

**SECTION II:  
NEW MEXICO STATUTES, ADMINISTRATIVE CODES, REGULATIONS  
AND POLICIES RELATING TO SCHOOL HEALTH\***

NOTE

**To locate specific Statutes from the link provided in the text of this Section:**

**Click on the Link**

**Select: 20[ ] NMSA 1978**

**Choose: Statutory Chapters in NM Statutes**

**Select: Chapter, Article and Section as Indicated in the Statute Citation**

\*Statutes, Administrative Codes, regulations and policies most frequently referenced for school health are included in this section. Both New Mexico Statutes and Administrative Codes can be accessed through the State of New Mexico government web site @ [www.state.nm.us](http://www.state.nm.us).

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**NOTE:** It is recommended that copies of local district and/or school policies regarding school health issues be compared for compliance with the New Mexico Administrative Codes and State Statutes as well as appropriate Federal regulations.

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# NEW MEXICO STATE STATUTES AND ADMINISTRATIVE CODES FOR SCHOOL PERSONNEL

## LICENSURE AND COMPETENCIES FOR SCHOOL HEALTH PROFESSIONALS

### NM State Statutes – School Personnel

CHAPTER 22            PUBLIC SCHOOLS  
ARTICLE 10A         SCHOOL PERSONNEL ACT

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> (see Note p. 1)

SECTION 3            License or certificate required; application fee; general duties  
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### NM Administrative Codes – School Personnel

TITLE 6                ELEMENTARY AND SECONDARY EDUCATION  
CHAPTER 63           School Personnel - Licensure Requirements for Ancillary and Support  
Personnel

<http://www.nmcpr.state.nm.us/nmac/ title06/T06C063.htm>

PART 2                Licensure for School Nurses, Grades K-12  
PART 5                Licensure for School Psychologists, K-12  
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CHAPTER 68            School Personnel – Denial, Suspension, and Revocation of License

<http://www.nmcpr.state.nm.us/nmac/title06/T06C068.htm>

**SCHOOL NURSE EVALUATION TOOLS (See Section I this Manual.)**

# NEW MEXICO SCHOOL HEALTH PROGRAM

## EDUCATION STANDARDS & BENCHMARKS

TITLE 6 CHAPTER 29	PRIMARY AND SECONDARY EDUCATION STANDARDS FOR EXCELLENCE <a href="http://www.nmcpr.state.nm.us/NMAC/ title06/T06C029.htm">http://www.nmcpr.state.nm.us/NMAC/ title06/T06C029.htm</a>
CHAPTER 30	EDUCATIONAL STANDARDS – GENERAL REQUIREMENTS <a href="http://www.nmcpr.state.nm.us/nmac/ title06/T06C030.htm">http://www.nmcpr.state.nm.us/nmac/ title06/T06C030.htm</a>
CHAPTER 31	EDUCATIONAL STANDARDS – SPECIAL EDUCATION <a href="http://www.nmcpr.state.nm.us/nmac/ title06/T06C031.htm">http://www.nmcpr.state.nm.us/nmac/ title06/T06C031.htm</a>

## HEALTH SCREENING PROCESS AND STUDENT ASSISTANCE TEAM (SAT)

### Introduction

The Standards for Excellence of the NM Public Education Department (PED) serve as the road map for school districts to use in preparing and carrying out the district's long-range plan, i.e. the Educational Plan for Student Success (EPSS). The EPSS should be based upon extensive knowledge of the needs and abilities of a district's specific student population which can be obtained, in part, from general screening. For this reason, General Screening procedures are required and should be in use in all public school districts in New Mexico.

The Director of Instruction at each NM public school district should have specific materials, made available by NM PED, to provide guidance in developing procedures to perform general screening. These materials include a videotape and printed manual entitled *The General Screening Process and the Student Assistance Team Review*. Questions on general screening and student assistance team procedures can be addressed to the PED School Program and Professional Development Unit.

