SHARING INFORMATION ABOUT TROUBLED STUDENTS: DISPELLING THE MYTHS

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Sources of Information

• Personal observations of student’s behavior

• Recorded information in:
  • Student Medical Records
  • Police Records
  • Other School files
    • Disciplinary records
    • Student’s essays, test papers
    • Admission records, etc.
Basic Legal Parameters

- FERPA (Student Records)
- HIPAA (Outside medical records)
- ADA/504 (Disability discrimination)
- State Confidentiality Laws
• 1st FERPA Commandment” – “THOU SHALT NOT disclose education records without student consent”

• “Education record” means those records that are:
  • Directly related to a student; and
  • Maintained by an educational agency or institution or by a party acting for the agency or institution.

• Does NOT include
  • Student medical records
  • Law enforcement records
  • University employment records
  • Alumni Records
• Myth: I can’t talk about what I see in the classroom or in my office

• Reality: What you “see” is not a “record” until you make it one

• Myth: I can’t share student information within my institution

• Reality: You may share info with any employee who has a “legitimate educational interest”
Myth: I can’t share student info with anyone else

Reality: You may share in a bona fide health or safety emergency
• Myth: I can’t share disciplinary information
• Reality: You may share the outcome with victims of crime of violence or sexual assault
Myth: I can’t talk to parents
Reality: You may talk with tax “qualified” parents or in health/safety emergency

Myth: I can’t talk with other institutions
Reality: You may, if student seeks enrollment or is jointly enrolled
Myth: Information in Police Records can’t be shared

Reality: Police Records aren’t “education records” (unless shared with educators)

Reality: Must give “timely warnings” of certain criminal behavior reported to police
Myth: I can’t share medical or mental health info in campus health records

Reality: HIPAA does not apply to student medical records

Reality: HIPAA has health and safety emergency exception
ADA/504

- Myth: ADA/504 prohibit information sharing regarding mental disability
- Reality: ADA/504 are not confidentiality statutes
- Reality: Both have health and safety emergency exceptions
Myth: State confidentiality statutes prohibit sharing of mental health information

Reality: G.S. 122C-55(d)

“A responsible professional may disclose confidential information when in his opinion there is an imminent danger to the health or safety of the client or another individual or there is a likelihood of the commission of a felony or violent misdemeanor.”
State Statutes

- **Myth:** There is a duty to warn

- **Myth:** Chapter 8 prohibits disclosure
  - **Reality:** Chapter 8 is a testimonial privilege

- **Reality:** Health professions (and some lawyers) interpret as prohibition
Questions?