

POLICY

SOMERSET COUNTY
BOARD OF EDUCATION

Date Submitted: July 20, 2004 Date Reviewed: September 19, 2006 March 17, 2009	Number: 700-36
Subject: Health Insurance Portability and Accountability Act of 1996 (HIPAA)	Date Approved: August 17, 2004 October 17, 2006 May 26, 2009 Date Revised: March 17, 2009 Date Effective: August 17, 2004 October 17, 2006 May 26, 2009

1. PURPOSE

The purpose of this policy is to establish administrative procedures for the implementation of the Health Insurance Portability Accountability Act (HIPAA).

2. BACKGROUND

- A. **In General.** The Health Insurance Portability and Accountability Act of 1996 (HIPAA) authorized the Secretary of Health and Human Services (HHS) to establish standards for protecting the privacy of personal health information (PHI). HHS has issued regulations. This policy is intended to comply with those HHS regulations. However, because the regulations are complex and subject to differing interpretations, the Superintendent is directed to recommend updates to this policy as new information becomes available.
- B. **HIPAA Coverage.** The School System has determined that certain functions of the school system are covered functions and, thus, the school system is a covered entity under HIPAA. It is a “health plan” and a “health care provider” as defined by HIPAA. Somerset County Public Schools declares itself to be a “hybrid entity,” which means that only the covered functions of its operations (i.e., group health plan and student health services) are subject to HIPAA.

3. PROCEDURE

- A. **Implementation Procedures For Health Plan Records.** In order to comply with HIPAA’s privacy standards, the School System has taken the following steps:
- (1) **Contact Person.** The school system has designated the Human Resources Director as the contact person responsible for receiving complaints about HIPAA compliance and providing additional information about the system’s HIPAA practices and procedures.

- (2) Privacy Officer. The school system has designated the Human Resources Director as the Privacy Officer for HIPAA purposes. Said official is responsible for developing and implementing privacy policies and procedures for training staff and monitoring compliance. Said official shall also be responsible for receiving complaints about HIPAA violations and for providing information about matters covered by privacy notices.
- (3) Security of PHI Records. School system officials must ensure that health plan records containing individually identifiable personal health information (PHI) are secure so that these records are readily available only to the minimum number of individuals who need them to carry out treatment, payment or health care operations (TPO). The Privacy Officer shall develop reasonable administrative, technical and physical safeguards to protect the privacy of PHI. School system officials should review these practices on a periodic basis.
- (4) Authorization of Disclosure of PHI. HIPAA does not require participant authorization for health plan officials to use or disclose PHI for purposes of treatment, payment or health care operations. With some exceptions, disclosure of PHI by health plan officials (except for purposes of treatment, payment or health care operations) requires written authorization signed by the individual in question. The Privacy Officer shall determine activities and transactions that require an authorization and will develop an authorization form that complies with the HIPAA Privacy Rule.
- (5) Notice of Privacy Practices. School system officials will provide a notice to health plan participants about their privacy rights and how their PHI will be used. Such information is known as a Notice of Privacy Practices. The notice must not only be provided by the date of disclosure, except in an emergency, but the school system must make a good faith attempt to obtain the individual's acknowledgment of receipt of such notice.
- (6) Business Associates. A "business associate" is an outside business that provides various administrative services or assists with the Somerset County Public Schools health plan. The school system shall identify its business associates and shall enter into written contract to safeguard PHI before the District can share PHI with the business associate. A related business associates list is available upon request from the human resource office.
- (7) Training. The school system shall train its employees who work in areas covered by the HIPAA Privacy Rule and who have access to PHI to follow the appropriate procedures to ensure PHI is not disclosed except as allowed by law.

- (8) Complaints. There shall be a complaint procedure in place whereby written complaints related to PHI and HIPAA standards may be lodged. Any complainant is entitled to a hearing before the privacy officer who has 10 school days to rule on such complaint. If the complainant is not satisfied with the disposition of the complaint, he/she may appeal to the Superintendent or his or her designee, who shall review the matter and make a final decision within 15 school days of receiving written notice of the appeal. The school system shall not intimidate, threaten, coerce, discriminate against, or take any other retaliatory action against any individual exercising his or her HIPAA rights.
- B. Student Records. Although Somerset County Public Schools is a “health care provider” under HIPAA because of the health care services it provides to students, student records are not subject to HIPAA. The HIPAA privacy rules expressly exempts from coverage student records covered by the federal law known as the Family Educational Rights and Privacy Act (FERPA). Such records are not governed by HIPAA even if they contain individually identifiable health information.
- C. Employee Records. The HIPAA Privacy Rule does not govern a school district’s obligations as an “employer” to maintain, use or disclose medical records of its “employees.” Those obligations flow from the Americans with Disabilities Act and should be dealt with in accordance with those laws. Similarly, the HIPAA Privacy Rule prohibits the District from using PHI created or received by the group health plan for employment-related functions.

SOMERSET COUNTY PUBLIC SCHOOLS

Employee Authorization for Use and Disclosure of Protected Health Information

By signing, I authorize Somerset County Public Schools to use and/or disclose certain protected health information (PHI) about me to _____.

This authorization permits Somerset County Public Schools to use and/or disclose the following individually identifiable health information about me. **(Specifically describe the information to be used or disclosed, such as date(s) of services, types of service, level of detail to be released and origin of information.)**

The information will be used or disclosed for the following purpose.

This authorization will expire on _____.

When my information is used or disclosed pursuant to this authorization, it may be subject to redisclosure by the recipient and may no longer be protected by the federal HIPAA Privacy Rule. I have the right to revoke this authorization in writing except to the extent that Somerset County Public Schools has acted in reliance upon this authorization. My written revocation must be submitted to the Privacy Officer at:

Somerset County Public School
Office of Human Resources
7982-A Tawes Campus Drive
Westover, MD 21871

Signed By: _____
Signature of Employee

Date