### General Screening and SAT Process

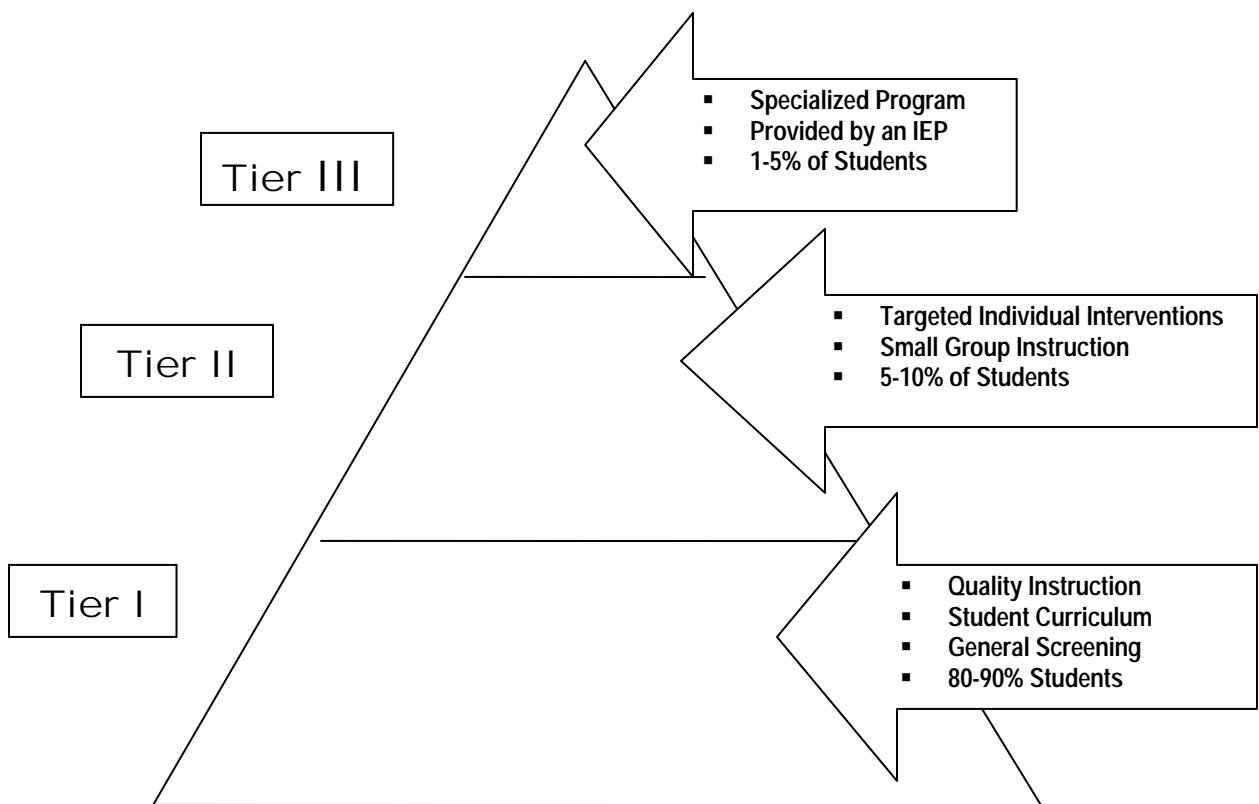
The Student Assistance Team (SAT) is a school-based group whose purpose is to provide additional Tier II level support in the three-tier PED model of student intervention. This support is for students who experience difficulty preventing them from benefiting from general education because they are either performing below or above expectations. By “catching” these students in the child study phase, the SAT may not only help the student remain and succeed in the general education program, but also reduce unnecessary referrals to special education.

The SAT's mission is to arrive at appropriate solutions to problems in the school environment through a cooperative team effort. Although the team may make referrals to special education and other special programs, the SAT is not part of the special education process, but rather a general education responsibility.

The SAT addresses problems identified through general screening or as concerns by parents, teachers or other school staff. It designs interventions for students who show need for individual consideration, focusing on student strengths that may alleviate or resolve the need for intervention prior to referral for a multidisciplinary evaluation. In many cases, the SAT is able to assist students who need interventions in order to succeed, but who are not necessarily disabled and, therefore, do not qualify for special education or Section 504 accommodations. Simply put, the SAT is a support group for the regular education teachers and students who need it.

The following tools may be used as guidelines in utilizing the SAT process as an intervention.

### **Three-Tier Model of Student Intervention**



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*New Mexico Public Education Department Technical Assistance Manual: Student Assistance Team*

## GENERAL SCREENING and STUDENT ASSISTANCE TEAM (SAT) REVIEW

Q: Who should be screened?

A: **ALL** students are required to be screened, including transfer students.

Q: Whose legal responsibility is it to provide General Screening?

A: It is the responsibility of each public school district.

Q: When does General Screening happen?

A: It is ongoing and much of it takes place over the first two months in the first two years of school. For transfer students it takes place upon the student's entry into school.

Q: Who serves on the General Screening Committee?

A: School nurse, teacher(s), counselor(s) and other relevant school staff.

Q: What kinds of screening are included in General Screening?

A: (1) Home Language Survey and related language skills assessment, (2) physical and mental health assessment, (3) readiness or academic achievement assessment.

Q: What is the purpose of a Home Language Survey?

A: It is to determine if a different language is commonly spoken in the student's home environment and in what language testing should occur for the student's benefit.

Q: How does a student become classified as "LEP" and what does this acronym mean?

A: It means "Limited English Proficiency." A student may be classified LEP after English language skills (listening, speaking, reading, writing) have been formally assessed.

Q: What should be provided for students who are determined (by testing) to be LEP?

A: Additional assistance in learning English should be provided that may include referral to courses in bilingual education, English as second language or with English as second language content, or structured immersion and bilingual education programs.

Q: When should students be referred to the following?

Bilingual education services	Title 1 services	Indian education
Special education services	504 plan	Community agency services
Other local school support programs		

A: As a result of General Screening and upon SAT recommendation when a problem arises after the General Screening assessment has occurred.

Q: How do "appropriateness, fairness and accuracy" relate to General Screening?

A: Whether assessment of the student is done with standardized tests or with locally-produced tests or other forms of assessment, it should be "appropriate, fair and accurate" in measuring the student's true abilities. For example, assessment of a student should occur in his/her dominant language.

Q: Where should the documentation of General Screening be kept?

