

Contracts with Health Departments, Hospitals or Physician's Offices

Local boards of education are responsible for compliance with all state and federal laws applicable to school health services.

As laws tend to change over time, local school districts are cautioned to check for any updates or changes to state and federal laws. This guidance may be used as a review tool covering the basic law and regulations related to school district contracts with health providers or health departments for student health services.

It is strongly encouraged to include the district health coordinator/school nurses when considering developing contracts with outside agencies to provide health services for your districts. Contracts should include who is responsible for carrying out all state and federal laws pertaining to school health services as well as who is responsible for proper documentation and reporting. Districts should consult with their legal counsel when developing and entering into contracts.

702 KAR 1:160, the School Health Services regulation, requires:

1. Preventive medical examinations for students;
2. Student vision examinations;
3. Student dental screenings or examinations;
4. Current immunization certificate compliant with 902 KAR 2:060;
5. Continuous health supervision of all enrolled students;
6. Emergency care procedures;
7. First aid facilities compliant with 702 KAR 4:170;
8. Personnel trained in First aid and CPR;
9. Creation and maintenance of a cumulative health record for each student;
10. Reporting of all required student health data;
11. Designation of an appropriate school health coordinator for the district; and
12. Appropriate training for all unlicensed school personnel that have accepted delegation to perform medication administration in school.

In addition, 702 KAR 1:160 states that superintendents **shall** designate a person to serve as the district health coordinator (DHC) for the district. The minimum requirements for this position are:

1. A valid license to practice as a registered nurse issued under KRS 314.041 by the Kentucky Board of Nursing, and three years of registered nursing practice as defined in KRS 314.001(6),
2. A school psychologist certificate issued by the Education Professional Standards Board (EPSB) pursuant to 16 KAR 2:070 and a minimum of three years of work experience practicing social work in a school setting, or
3. A school social worker certificate, issued by the EPSB pursuant to 16 KAR 2:070, and a minimum of three years practicing work in a school setting.

The district health coordinator shall work in cooperation with all school personnel, the local board of education, the State Department of Education, and family resource youth service centers, in promoting and implementing a school health program.

School districts are required to use the Kentucky Student Information System (KSIS), to enter: (1) all health data required; (2) student health conditions; and (3) utilize The [Kentucky Department of Education \(KDE\) Recommended Infinite Campus ICD-10 Codes](#) document for appropriate ICD 10 codes to track student health conditions.

For effective continuous health supervision, it is best practice to include the following in Kentucky Student Information System (KSIS), Infinite Campus (IC): (1) Student medications; (2) health room visits showing the student went back to class, home with a parent or called 911.

Guidance on how to set up health office visits and other information can be found [on Infinite Campus](#). If this information is not entered into KSIS, a copy of these records must be provided to the school as a part of the student's educational health record.

[KRS 158.1621](#) requires school districts to report to the Kentucky Department of Education (KDE) the number of portable automated external defibrillators (AED) at each school within the district. Using this information, KDE is required to publish a report on the number of AEDs in Kentucky public schools, by school and school district, to the department's website and submit the report to the General Assembly's Interim Joint Committee on Education, Interim Joint Committee on Health Services, and Interim Joint Committee on Families and Children by Oct. 1 of each year. Guidance on how to enter this data into IC can be found in the [Health Data Standard](#).

Health departments acting as third-party contractors for school districts must treat student records as educational records subject to Family Education Rights and Privacy Act (FERPA). 20 U.S.C. 1232g, [34 CFR Part 99 -- Family Educational Rights and Privacy](#). If this information is not entered into IC, a copy of these records must be provided to the school as it is a part of the student's educational health record. FERPA provides that "education records" are records that are directly related to a student and that are maintained by an educational agency or institution, or by a party acting for the agency or institution. These are FERPA records, and the school must maintain them following the [Public School Districts Records Retention Schedule June 2022](#) school health records guidance.

[KRS 160.700](#) also defines "educational records" as data and information directly relating to a student that is collected or maintained by educational institutions or by a person acting for an institution including academic records and portfolios; achievement tests; aptitude scores; teacher and counselor evaluations; health and personal data; behavioral and psychological evaluations; and directory data recorded in any medium including handwriting, magnetic tapes, film, video, microfiche, computer-generated and stored data or data otherwise maintained and used by the educational institution or a person acting for an institution.

In December 2019, the U.S. Department of Health and Human Services and the U.S. Department of Education updated their [Joint Guidance on the Application of FERPA and the Health Insurance](#)

[Portability and Accountability \(HIPAA\) to Student Health Records](#). The purpose of this guidance is to explain the relationship between the FERPA statute and implementing regulations and the HIPAA Privacy Rule. This document updates and expands on prior guidance to help address potential confusion on the part of school administrators, health care professionals, and others on how FERPA and HIPAA apply to records maintained on students.

This joint guidance document specifically addresses this question: Does FERPA or HIPAA apply to student health records maintained by a health care provider acting for a FERPA-covered elementary or secondary school that is not employed by the school?

Health records that directly relate to students and are maintained by a health care provider, such as a third-party contractor, acting for a FERPA-covered elementary or secondary school, would qualify as education records subject to FERPA regardless of whether the health care provider is employed by the school. HIPAA will apply to student records maintained by a health care provider that are not subject to FERPA only if the provider transmits any protected health information (PHI) electronically in connection with a transaction for which Health and Human Services (HHS) has adopted a transaction standard, e.g., health care claims, and the records contain PHI.

For more information or questions pertaining to this guidance, contact KDE's School Health Branch at (502) 564-5279.