



## ASSOCIATION OF IMMUNIZATION MANAGERS

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October 2, 2015

Ms. Kathleen M. Styles  
Chief Privacy Officer  
United States Department of Education  
400 Maryland Ave. S.W.  
Washington, DC 20202-4500  
Re: Request for Input on Protecting Student Medical Records

Dear Ms. Styles,

The Association of Immunization Managers (AIM), representing the 64 federally-funded state, local and territorial immunization programs, would like to comment on the unintended effects of the Family Educational Rights and Privacy Act (FERPA) on public health and immunization.

AIM recommends that FERPA regulations be changed to allow state and local public health agencies access to student immunization records, and to allow the sharing of immunization data between schools and public health immunization information systems (IIS) for routine access as well as emergency/outbreak situations.

Public health agencies, including state, city and territorial immunization programs, are tasked with maintaining and improving immunization rates of the population. As part of the immunization program's work, information from student immunization records is needed to track compliance with immunization requirements for school entry, monitor exemption rates, and prevent and contain vaccine preventable disease outbreaks. Currently, FERPA regulations (20 U.S.C. 1232g (b)(1) and (b)(2)(A), § 99.30) provide that educational records (interpreted to include immunization information provided to schools by students and parents/guardians in response to school entry laws) cannot be shared without consent. Requiring consent prevents immunization programs from collecting the student immunization information necessary for preventing and controlling vaccine preventable diseases in the community.

AIM wishes to use this opportunity for public comment to outline some of the unintended effects of current FERPA regulations with respect to public health and to propose potential solutions.

### **Assessing compliance with and enforcement of school entry immunization requirements**

All states have school immunization requirements which require proof of immunization status as a condition of admittance. In order to assess compliance with school entry requirements, public health officials must review student immunization records to see which children have received the required vaccines. This routine activity is necessary to protect the health of students and school staff. The current

FERPA regulations hinder the ability of public health officials to conduct these audits to ensure that students are protected against vaccine preventable diseases by preventing access to student immunization information without written consent by the parent/guardian.

In Wisconsin, the FERPA prohibition on sharing student immunization information extends to not sharing this information with the local public health department nor the District Attorney's office without specific parental/guardian consent. In this situation, the school cannot inform the local health department or the District Attorney's office that the child is out of compliance with school entry requirements. In this case, the FERPA regulations against sharing student immunization records prevents local health departments from assisting schools to ensure children are in compliance and the District Attorney from enforcing the school entry requirements.

### **Administrative Burden on Schools and Immunization Programs**

CDC requires immunization programs to collect data on school immunization and exemption rates annually. Since FERPA does not allow immunization programs to directly access the immunization records of students, there is a significant burden placed on schools to de-identify student immunization records (removing names, and other identifying information) so that the records can be used by the immunization program. School staff must spend time and other resources copying and de-identifying immunization records for immunization program staff to analyze. This burden is felt more by school nurses and/or administrative staff, who prepare the data needed for the annual CDC-required survey. The Virginia Immunization Program reported that they have been told by school personnel that they do not have the resources to de-identify immunization records. Virginia also noted that it would be more efficient if immunization program staff were able to directly view the record and enter data into the programs used for data collection and analysis than the schools de-identifying the data.

In Washington State, since the immunization program cannot access the immunization information of students, an additional burden is placed on schools to report students who are missing/need to update vaccinations to local health departments for follow up. Additionally, the immunization program expends considerable staff time and resources securing parental consent to include student immunization information in the state's IIS.

### **Challenges to Increasing Immunization Rates**

Lack of access to student immunization records by immunization programs also hinders the ability for programs to work with schools and families to increase student immunization rates. For example, in Colorado, the state health department and local public health agencies would like to support schools by using the Colorado Immunization Information System (CIIS) to determine which students are missing required vaccines and conduct reminder/recall for students who are due/overdue for immunizations. Reminder/recall systems are used to remind members of a target population (students and their parent/guardians) that vaccinations are due (reminder) or late (recall). Reminder/Recall has been demonstrated to increase immunization rates by the Community Preventive Services Task Force<sup>1</sup>.

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<sup>1</sup> Increasing Appropriate Vaccination: Client Reminder and Recall Systems. Community Preventive Services Task Force. <http://www.thecommunityguide.org/vaccines/RRclientreminder.html>.

### **Importance of a complete immunization record**

In some cases, student immunization records may be more complete than the records supplied by health care providers found in the immunization registry. Immunization information systems (IIS) are an important tool in preventing and controlling vaccine preventable diseases by tracking individual and population level immunization information. FERPA prohibits schools from sharing student immunization information with the registry without consent by the student or parent/guardian. Incomplete IIS records can result in over-immunization as students with incomplete records are more likely to receive unnecessary, duplicate immunizations.

### **Outbreak investigation and control**

Assuring age-appropriate immunization through routine access to immunization records will improve preparation for and response to an emergency situation or disease outbreak. Under the FERPA health and safety emergency exception, immunization records can only be shared with public health officials after school officials define the outbreak as a public health emergency. This information is critical in the early stages of an outbreak before the outbreak is deemed a public health emergency, where prevention and disease control efforts can be most effective. The immunization programs should not have to wait until an emergency outbreak of disease to access student immunization records.

### **Documenting Exemptions and Measuring Vaccine Hesitancy**

As part of the immunization requirements for school entry, parents in some jurisdictions (where permitted by law) are able to opt their children out of these requirements by requesting an immunization exemption based on medical, religious or personal belief reasons. These exemptions are documented on the student's school immunization record. Without the ability for immunization programs to access this information, it is difficult to identify which children have exempted from critical vaccines and are more susceptible to diseases should an outbreak occur. Exemptions from school requirements are used as an indicator of vaccine hesitancy, and are used by immunization programs to focus education on the importance of vaccines and vaccination in areas with high exemption rates. By restricting access to student immunization records, FERPA is a barrier to immunization programs trying to educate parents/guardians about the need for immunizations.

AIM recognizes the critical need to protect a student's medical privacy and also the need to ensure the public's health and safety. As such, AIM proposes the following recommendations to the United States Department of Education (DOE) to resolve the issues discussed above.

First, AIM recommends that the DOE clarify the meaning of 'education records' to exclude student immunization information. Second, the DOE should clarify existing FERPA exceptions to allow sharing of student immunization records with public health. AIM also recommends amending FERPA to include a public health exception similar to provisions in the Health Insurance Portability and Accountability Act (HIPAA). The HIPAA public health exception allows for disclosure of private health information without written consent to public health for the purpose of preventing or controlling disease, measuring compliance with public health laws and responding disease outbreaks. A similar exception in FERPA would enable state and local public health organizations such as immunization programs access to student immunization records, and would allow sharing of immunization information without written consent. This public health exception would enable more effective and efficient compliance with state

laws and protection of communities during outbreaks such as the recent outbreaks of measles and pertussis on the West Coast.

Thank you for your consideration and for allowing public comment on this critical issue. AIM would be happy to discuss any of these issues further if needed.

Sincerely,



Gerri Yett  
AIM Chair



Claire Hannan  
AIM Executive Director