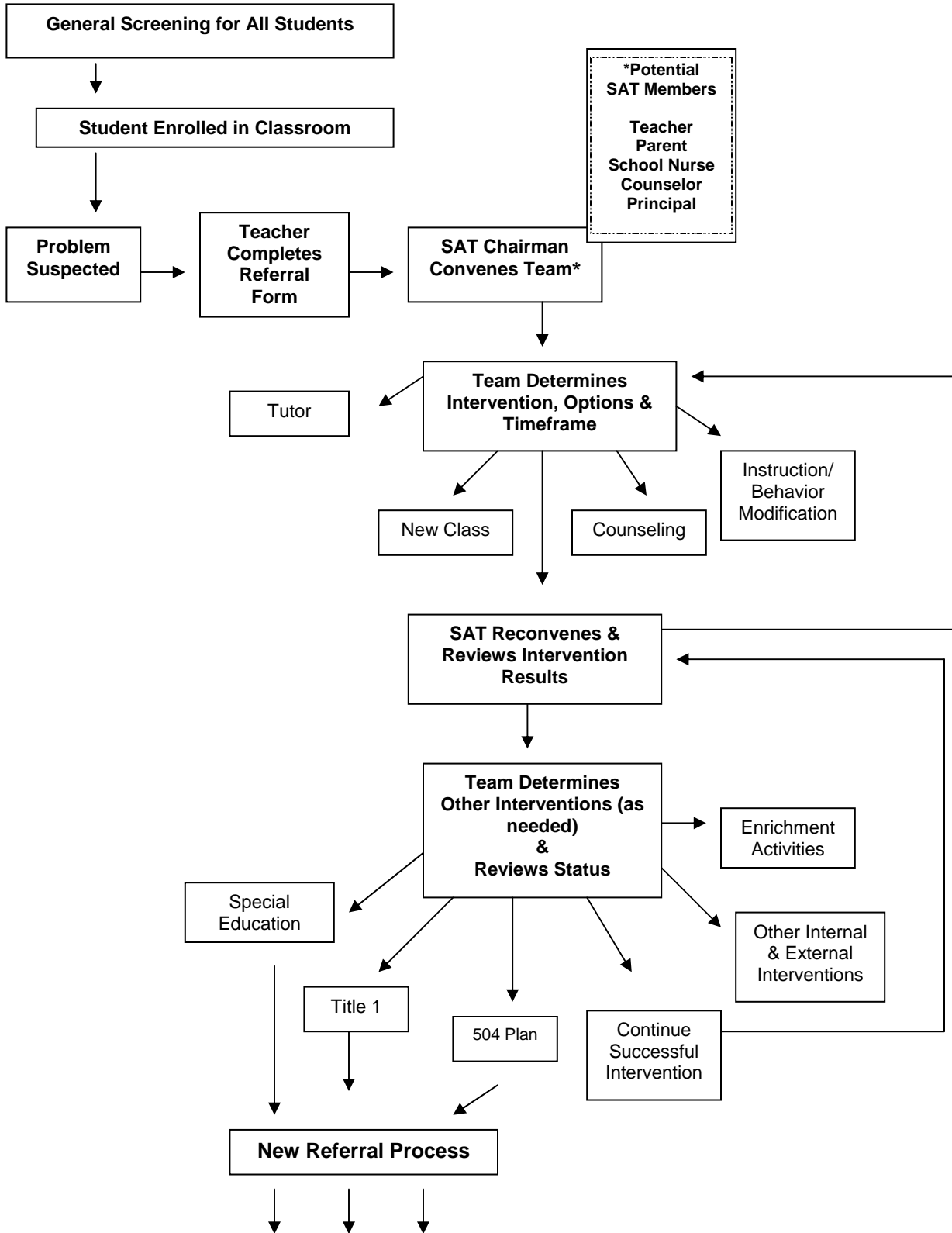
A: These records should be kept in a location with convenient access for teachers and staff working with the student and where confidentiality is maintained. Thus, health records might be located separate from academic achievement/assessment records.

- Q: Who should have access to the information from a student's General Screening?  
A: Teachers and staff working with the student should have access that is monitored by using sign-out/in sheets kept in the record.
- Q: How can a district show that General Screening has been done and still preserve confidentiality of the student's file?  
A: A checklist verifying that screening has been accomplished may be kept in public files.
- Q: What is the function of a Student Assistance Team (SAT)?  
A: It provides an additional screening/intervention structure for students who encounter learning difficulties after General Screening.
- Q: Who serves on a SAT?  
A: Similar to a General Screening Committee, it may include school administrator, counselor(s), school nurse, referring teacher or parent, and other relevant school staff.
- Q: Who may recommend a student to the SAT?  
A: Anyone who observes the student's difficulty, but usually a parent or teacher.
- Q: How much time should be allowed for interventions suggested by a SAT?  
A: There is no standard time requirement; instead, the time needed depends on the nature of the intervention and the judgment of SAT.
- Q: How often should the same student's problems be brought to a SAT?  
A: This depends on the judgment of SAT. Interventions for an individual student may be reconsidered by SAT repeatedly.
- Q: What are the types of interventions that the SAT may recommend?  
A: Interventions may include: change of group or class, tutoring or other teaching or behavioral strategies, counseling, referral to a particular program such as Title1, to community agencies, etc.

**RECOMMENDED STEPS FOR STUDENT ASSISTANCE TEAM (SAT)  
ACTION AS PART OF GENERAL SCREENING**

- STEP 1:** General Screening offered to all students.
- STEP 2:** Student enrolled in classroom/curriculum.
- STEP 3:** Parent/teacher suspects problem.
- STEP 4:** Parent/teacher obtains and completes referral form.
- STEP 5:** SAT chairperson reviews form and convenes team.
- STEP 6:** Team determines intervention options and develops reasonable timeline.
- Intervention Examples: tutoring, new class, counseling, new teaching or behavioral strategies, referral to community agencies, referral to alternative program.*
- STEP 7:** Intervention option(s) implemented.
- STEP 8:** Re-evaluation of student's performance occurs.
- STEP 9:** Team reconvenes and reviews intervention results. (This step may occur multiple times. See Flowchart for SAT this Section.)
- STEP 10:** Team determines status and alternative intervention if appropriate and refers student to options.
- Option Examples: Special Education, Title 1, 504 Plan, continue successful intervention(s), enrichment activities, other external/internal interventions*
- STEP 11:** Team reconvenes and reviews intervention results.

