



Building Relationships Between Fatality Review Teams and Schools

Telling Stories to Save Lives



KEY FUNDING PARTNER

FEDERAL ACKNOWLEDGEMENT

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HOUSEKEEPING

Before we get started

- This webinar is being recorded and will be available on the National Center's webpage (URL: www.ncfrp.org).
- Participants are muted. Use the question and answer box to ask questions.
- Due to the large number of participants, the speakers may be unable to answer all questions. Unanswered questions will be answered and posted with the recording.
- Contact the National Center (email: info@ncfrp.org) for any tech problems.





EVALUATION

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Diane Pilkey, RN, MPH

Welcome and Introductions

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HRSA'S VISION FOR THE NATIONAL CENTER

IMPROVING SYSTEMS OF CARE AND OUTCOMES FOR MOTHERS, INFANTS, CHILDREN, AND FAMILIES

Assist state and community programs in:

- Understanding how CDR and FIMR reviews can be used to address issues related to adverse maternal, infant, child, and adolescent outcomes
- Improving the quality and effectiveness of CDR/FIMR processes
- Increasing the availability and use of data to inform prevention efforts and for national dissemination

Presentation Goals

Building Collaboration Between Fatality Review Teams and Schools



CURRENT COLLABORATION



Learn how CDR programs and schools are currently collaborating



FERPA OVERVIEW



Gain an understanding of FERPA and its application to CDR



OPPORTUNITIES FOR COLLABORATION



Identify possible opportunities for future collaboration

Speakers

Experts Joining in the Discussion



Deepa Joshi, MD, MPH
Social Scientist
Maternal Child Health Bureau
Health Resources and Services Administration



Frank Miller, MS
Deputy Director
Student Privacy Policy Office
Department of Education



Improving Collaborations Between Schools & Child Death Review Teams

National Center for Fatality Review and Prevention

August 24, 2021

Deepa Joshi, MD, MPH

Social Scientist, Office of Epidemiology and Research and Division of Child, Adolescent and Family Health

Maternal and Child Health Bureau (MCHB)

Vision: Healthy Communities, Healthy People



Current State of Collaboration

- According to recently analyzed National Fatality Review-Case Reporting System data:
 - **Educational representatives** participated in the Child Death Review (CDR) process for only 25% of reviewed cases
 - **School records** were accessed in only 5% of reviewed cases

Exploring the Issue

Conducted Key Informant Interviews with:

- Child death review coordinators from 8 states
- 3 Coroners/medical examiners
- Touchpoints in the education system

School Roles in CDR



**School officials participating
as a member of the CDR.**



**CDR teams successfully accessing
information in educational
records to include in the case
review.**

Both roles provide unique and valuable contributions to the CDR process.

Useful Information in School Records

Types of Useful Information in School Records	Examples of Information
1. Insight into the academic life of the child	Academic Records; Transfer to a different school
2. Understand services obtained by the child	Individual Education Plan (IEP); Behavioral Intervention Plans; 504 Plans
3. Evidence of risk factors and warning signs	Excessive school absences; Disciplinary records; Bullying/conflict with peers Noted conflicts with parents or neglect by parents; Frequent visits to school nurse with complaints; Suicide risk assessments

Useful Information in School Records Ctd.

Types of Useful Information in School Records	Examples of Information
4. Presence of protective factors	School participation; Social supports
5. Gaps in service provision or evaluation	Absences of behavioral or learning evaluations; Lack of appropriate follow up for previously identified problems or needs

Privacy Law & the Effects on Systems Collaboration

- **Family Educational Rights and Privacy Act (FERPA):**
 - What is it?
 - Who does it apply to?
 - Are there any exceptions?
 - What does it mean for CDR?



How do CDR Teams ensure the participation of educational representatives in the FERPA context?

**Frank Miller, Deputy Director
Student Privacy Policy Office
U.S. Department of Education**

**Building Relationships Between
Fatality Review Teams and
Schools**

August 24, 2021

Family Educational Rights and Privacy Act (FERPA)

- Statute: 20 U.S.C. § 1232g
- Regulations: 34 CFR Part 99
- Student Privacy Policy Office (SPPO), previously known as the Family Policy Compliance Office (FPCO), in U.S. Department of Education administers FERPA.

What is FERPA?

- Gives parents and “eligible students” the right to access and seek to amend education records;
- Protects personally identifiable information (PII) in education records from unauthorized disclosure; and
- Requires written consent before sharing PII – unless an exception applies.



Does FERPA protect the education records of students that are deceased?

