06-CD-01

Committee: Chronic Disease / Infectious Diseases

Title: Public Health Access to Student Health Information

Statement of the Problem:
Student health records maintained by publicly funded educational institutions are a potentially vital source of information for public health practice and prevention and control of disease. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that restricts disclosure of information contained in the student education record, which includes the student health record, without parental consent. This law applies to all schools that receive funds from the U.S. Department of Education (DOE).

The Family Educational Rights and Privacy Act restricts the sharing of student health information with public health officials. Unlike the Health Insurance Portability and Accountability Act (HIPAA), FERPA does not include a public health exceptions clause allowing for the disclosure of protected health information for the purpose of public health practice.

Increasingly, state, territorial, and tribal public health practitioners are recognizing the need for general access to identifiable student health data. Such data support control of communicable diseases such as chickenpox and pertussis, birth defects surveillance such as autism spectral disorder, identification and evaluation of environmentally mediated disease occurrences such as asthma, identification and monitoring of chronic disease trends in children, and assessment of the effects of public health policies on childhood and adolescent health. The current DOE interpretation of FERPA prevents disclosure of identified student health data for these purposes.

Recently, ASTHO adopted a position statement that seeks a re-assessment of FERPA interpretation by DOE or a congressional amendment that allows the release of identified student health data for public health purposes without parental consent.[1]

CSTE supports the FERPA related position statement recently adopted by ASTHO (see attached).

Statement of the desired action(s) to be taken:

CSTE requests that the National Governors Association (NGA) seek a public health focused remedy to FERPA imposed student health data access restrictions.

Public Health Impact:
There are few mechanisms for systematically monitoring the health of U.S. children and adolescents. School-based student health data represents an important source of information available for this population. Such information is critical for the monitoring of health issues such as outbreaks of certain communicable diseases, the prevalence of asthma and autism, immunizations, risk behaviors, and health disparities, among our nation's youth. Access to student health information would augment existing public health surveillance systems. The promotion of policies allowing the public health and educational systems to collect and analyze student health information would significantly increase our ability to prevent illness and promote the well-being of this population.

[1] Association of State and Territorial Health Officials (ASTHO). 2006. Position Statement – *Accessing School Health Information For Public Health Purposes.* Accessed May 17, 2006. http://www.astho.org/pubs/FERPAPositionStmtFINAL030706.pdf

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Position Statement

ACCESSING SCHOOL HEALTH INFORMATION FOR PUBLIC HEALTH PURPOSES

Public health agencies need access to school health information to protect and safeguard the health of the nation's children, families, and the public.

Background

The Family Educational Rights and Privacy Act (FERPA) was designed to protect the privacy of student education records. Information gathered in a school setting by school employees or institutions is governed by FERPA and cannot be released to a third party without explicit parental consent or the consent of a student over the age of 18. The Act has no specific exception for public health purposes other than an exception for emergencies.

The ability to develop, implement, and evaluate public health programs is dependent on access to population-based data. Collecting data on special population groups, such as children and adolescents, in an ongoing manner is critical to implementing effective public health programs. Schools provide a central location to access health information on children and adolescents and a static venue for long-term data collection on health issues. In identifiable form, these records are an essential source of data on many important public health issues. Education records, including health information collected in a school setting, are an invaluable resource for monitoring and protecting the health of U.S. children and adolescents.

Schools have long worked with state and local public health authorities to protect children from diseases and other threats to their health. Sharing of information between schools and public health agencies is in some cases the only practical way to perform the duties with which public health agencies are charged. One example of this is the interdependence of education and public health in the area of children's immunization. The educational record may be the only complete record of a student's immunization status. Immunization records held by schools provide a systematic and comprehensive method of tracking immunization coverage rates for the schoolage population. Sharing immunization data between schools and public health authorities is essential to measuring immunization coverage rates and protecting children and the citizenry at large from vaccine preventable diseases. Using school-based data as part of public health surveillance helps prevent illness and promote the health of children.

