**QUESTIONS SUBMITTED FROM WEBINAR #2**

* For Immunization records requested by schools, can that be sent from medical provider without consent?
  + A provider may disclose proof of immunization to a school under the public health exception.
  + “HIPAA explicitly states that health information held in an education record subject to FERPA is not “protected health information” subject to HIPAA.9 In other words, if FERPA applies, HIPAA does not, and FERPA and HIPAA can never apply to the same information at the same time. This means that health information in an education record, such as immunization records, school nurse records, or special education related health evaluations, is not subject to HIPAA.10 It is important to note that once health information is disclosed from a community health provider to a school, if the school places the information in the pupil file, FERPA likely will apply when determining access to the information in the file, not HIPAA.” Source: Legal Guide to School Health Information and Data Sharing in Colorado - HCPF
* In child care/preschool setting, preschools are required to report immunization data to the state with no personal identification associated with that. Many preschools do not use CIIS, and their Child Care Health Consultant reviews those records to collect the data. My understanding is that the CCHC associated with Public Health may do that without consent.
  + In disclosing the information to a State health agency, a school should advise the agency that personally identifiable information disclosed by the school may not be redisclosed or shared with any other party outside of the appropriate officials at that agency, unless such disclosure is done with the prior written consent of parents or eligible students or is done on behalf of the school for the same purpose it was disclosed to the agency. (See 34 C.F.R § 99.33.) Further, FERPA establishes a recordkeeping requirement for educational agencies and institutions in 34 C.F.R § 99.32. Briefly, this section states that an educational agency or institution (1) shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student and (2) shall maintain the record with the education records of the student as long as the records are maintained. The record of disclosure must also include: (1) the parties who have requested the information from the education records, and (2) the legitimate interests the parties had in requesting or obtaining the information.
  + (<https://www2.ed.gov/policy/gen/guid/fpco/ferpa/library/alhippaa.html>)
* When distributing documents to a family, like an IFSP, do I need to email the family through a secure email or send a normal email?
  + Email is an easy way to communicate with students and parents. Prior to sending an email, it’s important to evaluate the risk associated with sending student information and recognizing if it is personally identifiable information (PII). This video (<https://studentprivacy.ed.gov/training/email-and-student-privacy>) walks you through best practices on email and student records.
  + A best practice is to always encrypt sensitive information.
* So sharing information -screening info etc and IFSP for part c to b transitioning students how do you recommend sharing information and creating a body of evidence on the student-a way to start compiling information on that student
  + See “*Understanding the Confidentiality Requirements Applicable to IDEA Early Childhood Programs Frequently Asked Questions (FAQs)”* (<https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_idea-confidentiality-requirements-faq.pdf>)
* Is there a digital secure option that you recommend-for IEP kids we have ENRICH. What can we use for the little ones in keeping and sharing the BOE for them prior to IEP
  + I am the CF coordinator and I am looking for a way to share and start compiling a wonderful BOE for our little to help in planning education needs and helping with transitions throughout from C to B and PK -K, I am a district employee and am just not sure of how to legally and securely share and continue to compile info.
  + See “*Understanding the Confidentiality Requirements Applicable to IDEA Early Childhood Programs Frequently Asked Questions (FAQs)”* (<https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_idea-confidentiality-requirements-faq.pdf>)
* In the second scenario, Sean mentioned that an agreement would be needed with 3rd party. What type of agreement?
  + It is a recommended best practice in some cases, while in others there are requirements for written agreement. (<https://studentprivacy.ed.gov/faq/must-school-have-written-agreement-or-contract-community-based-organization-which-it-non>)
  + Guidance for written agreements under FERPA can be found here (<https://studentprivacy.ed.gov/resources/guidance-reasonable-methods-and-written-agreements>)
* In referral loop scenario, the other issue was that there was no process or forms for consent. Would they need to create those?
  + Consent requirements vary under IDEA Part B, IDEA Part C, and FERPA, a crosswalk of these requirements can be found on page 11 of the *IDEA and FERPA Confidentiality Provisions* guidance. (<https://studentprivacy.ed.gov/sites/default/files/resource_document/file/IDEA%20FERPA%20Confidentiality%20Provisions%20Comparison%20Chart%2006.06.14.pdf#page=12>)
  + Under HIPAA, covered entities are responsible for the validity of authorizations, i.e. written consent forms. In other words, covered entities are liable for ensuring the forms are valid and properly submitted. Because of that, covered entities usually prefer to use their own forms and will not accept outside forms.