



Don't Share My Secrets: Avoiding the breach of confidential and private student information

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overview

- obligated to protect confidential student information
- identify information considered “confidential” and “private”
- identify ways and locations a breach can occur
- create policies/practices to limit possibility of breach
 - specific enough to provide guidance
 - general enough to avoid creating liability



what information is protected?

- identifies, describes or reflects upon the performance, behavior, health or other status of a personal status of a student
 - testing results (ie: neuro-psych)
 - report cards and other evaluations
 - medical information (ie: allergies)
 - family status or make up (custody)
 - disciplinary actions
 - faculty recommendations
 - applications to colleges & other schools
 - financial aid or otherwise funded
 - social security #, address, phone #



who has the right to access?

- assume information is confidential
- access to those with legal “rights” to information
 - both parents may not have custody but may have rights to information
- with those inside school as is necessary for health, safety and education of student
 - all teachers need **not** know of ADD diagnosis
 - allergy to peanuts may be appropriate
- obtain permission to communicate with those “outside of school”
 - unless parent, guardian or other legally designated individual (guardian ad litem)
 - obtain written permission



maintaining “written” documents

- school’s plan for protecting “written” materials
- format: paper vs electronic
 - paper files
 - often more difficult to control
 - easier to obtain access (on desk of staff)
 - electronic files
 - internal or through 3rd party
 - passwords or limiting access
- who maintains a student file?
 - college, admissions, teachers, administrators, business office, guidance, nurse, parents
- document retention and destruction policy
 - how long is each file maintained?
- SPECIAL CARE IN NURSES OFFICE



permission to share confidential information

- whether written or oral disclosure
- school must obtain permission to share information with those outside of school
 - school needs “permission” to speak with party regardless if doctor has own permission
 - doctors, testers, psychiatrists, tutors, other schools (colleges and k-12), public school visitors, consultants, outside instructors (music teachers), former schools (teachers etc.)
- permission: Signed & Dated
 - written form (email or paper)
 - person with authority to give permission (custodial parent, guardian or other)
 - “speak with all doctors” or “Doctor X”



communicating with colleges

- school needs permission to access college board, ACT, common college app and other sites
- school provides access to naviance
 - access to party with parental rights
- colleges require notice from **student**
- students 18 or older may deny access
- notification of “double deposit” (transcript)
- written teacher/school recommendations
 - permission to **give** a recommendation
 - parent agrees not to request copy from school
 - no “right” to document so not waiving
- need written permission for teacher/school to speak with colleges (whether we are giving or requesting information)



admissions process

- application is internal school document
 - not shared with anyone after submitted
- communicate with party submitting application
 - do not enter into conflict b/w parents
 - if party submitting application is without rights to make decisions? Extra care to avoid sharing information (testing results)
- notify parents that all materials are confidential and not released to applicants (recommendations, notes from admissions sessions, tester reports)
 - agree not to request or assert rights to access
- must have written permission
 - for both giving or receiving information
 - applying to school or out of school



employee access to “medical” information

- nurses office or other very secure location
 - under lock and key or password protected
- strictly “need to know”
- full access to all faculty not appropriate
- for safety of student:
 - allergies, seizure or other medical conditions
 - to administer epi-pen, conduct testing
 - when sending on field trip etc.
- to assist in teaching:
 - ADD diagnosis (current teacher/specialist)
- medications
 - student leaves classroom for medication
 - avoid disclosing medications
- immunizations
 - create policy



divorce, custody, parent conflicts & communications

- confirm authenticity before speaking:
 - instruct faculty not to speak with lawyers
 - if lawyer calls direct him/her to head
 - may or may not be who they say they are
 - may be disclosing without permission
 - do not provide documents to anyone other than parent with access rights.
 - do not speak with police, court representatives (guardian ad litem), children's services agents
 - do not agree or volunteer to testify
- avoid taking sides or providing “ammunition”
- avoid sending emails or other communication with non custodial parent
- obtain custody order if questions exist

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use of identifiable information

- obtain permission before using on social media or in other materials produced by the school or provided to the media:
 - Photos, images, likenesses, work product, art work, creations or other student produced or associated items
- obtain permission to include names or other identifiable information in the school directory
- instruct faculty, administration, and other school employees not to use photos etc. unless permission is on record with school
- inform parents that photos etc. not to be used unless they obtain specific permission from parent

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