**FLOWCHART FOR STUDENT ASSISTANCE TEAM (SAT)  
AS PART OF GENERAL SCREENING**



## PUBLIC EDUCATION DEPARTMENT HEALTH SERVICES CHECKLIST

This checklist provides an outline of the items that might be addressed when assess the quality of a school health program. Additional information can be obtained by contacting the Public Education Department Health Services Consultant at (505) 827-1807.

<input type="checkbox"/> <b>Is the NM School Health Manual accessible to staff as a reference?</b>
<input type="checkbox"/> <b>Does the school nurse have access to the Web version of the NM School Health Manual?</b>
<input type="checkbox"/> <b>What does your school/district offer for access to Health Services?</b> (Reference 6NMAC 30.2.11(C) @ <a href="http://www.nmcpr.state.nm.us/nmac/_title06/T06C030.htm">http://www.nmcpr.state.nm.us/nmac/_title06/T06C030.htm</a> )
<b>What is completed for the assessment of the physical and health status of the child during the general screen process? Which kids are screened?</b>
<input type="checkbox"/> <b>How is the confidentiality of student health records maintained? Who has access?</b> (Reference Federal Educational Rights and Privacy Act[FERPA], NM State Statutes and Health Insurance Portability Authorization Act [HIPAA] )
<input type="checkbox"/> <b>How are general Immunization Records evaluated on new students?</b> (Reference NM Statutes 24-5-1 through 24-5-15)
<input type="checkbox"/> <b>Were any Immunization Exemptions granted to students for medical or religious reasons?</b>  <b>If so, is there a current certificate in that child's file? Certificate must be updated at the beginning of each school year.</b>
<input type="checkbox"/> <b>Are you aware of the state requirements for Hepatitis B vaccination?</b> (Reference NM Immunization Requirements Schedule @ <a href="http://www.immunizenm.org/">http://www.immunizenm.org/</a> )
<input type="checkbox"/> <b>Do you have a Bloodborne Pathogens Plan? Are you providing annual training? (Training log should be kept at a minimum of 3 years.)</b> (Reference-OSHA Standard 29 CFR 1910.1030 and Section XVI this Manual)
<input type="checkbox"/> <b>Do teachers have access to personal protective equipment (PPE)?</b>
<input type="checkbox"/> <b>How are Health Services contributing to the District EPSS plan?</b>

## HEALTH RECORD RETENTION

All student health records should be retained, regardless of media, for the period required by the agency's records retention program for any legal, user, historical or other purpose. Electronic files are subject to the same retention rules as hard-copy files.

TITLE 1                    NM GENERAL GOVERNMENT ADMINISTRATION  
CHAPTER 20            EDUCATIONAL RECORDS RETENTION AND DISPOSITION  
                                 SCHEDULES (EDRRDS)  
PART 2                    New Mexico Public Schools

<http://www.nmcpr.state.nm.us/nmac/title01/T01C020.htm>

SUBPART 9              Instructions

*"Data processing and other machine readable records. Many paper records are being eliminated when the information has been placed on magnetic tapes, disks, or other data processing media. In these cases, the information on the data processing medium should be retained for the length of time specified in records retention and disposition schedules for paper records and should be subject to the same confidentiality and access restrictions as paper records. When the destruction of a record is required, all versions of said record shall be electronically over-written on machine readable media on which it is stored (or media destroyed). See also 1.13.70 NMAC: Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems."*

SUBPART 101            Student Cumulative Education Record File

SUBPART 101.2        Student health records

*" Student health records. Record includes but is not limited to health history, immunization record, results and recommendations from examinations, screening, treatment, parent or guardian referral record, teachers comments, etc.: 10 years after date of last entry or until individual attains age 19, whichever is longer."*

SUBPART 101.4        Other student records  
SUBPART 104           Pupil Personnel Cumulative Record  
SUBPART 113           Students Accidents and Illnesses  
SUBPART 115.2        Athletic Program Records  
SUBPART 921.1        Accident Report File

## CONFIDENTIALITY

### Introduction

"Confidentiality is an abstract concept that is inextricably intertwined with the individual's 'right to privacy' and with communication and record-keeping practices in health care settings and schools....With respect to minors in school settings, these challenges can be confounding" (Schwab & Gelman (2001), p. 261). The issues for school nurses surrounding confidentiality include what constitutes student health information, who has a need to know, and why they need to know unless potential disclosure is discussed.

The Federal Educational Rights and Privacy Act (FERPA) of 1974 established confidentiality standards and access rights to student records. The "right to privacy" implies the right to be left alone. Designation of certain personal information belongs to the individual, and that individual has the right to decide whether to disclose the information to others or not. The individual, on disclosure of personal information, has the right to expect that the information volunteered will not be further disclosed.

Over 2000 years ago the ethical basis for confidentiality was established in the Hippocratic Oath and sworn by physicians to protect the privacy of patients. Confidentiality is the premise for developing a trusting relationship in which a client will feel free to divulge complete information in order to be provided the most accurate diagnosis and treatment. Fidelity addresses the issue of keeping promises or being faithful to the professional-client relationship. Fidelity requires health professionals to protect patient information from disclosure to others, except to members of the health care team working within the same agency who have a need to know in order to care for the patient.

