

Bring The Kids Home  
*Educational Transition Support  
Project*

## Information on Confidentiality

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**Information on Confidentiality: Bring The Kids Home**  
*Educational Transition Support Project*

This information applies to all staff across the Bring The Kids Home *Educational Transition Support Project*

**Background**

The *Special Education Service Agency (SESA)* has historically provided special education consultation services to school districts based on best practices. There is a great deal of overlap between youth who qualify for an IEP based on having the classification of Severely Emotionally Disturbed (SED) and those youth who receive services in Residential Psychiatric Treatment Centers (RPTC) for mental health, chemical dependency, or developmental disabilities. The youth who are sent to RPTCs outside of Alaska often fall through the cracks of the educational system as a result of transition. SESA specialists under the auspices of Bring The Kids Home **Educational Transition Support Project** will help to support the educational transition of many of these youth, as well as youth being served in Alaskan treatment centers.

We hold all personal information under strict legal and ethical obligations of confidentiality. We will not use or disclose information that is given to us in confidence in a form that might identify a service-user (youth, parent or other identifiable individual) without his or her consent.

Service-users have the right to access their personal files, including paper and electronic files.

## **1. Introduction**

Service-users have a right to expect that our services will hold information about them in confidence. Confidentiality is central to trust between service-users and the service providers known as Bring the Kids Home(BTKH) Educational Transition Specialists(ETS), or Educational Transition Support Project(ETSP) personnel. Our handling of confidential personal information must:

- promote, support and protect the privacy, dignity and rights of our
- service-users
- comply with best practice
- conform with the law
- promote the care and welfare of service-users and the effective
- operation of the service.
- Failure to comply with this guidance and these instructions may lead to
- disciplinary proceedings.

## **2. Legal and professional basis**

- All staff of the Educational Transition Support Project(ETSP) have a statutory obligation to safeguard the confidentiality of service-users personal information. All SESA employees who interface with information pertaining to these youth will strictly adhere to the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Additionally, these youth are also protected under the Family Educational Rights and Privacy Act (FERPA)
- ETSP personnel will refer back to the original Release of Information(ROI) signed by the parent/guardian when information is passed on for a particular purpose.
- ETSP personnel must control access to personal information on a strict need-to- know basis when we are sharing information with other agencies and/or schools, and only if an ROI has been signed.

If someone states that they do not want to have their personal information shared, we will respect their wishes.

### **3. General principles**

- In all cases, ETSP personnel will restrict the amount and type of information to what is necessary in the particular circumstances.
- ETSP personnel will not use information supplied for one purpose for another purpose.
- Special consideration must be made in the event information can be shared in an anonymous form.

### **4. Consent by the service-user**

- ETSP personnel will explain to the service-user that a refusal to give information or allow it to be shared may make it more difficult, and sometimes impossible to provide appropriate services.
- At the beginning of any period of contact, ETSP personnel will obtain the service-user's consent to share information. The Educational Transition Specialist must explain the nature and likelihood of the normal limits to the service-user and any other person giving information.
- ETSP personnel are asking the service-user to give consent to information sharing for each provider, organization, and school the youth is involved with so that we do not have to seek consent on every occasion that information sharing is necessary. We will make sure that the service-user has completed a Release of Information(ROI) and given the opportunity to identify and comment on providers or individuals that are likely to share information at the beginning of this process.

### **5. Information from emancipated youth**

- Young adults who are emancipated have the same rights to confidentiality as adults.
- If the youth is deemed to be capable of understanding the consequences of confidentiality, their consent is required for disclosure or access to records.

### **6. Normal limits of information sharing/disclosure**

To carry out and provide effective services, the Educational Transition Support Project will usually have to seek information from, and share information with, other agencies or individuals who hold relevant information. This may include:

- school staff, including administrators and service support staff (receptionists, paraprofessionals, counselors, principals, and assistant principals)
- staff of residential psychiatric treatment centers (RPTC) that have supervisory/case management functions

- other colleagues, including service support staff (receptionists, and records clerks), who will need or will have access to the information (such as transcripts, recommendations, etc.) as part of their work
- other agencies and professional staff, for example, community mental health agencies, prior schools attended by the service-user to enable the right provision to be made
- other agencies or caregivers undertaking work with the same service-users in partnership or on behalf of local authorities - this would include foster caregivers and residential staff, for example.

## **7. Exceptional circumstances in which information may be disclosed without consent**

Disclosure of personal information without consent may be justified where failure to do so may expose the service-user or others to risk of serious harm. ETSP personnel will always make every effort to gain consent but the health and safety of the individual has priority over the right to confidentiality.