Some states have recently found FERPA to be a barrier to public health officials seeking to obtain identifiable health data in student education records. During the past five years, the Centers for Disease Control and Prevention (CDC) supported an autism spectrum disorder monitoring program based in Atlanta, Georgia. Similar programs were developed in 17 states.

The CDC had instituted a Memorandum of Understanding (MOU) with the Department of Education (DOE) that established the data sharing program allowing a state department of education to designate another state agency (e.g., a state public health agency) as its "authorized representative." This means that the state public health agency (SHA) was granted access to educational records. The DOE issued revised guidance on January 30, 2003, that suggested this type of data sharing could constitute a violation of FERPA. The MOU with the DOE expired on December 11, 2005, and has not been renewed.

Principles

I. Public health agencies should be allowed access to education records, by law or agreement, for the purpose of data collection for public health surveillance and other programs. Access to school health data is essential as public health agencies plan for the future. Collecting data from schools enables SHAs to:

- Detect emerging health events, such as outbreaks of staph infections or community-acquired methicillin-resistant *Staphylococcus aureus* (MRSA) infections
- Identify and evaluate environmental exposures related to health outcomes, such as exposure to lead or other toxic substances
- Track immunization coverage to prevent outbreaks of infectious diseases
- Identify trends in chronic and environmental diseases in children and adolescents, such as the prevalence of autism, developmental disabilities, and asthma
- Target health promotion and disease prevention programs
- Identify specific health needs within population sub-groups
- Track long-term health outcomes
- Evaluate public health programs for effectiveness

II. Public health agencies have considerable experience working with and protecting personally identifiable health information, to protect and maintain the public's health. Given their track record of working with and protecting personally identifiable health information, public health agencies should be trusted to maintain confidentiality of school records needed to protect and maintain the public's health.

III. Public health agencies need comprehensive school health information in order to protect school children and understand and prevent the occurrence of health conditions in schools. Lack of such access impedes public health's ability to effectively assess the health of students and make effective health recommendations.

For these reasons, it is in the best interest of school children, their families, and the public at large, for the U.S. Department of Education and the U.S. Department of Health and Human Services to develop a mechanism by which state-level health and education departments may share data in a way that protects the confidentiality of student records and enables the continued protection of the public's health.

Options for Resolution

1. DOE could be asked to re-assess their interpretation of an "authorized representative" which currently does not allow a state department of education to designate another state agency to receive information contained in an education record. If this occurs, public health agencies can continue their monitoring programs with access to education records. Although the MOU with CDC and DOE expired on December 12, 2005, the two federal government agencies could renegotiate a similar agreement to allow the continuation of the data sharing programs.

2. Congress could be asked to amend FERPA to specifically authorize the disclosure of health information to public health authorities. Much like the public health exception in the Health Insurance Portability and Accountability Act (HIPAA), by amending FERPA, public health authorities would have access to information that can prevent or control disease, injury, or disability.

Approval History:

ASTHO Position Statements relate to specific issues that are time sensitive, narrowly defined, or are a further development or interpretation of ASTHO policy. Statements are developed and reviewed by appropriate Policy Committees and approved by the ASTHO Executive Committee. Position Statements are not voted on by the full ASTHO membership.

ASTHO Committee Review and Approval:

- *Access Policy Committee - review only February 27, 2006.*
- *Environmental Health Policy Committee - February 27, 2006.*
- *Infectious Disease Policy Committee - February 27, 2006.*
- *Public Health Informatics Policy Committee - February 28, 2006.*

Executive Committee Review and Approval on March 17, 2006. Position Statement Expires on March 17, 2009.

For further information about this Position Statement, please contact ASTHO Public Health Informatics Policy staf at afix@astho.org. For ASTHO policies and additional publications related to the Position Statement, please visit www.astho.org.

Other ASTHO Publications:
Information Management for State Health Officials Integrating Child Health Information Systems While Protecting Privacy: A Review of Four State Approaches