### **Confidentiality in School Health Services**

In the health care setting, there are situations when confidentiality might not be maintained. At any time if information a student has shared indicates the student is at imminent risk of endangering him/herself or others, that information must be shared with those who need to intervene in order to protect the student or others. Therefore, a statement from the school nurse in the nurse/student discussion should disclose to the student that any information will be kept confidential unless the nurse chooses to share it to protect the student or others from what she/he perceives to be harm.

In the school setting, the issue of "need to know" arises when other school personnel need to know confidential information in order to provide appropriate educational services beneficial to the student. However, care must be given as to how the information is shared and to what extent in order to maintain the student's privacy.

Information provided teachers of students who may require accommodations or have the potential for life-threatening emergencies should be related to signs and symptoms, not necessarily a medical diagnosis. It is recommended that school nurses utilize nursing diagnoses when teaching staff about any student's health problem. For example, two students might be labeled with asthma. While one of them rarely uses an inhaler, the other might be at high risk for respiratory distress and require frequent (on demand) inhaler use. It is more important to meet specific needs rather than treat the diagnosed condition generically. School staff members need to know how to recognize a health problem and what to do if that problem occurs.

School administrators should be given sufficient information about the health and safety needs of students to plan appropriate programs, ensure a safe environment, and provide adequate staff training. The school administrator should also be able to access emergency care plans for students in his/her buildings of responsibility.

### **Written Informed Consent**

A parent/guardian of a minor may give written informed consent for personal health information to be shared with identified school personnel. The consent should specify what information will

be shared and with whom. The expected outcomes and potential ramifications associated with written informed consent should also be discussed with the individual(s) giving consent. School districts may choose to define members of the health team and obtain a blanket written informed consent from the parent/guardian to allow disclosure of information on a "need to know" basis for these members.

### **Protecting Confidential Student Health Information**

The following guidelines were established by the National Task Force on Confidential Student Health Information in 2000. To protect confidential health information these guidelines are recommended for use by school nurses when creating and maintaining the student health record.

- Guideline I:** Distinguish student health information from other types of school records.
- Guideline II:** Extend to school health records the same protections granted medical records by federal and state law.
- Guideline III:** Establish uniform standards for collecting and recording student health information.
- Guideline IV:** Establish district policies and standard procedures for protecting confidentiality during the creation, storage, transfer, and destruction of student health records.
- Guideline V:** Require written, informed consent from the parent and, when appropriate, the student to release medical and psychiatric diagnoses to other school personnel.
- Guideline VI:** Limit the disclosure of confidential health information within the school to information necessary to benefit students' health or education.
- Guideline VII:** Establish policies and standard procedures for requesting needed health information from outside sources and for releasing confidential health information, with parental consent, to outside agencies and individuals.
- Guideline VIII:** Provide regular, periodic training for all new school staff, contracted service providers, substitute teachers, and school volunteers concerning the district's policies and procedures for protecting confidentiality.

### **School District Policy**

Go to <http://www.nmschoolhealthmanual.org/resources/forms.htm>, Section II for sample school district confidentiality policy form.

### **References**

- Schwab, N.C. and Gelfman, M.H. (2001) *Legal Issues in School Health Services*, North Branch, MN: Sunrise River Press.
- National Task Force on Confidential Student Health Information. (2000) *Guidelines for documentation for protecting confidential student health information*. ASHA.

## CONFIDENTIAL SERVICES FOR MINORS

### CHAPTER 24 HEALTH AND SAFETY

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> (see Note p. 1)

ARTICLE 1 PUBLIC HEALTH  
SECTION 9 Capacity to consent to examination and treatment for a sexually transmitted disease  
SECTION 13 Pregnancy; capacity to consent to examination and diagnosis

ARTICLE 8 FAMILY PLANNING  
SECTION 5 Prohibition against imposition of standards and requirements prerequisites for receipt of requested family planning services

ARTICLE 10 CONSENT TO MEDICAL CARE; EMERGENCY CARE; TRANSFUSIONS  
SECTION 2 Consent for emergency attention by person in loco parentis

### CHAPTER 32A CHILDREN'S CODE

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> (see Note p. 1)

ARTICLE 6 CHILDREN'S MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES  
SECTION 14 Consent for services; children under fourteen years of age  
SECTION 15 Consent for services; children fourteen years of age or older  
SECTION 16 Consent for services; determination of capacity for children fourteen years of age or older

### **Summary of NM Statutes/Rules of Confidential Services for Minors**

Go to <http://www.nmschoolhealthmanual.org/resources/forms.htm>, Section II for a summary of the NM statutes and administrative code regarding confidential services for minors.

## DOCUMENTATION

### **Introduction**

“Documentation is critical to the development and maintenance of school health service programs. It is essential to the practice of nursing and a fundamental component of the nursing process” (Schwab & Gelman (2001), p. 157).

## **Rationale for Documentation in School Nursing**

- Through documentation a standard of care demonstrated by the school nurse's intervention is shown to be reasonable and prudent.
- Documentation is a means of communication between the school nurse and other health care providers regarding the care delivered and/or the plan developed for student care.
- Documentation verifies use of the nursing process in delivering care.
- Documentation provides a basis for evaluating the accuracy of nursing diagnoses and the effectiveness of the school health program.
- Data collection from documentation can provide statistical information for research and funding opportunities.
- Documentation can protect the school nurse regarding risk management issues.

