



## **Family Educational Rights and Privacy Act (FERPA)**

The Family Education Rights and Privacy Act (FERPA) sets out the requirements for educational institutions to notify parents and students of their rights for the protection of privacy under section 444 of the General Education Provisions Act. Parents or eligible students have the right to: Inspect and review the student's education records; Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights; Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and §99.31 authorize disclosure without consent; and File with the Department a complaint under §§99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the Act and this part. Please contact the office if you require an appointment to review your student's records.

### ***Please note the following information about HIPAA in the school setting:***

Generally, the HIPAA Privacy Rules do not apply to an elementary or secondary school because the school is either (1) not a HIPAA covered entity or (2) is a HIPAA covered entity but maintains health information only on students in records that are considered "education records" under FERPA and, as a result, are not protected health information covered by the HIPAA Privacy Rule.

Covered entities are health plans, health care clearinghouses, and those health care providers that transmit health information **electronically** in connection with certain administration and financial transactions ("covered transactions"). 45 C.F.R. §160.102. Covered transactions are transactions related to determining eligibility, submitting claims, and coordination of benefits activities with health insurance plans. While FSMA is providing health care services through the school nurse (and perhaps other providers), assuming the nurse and other providers **are not billing a health plan electronically for these services (which would be a covered transaction), then FSMA is not a HIPAA covered entity** and, as a result, the HIPAA Privacy Rule does not apply to it.