

GENERAL PERSONNEL

HIPAA Privacy Policy

The purpose of this policy is to assist the District, the Board of Education, and its officials and employees and agents in complying with the privacy standards of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and to protect the confidentiality and integrity of protected health information acquired through the administration of any group health plan or similar employee benefit plan maintained by the District for the benefit of its employees. The District, as a “plan sponsor” under HIPAA, shall comply with this policy when dealing with protected health information of any individual covered by the District’s group health plan or similar employee benefit plan maintained by the District for the benefit of its employees.

Definitions

For the purposes of this policy, the following definitions shall apply:

Group Health Plan is the District’s group health plan or similar employee benefit plan maintained by the District for the benefit of its employees which is administered by the insurance carrier or plan administrator with which the District has contracted for providing such group health plan or other employee benefit plan.

Individually Identifiable Health Information is health and demographic information that relates to the past, present, or future health care of an individual or payment for such health care that identifies or can be used to identify the individual.

Plan Document is the plan documents that govern the District’s group health plan or similar employee benefit plan maintained by the district for the benefit of its employees. The Plan Document is drafted and maintained by the insurance carrier or plan administrator with which the District has contracted for providing the District’s group health plan or other employee benefit plans maintained by the District for the benefit of its employees.

Protected Health Information (“PHI”) is individually identifiable health information that is maintained in or transmitted by electronic media, such as computers or the internet, or maintained or transmitted in any other form or medium, including transmissions via paper, voice, telephone, e-mail or facsimile. Protected Health Information excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act (FERPA) or employment records held by the District.

Confidentiality of Protected Health Information (“PHI”)

All Board of Education members and all District officials and employees shall endeavor to maintain the confidentiality and integrity of protected health information. In general, all District officials and employees will make reasonable efforts to limit the use, disclosure, and request of protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. Except as noted below, protected health information shall not be used or disclosed without the proper consent unless such use or disclosure is specifically authorized by law. Protected health information shall not be used or disclosed for marketing or directory purposes. Further, protected health information shall not be used or disclosed to a relative or a friend acting on behalf of an individual unless the individual has authorized such use or disclosure or the relative or friend is an authorized personal representative acting under proper legal authority. The District shall handle protected health information of a deceased individual in the same manner as other protected health information.

Permitted Uses and Disclosures of PHI

The District may use or disclose PHI as follows:

1. To the individual to which the protected health information pertains;
2. To a legal guardian, authorized personal representative, executor, administrator or other person having a legal right to act on behalf of the individual in making decisions related to health care;
3. To the insurance carrier or plan administrator with which the District has contracted for providing the District's group health plan;
4. To a business associate for the District's group health plan from which the District or the group health plan has obtained documented satisfactory assurances that they will comply with all applicable laws regarding the use or disclosure of protected health information;
5. For treatment, payment, or health care operations purposes;
6. Pursuant to and in compliance with a valid authorization from an individual;
7. For public health activities, including but not limited to disclosures to the local county or state Health Department when authorized by law or the Illinois Department of Children and Family Services in cases of child abuse or neglect or domestic violence;
8. For group health plan oversight activities, such as enrollment, eligibility determinations, and other activities related to health care operations purposes;
9. For law enforcement purposes or judicial and administrative proceedings; or
10. When otherwise required by the law.

Access, Use and Disclosure Limited

For the purpose of ensuring compliance with this policy and the privacy standards of HIPAA, the District personnel having access to protected health information shall include only the following listed personnel;

- Superintendent
- Administrative Staff designated by the Superintendent
- Director of Human Resources
- Business Manager
- Benefit Coordinator

These listed persons are authorized to and shall take all reasonable steps to protect the privacy of protected health information, including, but not limited to, ensuring that administrative, physical, and technical safeguarding procedures are established and enforced.

No other persons shall be granted access to or use of protected health information except as specifically provided in this Board Policy. Accordingly, in all circumstances, access, use and disclosure of protected health information shall be limited to these persons and those categories minimally necessary to carry out the functions and duties of the District. All documentation required by HIPAA or other applicable law shall be maintained by the Superintendent and all questions regarding the use or disclosure of protected health information should be directed to the Superintendent's Office.