## **Student Health Record**

In general, each student health record should contain the following pieces of documentation and information.

- Health history
- Health screening results---hearing/vision/height/weight/immunizations
- Chronic conditions/diagnoses/problem list
- Emergency information/contact/health care provider list
- Progress notes
- Appropriate Individual Health Plan/Individual Emergency Management Plan (IHP/EMP)

In the school nurse's role as guardian of the health record, listed below are some ground rules that he/she may consider when creating and while maintaining the record.

- By law, the parent/guardian has the right to review his/her child's health record with the exception of records for confidential services. (See this Section.)
- No health information may be released without express consent of parent/guardian unless a student has attained the age of 18 years or is emancipated.
- Daily logs that contain student identifiers and to which other individuals have access violate privacy acts.
- Abbreviations approved by a recognized body of nursing may be used in charting but should be re-evaluated periodically for accuracy.
- Even if a child appears not to be ill/injured, his/her actions should be documented in progress notes e.g., "he is laughing, playing with other students, talkative, etc."
- Documentation should include what the nurse observed e.g., "hallucination: with ear to wall spoke with someone he called his booking agent."
- Progress notes should be non-judgmental e.g., "mother reports no history of..." instead of "mother denies..."
- "Will, never, always, shall, must" are inappropriate words for use in nursing documentation.
- Documentation should contain exactly what is said in quotations; paraphrasing is not a quote.
- Documentation forms should have a policy/procedure/directive for their use.

- The health record follows a student throughout his/her public school career and should contain the documents required by the Public Education Department (PED). It is maintained by the school district until such time when it may be disposed of as directed by PED or school district policy. (See Section II)
- It is the responsibility of the parent/guardian to provide updated and correct contact phone numbers to the school health office as well as the school administrative office.
- A school nurse is not responsible for providing health services assigned at an Individual Education Plan unless he/she is present to give consent.

### **Health Room Visit Documentation**

A description of each health room visit should be reflected in the student health record. The following inclusions in the documentation will help guide the school nurse toward completion of an adequate report of the visit.

- Document frequency and length of visits.
- Document re-assessment each time it occurs. With recurrent visits, document symptoms to demonstrate a pattern. Document gut-level feelings.
- Use the concept of "**FACT**" when documenting.
  - F** actual
  - A** ccurate
  - C** omplete and comprehensive
  - T** imely
- Complete documentation on the day of occurrence.
- Do not provide care or discontinue assessment if, in one's professional opinion, needed medical information is lacking to arrive at a diagnosis.
- Show that a health history was taken before care was provided.
- Assure that the plan of care reflects appropriate health history and health screen(s).
- Document the method used to notify parent/guardian of the student's health office visit e.g., by phone (emergency or need to pick up) or in writing (routine visit).
- Document what information is sent home with the student for exchange with the parent/guardian; however, the school is not responsible for assuring that information exchange occurs between the student and parent/guardian as requested.
- Failure to document delivery of nursing services violates the nurse practice act.

### **Consistency in Documentation**

Since the health record is an information management document for the student throughout his/her school career. Consistency is the key to organization, continuity and accuracy. Likewise, all forms and documentation should have a signature and/or initials of the care giver and the name of the student. Any medication log sheets should contain a space for physician order, date, prescription changes as well as a comment section. The same health record forms should be used in the same manner for the same purpose in all schools within a school district.

### **Sign-in/Documentation Logs**

Unless maintained without known patient identifiers, sign-in logs and patient activity logs may infringe upon patient confidentiality rights. Computerized logs may be acceptable if access is limited to identified individuals with a need to know.

### **Documentation Tools**

Go to <http://www.nmschoolhealthmanual.org/resources/forms.htm> , Section II for sample forms and memos for school health record maintenance. These samples include the following.

- Health Records
- Sick Child Memo – English
- Sick Child Memo – Spanish
- Injured Child Memo – English
- Injured Child Memo – Spanish
- Vision Screening
- Hearing Screening

### **References**

- Schwab, Nadine C. and Gelfman, Mary H. B. (2001) *Legal Issues in School Health Services*. North Branch, MN: Sunrise River Press, pp. 156-163.
- Schwab, N., Panettieri, M.J., & Bergren, M. (1998). *Guidelines for school nursing documentation: Standards, issues, and models* (2<sup>nd</sup> ed.). Scarborough, ME: National Association of School Nurses.

## **ADVERSE EVENTS REPORTING**

### **Introduction**

In New Mexico, the Department of Health (DOH) Regional Health Officers (RHO) are charged by state statute with oversight responsibilities of all school health personnel, except physical education staff.

Section 24-1-4(D) NMSA reads as follows. “All school health personnel, except physical education personnel, are under the direct supervision and control of the district health officer in their district. They shall make such reports relating to public health as the district health officer in their district requires.”

Section 24-1-3(G) NMSA states that DOH has the authority to “prescribe the duties of public health nurses and school nurses.”

In 2004 public health districts in New Mexico were reconfigured and renamed “Regions.” The district health officers became Regional Health Officers at that time; however, they maintain the power and authority of district officers for statutory purposes.

### **Adverse Events Reporting Process**

Adverse events related to the health and safety of students occur frequently in the school setting, some posing more dangerous situations than others. In their role of supervising school nurses, the RHOs have identified certain events that they deem important for school nurses to report to the RHO in their respective public health Regions.

