

Q: Which federal and state laws apply to Private and/or Parochial Schools?

A: **Federal laws** apply to entities receiving federal funds (ex: Independent schools receiving funds for special education programs), as well as to any employer of >x numbers of persons. States enact rules and regulations to implement federal laws, which serve as minimum guidelines.

1. **OSHA** (Occupational Safety and Health Act of December 1970) was enacted to make the workplace safer for employees exposed to occupational hazards. In the school setting, it mandates annual employee training on prevention of occupational exposure to blood-borne pathogens. It also defines standards for confidential record-keeping, employer-paid personal protective equipment and hepatitis B immunization, and reporting of accidental exposure. Record-keeping requirements apply to all private schools as it does to any other employer of more than 11 persons. www.OSHA.gov
2. **ADA** (Americans with Disabilities Act – the Rehabilitation Act of 1973, which includes Section 504 accommodations for students) forbids discrimination against the disabled. It applies to employers of >50 persons. Religious or private schools which receive federal funding must also comply with rules on accommodating the needs of students and workers with disabilities.
3. **IDEA** – (Individuals with Disabilities Education Act of 1975-77) is the successor to PL 94-142, which provided for Individual Education Plans (IEPs) for students with learning impairments. Those students attending private schools, who are eligible for special services (ex: speech therapy) were they attending public school, are eligible to receive itinerant services at their school, or services on site at their local public school.
4. **FERPA** – (Family Educational Rights and Privacy Act of 1974 – the Buckley Amendment) is a law which limits access to student records, except by a parent, emancipated minor, or educator. It applies to private schools which accept federal funds, as well as to public schools. Laws assuring privacy for

student records spelled the end of "health problem lists" or logs with names of multiple student visitors to the health clinic.

5. **HIPAA** (The Health Insurance Portability and Accountability Act of 1996) aims to protect the confidentiality of health records. Reasonable effort must be made to protect personally identifiable health information from inadvertent disclosure during verbal, electronic or written transfer. When sending a fax, for example, a "Confidential" stamp and identification of the sender and contact information must be provided in case the transmission was misdirected. The regulations are still evolving. For example, do parents have to sign express permission for a provider to share personally identifiable health information for purposes of transfer to another school? Keep these web sites to monitor

<http://www.hhs.gov/ocr/hipaa/>

<http://www.cms.hhs.gov/hipaa/>

<http://www.hhs.gov/ocr/hipaa/finalreg.html>

http://www.healthinschools.org/ejournal/2002/oct02_1.htm

State laws vary widely from one state to another when it comes to school health services. Although both health and education laws apply, they often conflict. For example, a principal is permitted to designate a staff member to administer medications, "notwithstanding the provisions of the Nurse Practice Act."

1. Requirements for entrance into school (Certificates of Immunizations and physical exams) are set by the state Health Department, but enforcement is left to the school, and/or local health department.
2. State statutes contain laws on health screenings (vision, hearing, growth & development) which must be provided in specified grade levels, and describes services which may be delegated to unlicensed personnel,

- 3 The state Board of Nursing governs requirements for RN licensure, as well as the number of continuing education contact hours needed for re-licensure. The state Board of Education may grant to a school nurse a teaching certificate as Health Educator or School Nurse
4. Both public and private school nurses and teachers **are obliged to report suspected child abuse and neglect** to the Department of Children and Families.

This brief article is an overview of a variety of laws. For a specific state, contact your State School Nurse Consultant.. Thanks to Martha Dewey Bergren, Nadine Schwab and Diane Mennitt, School Nurse Consultant, Florida, for their review and comments. For further information, please consult these references:

Nadine Schwab et al., "Legal Issues in School Health Services", Sunrise River Press, 2001
Carolyn Champion, RN, "Occupational Exposure to Blood-borne Pathogens", NASN August 1999
ASHA "Guidelines for Protecting Confidential Student Health Information", Kent, Ohio, 2000
Martha Dewey Bergren, Journal of School Nursing, NASN variety of articles involving technology

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