units and others.
- [FERPA/IDEA Cross-Walk](#) (USDOE) - This document is a side-by-side comparison of the legal provisions and definitions in IDEA Part B, IDEA Part C and FERPA. It is intended to help differentiate these statutes and provide a comparisons for the shared definitions.

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Protection of Pupil Rights Amendment (PPRA) & Parental Consent

PPRA (20 U.S.C. § 1232h, 34 CFR Part 98) affords parents of students certain rights regarding, among other things, participation in surveys, the collection and use of information for marketing purposes, and certain physical exams. Schools are required to develop and adopt policies, in consultation with parents, to address the protection of student privacy and parents' rights under PPRA.

- [34 CFR PART 98 Protection of Pupil Rights Amendment \(PPRA\)](#) (USDOE)- Information related to the regulations at 34 CFR Part 98 implementing section 445 of the General Education Provisions Act (GEPA)(20 U.S.C. 1232h), which is commonly referred to as the Protection of Pupil Rights Amendment (PPRA).
- [Protection of Pupil Rights Amendment \(PPRA\) General Guidance](#) (USDOE) - This guidance document reviews parents' rights under the PPRA and education officials' obligations in implementing the PPRA.
- [Filing a Complaint - PPRA](#) (USDOE) - Only a student or a parent or guardian of a student directly affected by a violation under Section 439 of the Act may file a complaint under this part. The complaint must be submitted in writing to the Office.
- [Understanding the Differences: Social and Emotional Learning \(SEL\) Competence Assessment and Social, Emotional, and Behavioral \(SEB\) Screening and Assessment](#) (DPI) - This document is intended to assist school professionals in differentiating between Social and Emotional Learning (SEL) Competency Assessment, Universal Social, Emotional, and Behavioral (SEB) screening, and more targeted SEB assessment.

Health Insurance Portability and Accountability Act (HIPAA) v FERPA Resources

The HIPAA Privacy Rule requires covered entities to protect individuals' health records and other personal health information the entities maintain or transmit, known as protected health information (PHI), by requiring appropriate safeguards to protect privacy, and setting limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The rule also gives patients certain rights with respect to their health information, including rights to examine and obtain a copy of their health records, and to request corrections (amendments). These resources help schools understand the intersection of FERPA and HIPAA.

- [US DHS and US DOE Joint Guidance on the Application of FERPA and HIPAA to Student Records](#) (USDOE) - 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.
- [Data Privacy in School Nursing: Navigating the Complex Landscape of Data Privacy Laws \(Part 1\)](#) - From the Network for Public Health Law. This resource is designed to help school nurses understand what information they can share, when, and with whom in accordance with federal privacy laws.

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- [Data Privacy in School Nursing: Navigating the Complex Landscape of Data Privacy Laws \(Part II\)](#) - From the Network for Public Health Law. This resource is designed to help school nurses understand what information they can share, when, and with whom in accordance with federal privacy laws.
- [FERPA and the Coronavirus Disease 2019 \(COVID-19\)](#) (USDOE) - The purpose of this guidance is to answer questions that school officials may have had concerning the disclosure of personally identifiable information from students' education records to outside entities when addressing the Coronavirus Disease 2019 (COVID-19).
- [Family Educational Rights and Privacy Act \(FERPA\) and H1N1](#) (USDOE) - The purpose of this guidance is to answer questions that school officials may have had concerning the disclosure of personally identifiable information from students' education records to outside entities when addressing the H1N1 flu outbreak.
- [FERPA and HIPAA Comparison Tool](#) (SAMHSA) - This document is a side by side comparison of FERPA and HIPAA.
- [FERPA and Public Health, \(Ellen Campbell of the Family Policy Compliance Office\), Nov 12, 2010, Presentation Slides](#) - This presentation considers the interaction of FERPA and Public Health Laws.

Information on Confidential Services for Youth in Wisconsin

Students under the age of 18 have some rights related to confidential services and behavioral health services (including mental health services) in Wisconsin.

- [Confidential Services Available to Youth in Wisconsin](#) (DPI) - This document provides information on Wisconsin law that provides some limited circumstances in which youth may access confidential services independently.
- [The Reporting Requirements for Situations Involving Sexual Contact or Intercourse and Students: Suggested Procedures for School Employees](#) (DPI) - This document is intended to help school districts, in collaboration with their local child welfare and law enforcement agencies, develop policies and procedures to address situations where a school employee has reasonable cause to suspect that a minor student has been involved in sexual contact or intercourse.
- [WI Department of Health Services \(DHS\) Resources - Client Rights of Minor](#)
- **WI Department of Health Services (DHS) Resources Client Rights Pamphlets for Minors**
 - [Rights of Children and Adolescent Patients in Inpatient Mental Health Facilities](#)
 - [Rights of Minors in Inpatient Community Mental Health Facilities](#)
 - [Rights of Minors: Outpatient Behavioral Health Treatment Brochure](#)
 - [Rights of Minors: Outpatient Behavioral Health Treatment Flyer](#)

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DPI Resources Relating to Parent, Guardian, and Custodial Rights and Educational Decision-Making Authority

While parents usually retain legal authority over important decisions regarding their children, there are sometimes exceptions made by the court. These resources are meant to help clarify some complex situations related to educational decision-making authority.

- [Understanding Guardianships, Legal Custody, and Physical Custody for School Professionals in Wisconsin](#) - This document outlines basic information about public and private guardianships, legal custody, and physical custody in Wisconsin to assist school professionals in supporting students and families.
- [Frequently Asked Questions \(FAQ\) Related to the Definitions, Roles, and Responsibilities of Parents, Persons Acting as the Parent of a Child, and Surrogate Parents](#) - Answers to frequently asked questions related to the definition of parent and their rights regarding special education services.
- [Special Education Information Update Bulletin 10.01: Parent Consent Requirements When Parents Who Share Legal Custody Do Not Agree](#) - Information related to parent consent.
- [Educational Services for Children Placed in Foster Care](#) - Frequently asked questions related to the provision of educational services for children in out-of-home care settings.