### **Reportable Adverse Events**

Requiring school nurses to report certain identified adverse events is in alignment with the statutory authority granted RHOs to require reports relating to public health as they judge appropriate and necessary.

The following events have been identified as reportable to the RHO or School Health Advocate (SHA) in the public health region where the involved school nurse provides school health services.

- (1) Any death of a student or staff member that occurs during school hours, on school grounds, or while on a school-sponsored activity.
- (2) Any known completed suicide of a student.
- (3) Any delivery of an infant on school grounds.
- (4) Any medication error resulting from the action of a school nurse or other school staff and requires an ambulance to be called or requires the student to be transported to an emergency room or urgent care facility.

### **Protocol for Reporting Adverse Events**

Should a school nurse have knowledge of any of the above listed adverse events occurring in the school/school district in which he/she provides services, that nurse or the school nurse leader/supervisor of the school district is required to report the event(s) to the local RHO or SHA by phone, fax or email. A faxed or emailed report should be followed as soon as possible by a phone call to alert the RHO or SHA of the outstanding report.

### **Adverse Events Reporting Form**

The reporting form at <http://www.nmschoolhealthmanual.org/resources/forms.htm> , Section II should be used for reporting all required adverse events so that the appropriate information is collected and provided for data collection and any follow-up action.

### **Notification Timeframe**

Reporting of adverse events should occur within 24 hours in the event of (1) or (2) above and within three working days of the occurrence in the event of (3) or (4). If the required reporting information is inconclusive within this timeframe, the event should still be reported with additional information to follow at a later time.

## **SPECIFIC SCHOOL HEALTH ISSUES**

### **ACQUIRED IMMUNE DEFICIENCY SYNDROME**

TITLE 6                    PRIMARY AND SECONDARY EDUCATION  
CHAPTER 12            PUBLIC SCHOOL ADMINISTRATION – HEALTH AND SAFETY  
PART 2                    Health Services

<http://www.nmcpr.state.nm.us/nmac/parts/title06/06.012.0002.htm>

### **STUDENT SAFETY (INCLUDING EYE SAFETY)**

TITLE 6                    PRIMARY AND SECONDARY EDUCATION  
CHAPTER 30            EDUCATION STANDARDS – GENERAL REQUIREMENTS  
PART 2                    Standards of Excellence  
SUBPART 10E           Procedural Requirements

<http://www.nmcpr.state.nm.us/nmac/ title06/T06C030.htm>

### **TOBACCO FREE SCHOOL DISTRICTS**

TITLE 6                    PRIMARY AND SECONDARY EDUCATION  
CHAPTER 12            PUBLIC SCHOOL ADMINISTRATION – HEALTH AND SAFETY  
PART 4                    Tobacco Free School Districts

<http://www.nmcpr.state.nm.us/nmac/parts/title06/06.012.0004.htm>

### **PESTICIDES**

TITLE 6                    PRIMARY AND SECONDARY EDUCATION  
CHAPTER 30            EDUCATIONAN STANDARDS – GENERAL REQUIREMENTS  
PART 2                    Standards of Excellence  
SUBPART 10E(4)       Procedural Requirements

<http://www.nmcpr.state.nm.us/nmac/ title06/T06C030.htm>

**IMMUNIZATIONS** (See Section IX this Manual.)

### **STUDENT’S RIGHTS TO SELF ADMINISTER CERTAIN MEDICATIONS**

TITLE 6                    PRIMARY AND SECONDARY EDUCATION  
CHAPTER 12            PUBLIC SCHOOL ADMINISTRATION – HEALTH AND SAFETY  
PART 2                    Health Services  
SUBPART 9              Student’s Rights to Self Administer Certain Medications

<http://www.nmcpr.state.nm.us/nmac/parts/title06/06.012.0002.htm>



# NEW MEXICO PUBLIC HEALTH ACT

## PUBLIC HEALTH AND SAFETY

### CHAPTER 24 HEALTH AND SAFETY

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> (see Note p. 1)

ARTICLE 1	PUBLIC HEALTH
SECTION 3	Powers and authority of department
SECTION 4	Creation of health districts
SECTION 9	Capacity to consent to examination and treatment for a sexually transmitted disease
SECTION 9-3	Sexually transmitted diseases mandatory counseling
SECTION 9-4	Sexually transmitted diseases; confidentiality
SECTION 9-5	Sexually transmitted diseases; disclosure statement
SECTION 13	Pregnancy; capacity to consent to examination and diagnosis
SECTION 15	Reporting of contagious diseases

ARTICLE 8	FAMILY PLANNING
SECTION 4	Prohibition against interference with medical judgment of physicians
SECTION 5	Prohibition against imposition of standards and requirements asp - requisites for receipt of requested family planning services
SECTION 6	Health facility licensure

ARTICLE 10	CONSENT TO MEDICAL CARE; EMERGENCY CARE; TRANSFUSIONS
SECTION 1	Emancipated minors; hospital, medical and surgical care
SECTION 2	Consent for emergency attention by person in loco parentis

## PUBLIC HEALTH AUTHORITY FOR SCHOOL HEALTH OFFICES

See <http://www.nmschoolhealthmanual.org/resources/forms.htm> , Section II for letter from NM Secretary of Health granting school health offices public health authorization in the exchange of immunization information.