Protected health information shall not be used or disclosed under any circumstances by the District for employment-related actions or decisions or in connection with any other employee benefit or employee benefit plan offered by the District.

The District personnel listed above who have access to and maintain protected health information shall implement the following procedures that limit other District official's or employee's access to protected health information:

- All files or documents containing protected health information shall be placed and maintained in a secure location and manner, thereby eliminating unauthorized access;
- Any computer containing or providing access to protected health information shall be password protected to authorized personnel only;
- Any computer containing or providing access to protected health information shall not be left unattended with protected health information on the screen and shall be logged log off the necessary system when unattended;
- Protected health information that is no longer needed by the District for offering or administering a group health plan shall be property destroyed or discarded in a manner that prohibits its review by unauthorized personnel;
- Fax machines over which protected health information is sent or received shall be maintained in a secure location; and
- All employees with access to protected health information shall be trained regarding the permissible use or disclose of protected health information except as allowed under this Board Policy or the plan document and to not use or disclose protected health information for employment related decisions.

Obligations and Activities of District as a Plan Sponsor

- (a) *Duty not to disclose PHI.* The District shall not use or disclose protected health information other than as permitted or required by the plan document or as otherwise required by law.
- (b) *Duty to Safeguard PHI.* The District shall use appropriate safeguards to prevent use or disclosure of the protected health information other than as provided for by the plan document, including, but not limited to, the implementation of administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the District's group health plan.
- (c) *Duty to Mitigate Damage Caused by Improper Disclosure of PHI.* The District shall mitigate, to the extent practicable, any harmful effect that is known to the District of a use or disclosure of protected health information by the District in violation of the requirements of the plan document.
- (d) *Duty to Report Disclosure of PHI.* The District shall report to the group health plan any use or disclosure of the protected health information not provided for by the plan document of which the District becomes aware, including any security incident involving electronic protected health information.
- (e) *Duty to Ensure Agents Agree to Same Restrictions.* The District shall ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by the District on behalf of group health plan agrees to the same restrictions and conditions that apply to the District through this Board Policy and the plan document with respect to such information.
- (f) *Duty to Provide Access to PHI.* At the request of group health plan, the District shall provide access to any protected health information maintained or received by the District, to the extent

such information is maintained by the District for the group health plan, to the group health plan in order to meet the requirements under 45 CFE 164.524.

- (g) *Duty to Amend PHI.* The District shall make any amendment(s) to protected health information that the group health plan directs or agrees to make to the such protected health information pursuant to 45 CFR 164.526 at the request of the group health plan or an individual to which the protected health information pertains.
- (h) *Duty to Make Records Available.* The District shall make internal practices, books, and records including policies and procedures relating to the use and disclosure of protected health information received from, or created or received by the District on behalf of, the group health plan available to the group health plan or to the Secretary of the U.S. Department of Health and Human Services when determining the group health plan's compliance with HIPAA. Such policies and procedures include this Board Policy.
- (i) *Duty to Document Disclosure of PHI.* The District shall document such disclosures of protected health information and information related to such disclosures as would be required for the group health plan to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR 164.528.
- (j) *Duty to Provide Information.* The District shall provide the group health plan or an individual information collected in accordance with Section (i) above to permit the group health plan to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR 164.528.

Disclosure of PHI in Violation of This Policy

In the event any person, including those persons listed above as having access to or control of protected health information, do not comply with this Board Policy, the person shall be subject to appropriate disciplinary measures, which may include an oral warning (first offense), a written warning (second offense), and suspension or termination of employment with the District. A more sever sanction may be imposed of warranted by the nature of the violation. All sanctions imposed shall be documented in the employee's personnel file and shall be maintained with the District's HIPAA compliance records.

LEGAL REF.: 45 CRF 164.504 (f)
42 U.S.C.A. 1320d et seq.

CROSS REF: Operational Services 4.100

Adopted by Board of Education September 2001

Revised and Adopted: June 2004; May 2005