## **8. Keeping information safe**

- ETSP personnel must make sure that personal information about service- users is protected against improper disclosure at all times.
- When discussing service-users, ETSP personnel must ensure that they cannot be overheard by anyone not bound by the same requirements of confidentiality towards that service-user.
- ETSP personnel will not leave material containing personal data, either on paper or on computer screen, where it can be seen by other service-users, unauthorized staff or other visitors to the office or unit.
- ETSP personnel will keep all portable records containing personal data in recognized filing and storage places. This storage will be locked at all times when access is not directly controlled or supervised.
- ETSP personnel will switch off computers with access to client information, or put them into a password-protected mode, when we are not working on them.
- From time to time, ETSP personnel may need to keep material with personal identifiable data in places other than the service-user's file. We will keep all such material under the same secure conditions as other service- users' files.

## **Contact Information**

For more information contact:

Special Education Service Agency (SESA)

907-334-1300 direct

907-562-0545 fax

Educational Transition Support Project Specialists

907-334-1314 direct

877-334-1314 toll free

907-569-0546 fax

## **Security Definitions**

**Regulation:** HIPAA, FERPA, 42 CFR,

**Access rights:** permission or privileges granted to users, programs or workstations to create, change, delete, or view data and files within a system, as defined by rules established by data owners and the information security policy

***Bring the Kids Home Educational Transition Support Project***, developed by the Department of Health and Social Services to improve education transition for youth returning to school from in-state and out-of-state residential psychiatric treatment centers (RPTC)

**Disclose:** or disclosure means a communication of patient identifying information, the affirmative verification of another person's communication of patient identifying information, or the communication of any information from the record of a patient who has been identified.

**IEP:** Individualized Education Plan, a plan used to identify the services provided for a child with a disability in a school district.

**JCAHO:** Joint Commission on the Accreditation of Healthcare Organizations sets standards for healthcare organizations and issues accreditation

**FERPA:** Family Educational Rights and Privacy Act is a Federal law that protects the privacy of student education records.

**HIPAA:** Health Insurance Portability and Accountability Act of 1996, the privacy rule standards address the use and disclosure of individuals' health information.

**RPTC:** Residential Psychiatric Treatment Centers, is facility-based care provided 24 hours a day, 7 days per week, for mentally ill children and adolescents, age 17 and younger, through a structured, safe, therapeutic environment.

**SED:** Severely Emotionally Disturbed

**SESA:** Special Education Service Agency provides assistance to Alaskan school districts and early intervention programs serving students with low incidence disabilities. SESA is publicly funded by the State of Alaska Dept. of Education and Early Development.

**Service Users:** We define 'the public' and 'service users' as parents/guardians, students, and members of the public who are the potential recipients of the Bring The Kids Home Education Transition Support Project

**42 CFR:** Confidentiality of Patient Records, records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States.

## **Appendix**

A. Release of Information

B. Family Educational Rights and Privacy Act (FERPA)

C. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

D. Statement of Confidentiality

## **Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339.

Or you may contact us at the following address:

**Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue  
SW Washington, D.C. 20202-5920**

## **Health Insurance Portability and Accountability Act 1996 (HIPAA)**

The *Standards for Privacy of Individually Identifiable Health Information* (“Privacy Rule”) establishes, for the first time, a set of national standards for the protection of certain health information. The U.S. Department of Health and Human Services (“HHS”) issued the Privacy Rule to implement the requirement of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).<sup>1</sup> The Privacy Rule standards address the use and disclosure of individuals’ health information—called “protected health information” by organizations subject to the Privacy Rule — called “covered entities,” as well as standards for individuals’ privacy rights to understand and control how their health information is used. Within HHS, the Office for Civil Rights (“OCR”) has responsibility for implementing and enforcing the Privacy Rule with respect to voluntary compliance activities and civil money penalties.

A major goal of the Privacy Rule is to assure that individuals’ health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public’s health and well being. The Rule strikes a balance that permits important uses of information, while protecting the privacy of people who seek care and healing. Given that the health care marketplace is diverse, the Rule is designed to be flexible and comprehensive to cover the variety of uses and disclosures that need to be addressed.

This is a summary of key elements of the Privacy Rule and not a complete or comprehensive guide to compliance. Entities regulated by the Rule are obligated to comply with all of its applicable requirements and should not rely on this summary as a source of legal information or advice.

JF/kd/Oct’09