## NEW MEXICO CHILDREN'S CODE

### CHAPTER 32A CHILDREN'S CODE

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> (see Note p. 1)

ARTICLE 4	CHILD ABUSE AND NEGLECT
SECTION 3	Duty to report child abuse and child neglect; responsibility to investigate child abuse or neglect; penalty
ARTICLE 6A	CHILDREN'S MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES ACT
SECTION 6	Rights related to treatment and habilitation; scope
SECTION 7	Right to individualized treatment or habilitation services and plan
SECTION 10	Basic rights
SECTION 12	Personal rights of a child in an out-of-home treatment or habilitation program; scope
SECTION 14	Consent for services; children under fourteen years of age
SECTION 15	Consent for services; children fourteen years of age or older
SECTION 16	Consent for services; determination of capacity for children fourteen years of age or older
SECTION 17	Treatment guardianship proceedings
SECTION 19	Emergency mental health evaluation and care
SECTION 20	Consent to placement in a residential treatment or rehabilitation program; children younger than fourteen years of age
SECTION 21	Voluntary residential treatment or habilitation for children fourteen years of age or older
SECTION 24	Disclosure of information
SECTION 27	Violation of a child's rights

# NEW MEXICO NURSE PRACTICE ACT

## NURSING PRACTICE

CHAPTER 61          PROFESSIONAL AND OCCUPATIONAL LICENSURE

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> (see Note p. 1)

## LICENSING RULES

<http://www.nmcpr.state.nm.us/nmac/ title16/T16C012.htm>

TITLE 16	OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12	NURSING AND HEALTH CARE RELATED PROVIDERS
PART 1	General Provisions
PART 2	Nurse Licensure
SUBPART 12	Standards of Nursing Practice
SUBPART 12.3	Standards for Professional Registered Nursing Practice
SUBPART 12.4	Standards for Licensed Practical Nursing Practice

# HIPAA AND FERPA GUIDELINES

## INTRODUCTION

There are two federal laws that impact the sharing of confidential health and education records. The first, Family Educational Rights and Privacy Act (FERPA) was passed in 1974. FERPA requires that schools receiving federal funding must hold as confidential the information in a student's education records, making it available only to parents and to those within the school who have a "need to know" in order to provide adequate education for a student. This parental right is transferred to the student at the age of 18 or when he/she enters a postsecondary institution at any age. Exceptions to the privacy rule includes information that the school may designate as "directory information."

FERPA is administered and enforced by the US Department of Education's Office for Civil Rights. School districts have been operating under FERPA for many years and all school districts should have standards in place to comply with the requirements of this law. (See <http://www.ed.gov/policy/gen/guid/fpco/ferpa/safeschools/index.html> .)

Congress enacted the second law, the Health Insurance Portability and Accountability Act (HIPAA) in 1996 to address the problem of health insurance confidentiality in the era of electronic information. Schools are specifically exempted from HIPAA which has created ambiguities that are not yet resolved as of February, 2008. Under HIPAA any identifiable personal health information is protected, and specific authorization is required for transfer of that information. However, in New Mexico school nurses have been granted public health authority in the exchange of immunization information and, therefore, can obtain this information without parental authorization (See Section IX).

A HIPAA compliant release of information form is required when obtaining authorization from parents to access other student health records. In addition there is a "minimum necessary disclosure" limitation, requiring covered entities to limit the amount of information released to only that information absolutely necessary for the job at hand—i.e. billing or patient care. HIPAA regulations are detailed and carry both financial as well as criminal penalties for lack of compliance. (See <http://www.nasn.org/Default.aspx?tabid=277> .)

## GUIDELINES

School nurses are encouraged to be knowledgeable of both HIPAA and FERPA regulations and be proactive in assisting school districts establish policy for sharing student medical information that is compliant with both.

### Implications for the School Nurse

How HIPAA and FERPA interface at the school level is not entirely clear as of this writing. School medical records are at this point considered part of the educational record of the student; and thus, are protected under FERPA. However, there are clearly situations in a school where HIPAA must come into play—for example, Medicaid in the Schools billing

procedures must be HIPAA compliant. In addition, under HIPAA the ability to transfer personally identifiable health information between the school nurse and outside medical providers is still a fuzzy area.

The 2000 regulations state that “the educational institution or agency that employs a school nurse is subject to our regulation as a health care provider if the school nurse or the school engages in a HIPAA transaction.” An example of a HIPAA transaction would be, billing Medicaid or sharing information about a student with the local health office or pediatrician’s office without a HIPAA compliant release form signed by the parent.

The New Mexico Departments of Health and Human Services, at the time of this writing, continue to work on some broad-based solutions to ambiguities in HIPAA regulations. In May, 2004 New Mexico school nurses were granted Public Health authority regarding the exchange of immunization information to facilitate HIPAA compliance. (See Attachment this Section.) It is advisable that the school nurse obtain appropriate consent from parents before sharing protected health information outside of the school if there is any question regarding the need for consent.

### **Implications for the School-Based Health Center**

School-based health centers are subject to HIPAA regulations and should follow procedures established by the sponsoring agency.

### **Resources**

- Phoenix Health Systems HIPAA, [www.hipaadvisory.com/](http://www.hipaadvisory.com/)
- US Office for Civil Rights, [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa)
- FERPA, [www.ed.gov/offices/OM/fpco](http://www.ed.gov/offices/OM/fpco),  
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/safeschools/index.html>
- National Association of School Nurses Issue Brief,  
<http://www.nasn.org/Default.aspx?tabid=277>