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**Presenters:**

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* Abigail English, JD | Legal Consultant for the COE-PHI and MHTTC Network Coordinating Office

**Key Points:**

* Privacy regulations protect your students and help you to understand the boundaries in protecting and sharing information about students and families
* Know your state laws around informed consent and confidentiality for minors
* Know how the federal laws affect students’ health privacy
* Tell the student who you work for and why it matters in terms of their information
* Let the student know up front what information is confidential and who has access to the visit record
* Know your responsibility as to what information to share with the student’s family and/or school and when to share it

**Participant Questions & Presenter Responses:**

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| --- | --- |
| Q1 | *At what age can a student consent for school-based counseling?*  |
| A1  | The age of consent to treatment is determined by state law. |
| Q2 | ***Under FERPA, can a student under 18 to give consent to their own mental health services?***  |
| A2 | The age of consent to treatment is a state law question. Neither HIPAA nor FERPA govern the age of consent to mental health services. |
| Q3 | ***As far as consent for release of information, is there a resource that provides guidance on any specific rules of what this must contain?*** |
| A3 | There are specific requirements for consent forms authorizing disclosure of Part 2 records. We have a sample form [here](https://coephi.org/resource/sample-consent-authorizing-disclosure-of-confidential-sud-patient-records/) for Part 2 records. |
| Q4 | ***What*** ***does it mean when referencing a "covered entity"?*** |
| A4 | A “covered entity” refers to an entity that has to follow HIPAA. |
| Q5 | ***Is there a resource that addresses whether billing Medicaid for school-based services makes someone a covered entity?*** |
| A5 | The tool [here](https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/HIPAA-ACA/AreYouaCoveredEntity) may be helpful. |

**Relevant Resources:**

* [The Mental Health Technology Transfer Center (MHTTC) Network Website](https://mhttcnetwork.org/)
	+ Find your MHTTC [here](https://mhttcnetwork.org/centers/selection)
	+ Access free training [here](https://mhttcnetwork.org/centers/global-mhttc/training-and-events-calendar) and resources [here](https://mhttcnetwork.org/centers/global-mhttc/products-resources-catalog)
* [The Center of Excellence for Protected Health Information (CoE-PHI) Website](https://coephi.org/)
	+ Request TA [here](https://coephi.org/training/technical-assistance/)
	+ Access the resource library [here](coephi.org/resource-library/)
* [The CMS Decision Tool for Help Determining If You Are a Covered Entity Under HIPAA](%E2%80%A2%09https%3A/www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/HIPAA-ACA/AreYouaCoveredEntity)
* [HIPAA/FERPA Joint Guidance](https://www.hhs.gov/sites/default/files/2019-hipaa-ferpa-joint-guidance.pdf)
* [American School Counselor Association: Ethical and Legal FAQs](%E2%80%A2%09https%3A/www.schoolcounselor.org/About-School-Counseling/Ethical-Legal-Responsibilities/FAQs)
* [HIPAA and FERPA Laws: A School Mental Health Navigation Tool for Pacific Southwest States of Hawaii, California, Nevada, and Arizona](https://mhttcnetwork.org/centers/pacific-southwest-mhttc/product/hipaa-and-ferpa-laws-school-mental-health-navigation-tool)

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Presented March 2023