

# COMPARING HIPAA AND FERPA

## A SUMMARY OF KEY ISSUES

In many ways, the two federal laws are similar; however, there are some important differences. A few of these similarities and differences are highlighted below.



**HIPAA**



**FERPA**

<b>Does the law usually require a signed release to disclose protected information?</b>		
<b>Who signs the release?</b>	Parent signs authorization for minor student.	Parent signs authorization in most cases, but minor must sign in some situations.
<b>Does it prescribe what the release must include?</b>		
<b>What must be included in the release?</b>	See 34 CFR 99.30	See 45 CFR 164.508 In California, releases also must comply with Ca. Civil Code 56.11.
<b>May the agency or provider limit parent access to information regarding minor consent care?</b>	In most cases, parents have a right to access all information in the education record unless a court order limits their access. Speak to legal counsel.	Parents generally have a right to access information regarding services they consented to for their child; however parents cannot access information about minor consent care unless the minor has authorized access in writing.



## HIPAA



## FERPA

<b>Does the law allow disclosures without need of a signed release?</b>		
<b>Does the law allow disclosures of health information to teachers without a signed release?</b>	Yes, if the teacher is in the same school and has a “legitimate educational interest” in the information as defined in school policy.	
<b>Does the law allow disclosures of health information to other health providers without a signed release?</b>	Only if the provider is in the same school and has a “legitimate educational interest” in the information as defined by school policy.	Yes, providers may share health information with other providers of health care for treatment purposes.
<b>Does the law allow disclosures in order to prevent danger or harm?</b>		
<b>Are there administrative requirements?</b>	Yes, including but not limited to: <ul style="list-style-type: none"> <li>• Annual notices of rights</li> <li>• Required local policies</li> <li>• Record retention rules</li> <li>• Documenting access to records</li> <li>• Required forms</li> </ul>	Yes, including but not limited to: <ul style="list-style-type: none"> <li>• Notice of Privacy Practice</li> <li>• Document retention requirements</li> <li>• Documenting access to records</li> <li>• Required forms</li> <li>• Record security requirements</li> </ul>