



COLORADO DEPARTMENT OF EDUCATION

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October 15, 2010

To: Superintendents
From: Ed Steinberg, Assistant Commissioner
Re: Support for Annual Immunization School Survey Assessment Conducted
By the Colorado Department of Public Health and the Environment

Background

The Colorado Department of Public Health and the Environment (CDPHE) has asked the Colorado Department of Education (CDE) to provide guidance to school districts regarding the Family Educational Rights and Privacy Act (FERPA)¹ and the CDPHE's ability to collect student immunization information for its annual Immunization School Survey Assessment.

The CDPHE's annual Immunization School Survey Assessment seeks to collect immunization information from a random sample of 350 kindergartners throughout the state of Colorado. While the schools in the random sample are identified by the CDPHE, the actual random selection of students is done by school staff. This eliminates the need for the CDPHE to view any personally identifiable information as defined by FERPA.

With this change in survey methodology, the CDPHE has revised the Immunization School Survey Assessment to be compliant with current FERPA regulations in that the CDPHE is no longer requesting or collecting any personally identifiable information.

The purpose of this memorandum is to provide guidance to Colorado school districts that: (1) reflects the CDE's judgment that the revised Immunization School Survey Assessment methodology is compliant with FERPA; and (2) explains aspects of FERPA that permit the disclosure of non-personally identifiable information without prior parent consent to authorized officials.

State Law Requirements

The Colorado School Immunization Act² gives the CDPHE the authority to verify the records of immunizations maintained by each school. This allows the CDPHE to monitor compliance with Colorado's school immunization requirements.

¹ 20 U.S.C. § 1232g; 34 C.F.R. Part 99

² School Immunization Act, C.R.S. §25-4-901 et seq.

FERPA Requirements

FERPA applies to all schools that receive federal funding under an applicable program of the U.S. Department of Education. Generally, schools must obtain the parent's written consent before releasing information from his/her child's education records.

FERPA contains a number of exceptions to the general prohibition of disclosure of information from education records without prior parent consent. Applicable here is the following exception:

- De-identified information. An educational agency or institution, or a party that has received education records or information from education records under this part, may release the records or information without the consent required by §99.30 after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.³

Thus, it is the guidance of the CDE that the CDPHE's Immunization School Survey Assessment should generally be considered to fall within the "de-identified information" exception to FERPA's "prior parent consent" rule. Schools should consider participation in the revised Immunization School Survey Assessment to be in compliance with FERPA regulations. The CDPHE will directly contact randomly selected schools for which one or more students will be randomly selected by school personnel to provide further instruction concerning the information to be collected. Any questions regarding the Immunization School Survey Assessment should be directed to Yolanda Castillo, School Survey Project Manager, at 303-692-2682 or by email at yolanda.castillo@state.co.us.

The CDE promotes the goal of school health to maintain the physical, mental, and social health of children so they can benefit maximally from their educational opportunities, and assists students in the development of positive health attitudes and practices so that they will be able to assume responsibility for their own health and health care after leaving the school community.⁴ Immunizations protect children from vaccine-preventable diseases that can cause school absences and limit children's ability to achieve in school.⁵

Note: This is a guidance document issued by the Colorado Department of Education and does not constitute legal advice. If you need legal advice, please contact your legal counsel.

³ 34 C.F.R. §99.31(b)

⁴ Essential School Health Services (Sept. 2008) at www.cde.state.co.us

⁵ Colorado School Readiness Indicators Preliminary Review of Potential Indicators (Sept. 2008) at www.cde.state.co.us