

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

Does the law usually require a signed release to disclose protected information?	✓	✓
Who signs the release?	Parent signs authorization for minor student.	Parent signs authorization in most cases, but minor must sign in some situations.
Does it prescribe what the release must include?	✓	✓
What must be included in the release?	See 34 CFR 99.30	See 45 CFR 164.508 In California, releases also must comply with Ca. Civil Code 56.11.
May the agency or provider limit parent access to information regarding minor consent care?	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

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