- **Consistent with our analysis of FERPA and common law principles, we interpret the FERPA rights of an eligible student (a student 18 or older or in college at any age) to lapse or expire upon the death of the student.**
- **However, at the elementary/secondary level, FERPA rights do not lapse or expire upon the death of a non-eligible student because FERPA provides specifically that the rights it affords rest with the parents of students until that student reaches 18 years of age or attends an institution of postsecondary education. Once the parents are deceased, the records are no longer protected by FERPA.**



What are education records?

“Education records” are 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.**





“Education Records,” cont.

- **Records maintained by an educational agency or institution subject to FERPA on a student receiving services under Part B of IDEA are “education records” subject to FERPA.**
- **Health records on students, including immunization records, maintained by an educational agency or institution subject to FERPA are “education records” subject to FERPA.**
 - **Records that are subject to FERPA are not subject to the HIPAA Privacy Rule (see page 82483, Federal Register, Vol. 65, No. 250, December 28, 2000).**



Personal Knowledge or Observation

- FERPA does not prohibit a school official from releasing information about a student that was obtained through the school official's personal knowledge or observation, rather than from the student's education records.
- This general rule does not apply where a school official learns of information about a student through his or her official role in making a determination about the student and the determination is maintained in an education records.

So, how do “educational representatives” share education records with CDR Teams under FERPA?

- Written Consent
- Exception to Written Consent
- CAPTA

Prior Written Consent Requirement

Except for specific exceptions, a parent or eligible student shall provide a signed and dated written consent before a school may disclose education records. The consent must:

- **specify records that may be disclosed;**
- **state purpose of disclosure; and**
- **identify party or class of parties to whom disclosure may be made.**





Health and Safety Emergencies

What conditions apply to disclosure of information in health or safety emergencies?

- **Disclosure is necessary to protect the health or safety of the student or others.**
- **There is an articulable and significant threat to the health or safety of a student or other individuals.**
- **School must record pertinent information when it discloses PII.**

Child Abuse Prevention and Treatment Act (CAPTA)

- Originally signed into law in 1974, Congress has amended CAPTA numerous times, including 106(b) to include as one of a number of eligibility requirements for grants to assist States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs, the requirement that States must have in effect a State law that includes provisions for the reporting of known and suspected instances of child abuse and neglect as part of the Child Abuse Prevention, Adoption and Family Services Act, which was enacted in 1998, well after the enactment of FERPA in 1974.
- Includes a requirement for the state to establish review panels, one of which is dedicated to the review of child fatalities and near fatalities as defined.



Child Abuse Prevention and Treatment Act (CAPTA)

- [Letter to Minnesota Department of Children, Families, and Learning Regarding CAPTA - November 2006](#)
 - Based on our review in Ferguson letter (1997 letter) and the present review of CAPTA, FERPA, and Minnesota law as they relate to your inquiry, we conclude the conflict here is between FERPA and CAPTA rather than between Minnesota law and FERPA.
 - Further, when there is an irreconcilable conflict between two Federal laws, the more recently enacted statute governs. In addition, the State laws enacted pursuant to CAPTA must be in harmony with CAPTA requirements in order to effectively repeal a FERPA provision by implication.



Child Abuse Prevention and Treatment Act (CAPTA)

- So, while there is no specific CAPTA exception in FERPA, there may be a State law that is enacted pursuant to CAPTA that requires disclosures. Since the amendment to Federal CAPTA, which addresses specific disclosures, was enacted by Congress after the basic privacy protections of FERPA in 1974, we've generally concluded that Congress intended to supersede FERPA in this instance provided the State CAPTA law is consistent with the Federal CAPTA law.
- NOTE: We have not analyzed every State CAPTA law. You may wish to consult with your State's office of attorney general to determine whether this law addresses the issue of your concern.



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Strategies for Collaborating with Schools



Strategies for Collaboration

1

State Mandate

2

Building Collaboration through Relationships and Changing the Culture

3

Flexibility with Representation

4

Focused Engagement

5

Subpoena

Strategies for Collaboration: State Mandate

1

Establish state legislative mandates for school representatives to participate in CDR.

Strategies for Collaboration: Culture & Relationships

2

Build relationships with schools and create a culture where collaboration between schools and CDR teams is seen as the norm, regardless of state legislative mandate.

Strategies for Collaboration: Representation Flexibility

3

Be flexible and creative on who the educational representative is from each school or district.

Strategies for Collaboration: Focused Engagement

4

As a preliminary step, consider focusing school engagement on certain types of death review cases, such as suicides.

Strategies for Collaboration: Subpoena

5

Use a subpoena to obtain information from schools.

Benefits of Collaboration: Examples

Example 1

Suicide
Prevention

Example 2

Absenteeism in
Children with
Disabilities

Contact Information

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