



Book	CCPS Policies and Regulations
Section	G - Personnel
Title	EMPLOYEE HEALTH PLAN PRIVACY - Health Insurance Portability and Accountability
Number	GBEAB-RA
Status	Active
Legal	<b>HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ( HIPPA) OF 1996</b>
Adopted	May 14, 2003
Last Reviewed	February 29, 2012

**RELATED ENTRIES:**

OFFICE: ASSOCIATE SUPERINTENDENT FOR ADMINISTRATIVE SERVICES

## **EMPLOYEE HEALTH PLAN PRIVACY HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY**

As the Plan Administrator for its employee health plans, the Cecil County Public Schools is committed to provide for the integrity, security, privacy, and availability of health information as identified in the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

This regulation uses the phrase, "the Plan", to refer to each of the separate employee health plans or benefit options sponsored by Cecil County Public Schools. It includes any plan or benefit option that provides coverage or reimbursement for medical, dental, vision, prescription drug, or long term care expenses including any health care flexible spending arrangements. This regulation is intended to apply to each of these benefit plans or options separately and/or collectively.

General guidelines by which the Plan intends to operate are identified in HIPAA Administrative Simplification Regulations and applicable law. The Cecil County Public Schools will make all reasonable efforts to ensure compliance with these policies and procedures.

### **DEFINITIONS**

**Administrative Simplification Regulations or "Regulations"** refers to regulations issued by the Department of Health and Human Services (DHHS) pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 and includes the **Privacy Rule** (the regulations issued as "Standards for Privacy of Individually Identifiable Health Information"); the **Electronic Transactions Standards** (the regulations issued as "Electronic Transactions and Code Sets Standards"); and the **Security Rule** (the regulations issued as "Health Insurance Reform: Security Standards"). In applying any references in this document to any of the regulations described in this paragraph, the Plan will refer to the regulations as modified and as in effect at the time the reference is to be applied. The Regulations will be interpreted in light of any guidance from DHHS or any other federal agency that the Plan determines is authoritative. To the extent that compliance with a regulatory provision or other guidance (such as a proposed regulation) is not required, the Plan has discretion to follow or to decline to follow that provision.

**Business Associate** is defined in Section 160.103 of the Privacy Rule and refers to a person or organization, other than Cecil County Public Schools or its employees, that, pursuant to an agreement with Cecil County Public Schools or the Plan, performs services on behalf of the Plan that require the use or disclosure of Protected Health Information (PHI) by the Business Associate.

**Personal Representative** means a person legally authorized, as determined under applicable State law, to act on behalf of another person, either generally or for a specified purpose, with respect to that other person. If, at any time, there is a substantial question as to whether a person who purports to be acting on behalf of any individual is authorized to do so, the Plan will require proof acceptable to the Plan that the purported personal representative is acting within the scope of his or her authority as a Personal Representative. However, except to the extent that the Plan has specific information to the contrary or that it appears unreasonable under the circumstances, the Plan ordinarily will assume that a parent of a minor child is an authorized personal representative of that child. Any reference to a right or a responsibility of an individual who is the subject of any Protected Health Information possessed by the Plan should be understood as referring also to an authorized Personal Representative of that individual.

**Protected Health Information ("PHI")** is individually identifiable health information. Health information is any information maintained or received by the Plan that relates to an individual's health condition, health care or payment for health care. Health information is individually identifiable if there is a reasonable possibility that the identity of the individual can be determined from the information. Specifically, health information is individually identifiable if it includes names, addresses or social security numbers, or any other details from which an individual's identity might be determined under the context in which it has been released.

Any word or phrase used in this document that is defined in the Administrative Simplification Regulations should be understood as having the same meaning as applies under the Regulations.

### **USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

The Plan acknowledges that Protected Health Information is to be used or disclosed by the Plan only to the minimum extent necessary to operate the Plan.

The Plan's agents and representatives ordinarily will use or disclose PHI only for purposes of payment, treatment, or health care operations (as defined below). However, PHI may also be used or disclosed for certain other purposes, but only as described in this document.

If PHI is to be used or disclosed for any purpose that is not otherwise permitted under this document, an individual authorization for that use or disclosure will be obtained, in advance, from any individual whose information is to be used.

If the Plan receives PHI subject to an individual authorization provided by the individual, the Plan will use or disclose PHI only as permitted under the

authorization.

In addition, the Plan will disclose PHI only as required or permitted under the Regulations or applicable Federal or State law. Specifically, the Plan may disclose PHI as follows:

- To the Department of Health and Human Services, if required under the Regulations, to enable DHHS to verify that the Plan is complying with applicable Regulations.
- To an individual, or a Personal Representative of an individual, who requests PHI relating to that individual. The Plan, in its discretion, may limit the release of information to an individual, to the extent that the disclosure is not required by the Regulations. For example, psychotherapy notes, information compiled in anticipation of litigation and information provided for certain research purposes, may be withheld, if the Plan determines it is not required (or is not permitted) to disclose the information.
- To any person or organization, as required for purposes of payment, treatment, or healthcare operations. The Minimum Necessary Standard applies, except if PHI is being released to a provider for treatment purposes. In this case, the entire medical record may be released. However, psychotherapy notes will not be disclosed without individual authorization. PHI will be disclosed to a person or organization (for payment, treatment, or health care operations purposes) only if the person or organization receiving the information is subject to the Regulations and to the terms of any applicable authorization or other restriction, either directly or through a business associate contract.
- To appropriate State authorities, to the extent that the Secretary of Health and Human Services has determined that the disclosure is necessary:
  - 1. To prevent fraud and abuse relating to health care or payment for health care;
  - 2. For purposes of State regulation of insurance or health plans, as authorized under applicable law;
  - 3. For State reporting on health care delivery or costs; or
  - 4. To serve a compelling public health, safety, or welfare need, if the Secretary has determined that the intrusion into privacy is warranted when balanced against the compelling need for the disclosure.
- For law enforcement purposes, to the extent required under the Regulations or applicable State law.

#### MINIMUM NECESSARY STANDARD

If the Minimum Necessary Standard applies, the Plan will make reasonable efforts to limit the use or disclosure of PHI to the minimum amount necessary to accomplish the intended use or disclosure. In addition, when requesting information from a covered entity or a business partner, the Plan will make reasonable efforts to limit the amount of PHI requested to the minimum amount necessary for the intended use or disclosure.

The Minimum Necessary Standard applies to most routine uses and disclosures of PHI (such as for payment and health care operations purposes). However, it does not apply to:

- Disclosures to providers for treatment purposes;
- Uses and disclosures that are **required** for purposes of complying with the Regulations or with applicable law;
- Uses or disclosures that are required to be made to DHHS; or
- Disclosures to the individual who is the subject of the PHI or to a third party pursuant to a request initiated by the individual.

If reasonable under the circumstances, the Plan will disclose PHI for a stated purpose, without making an independent determination about whether the information disclosed is the minimum necessary, under the following circumstances:

- The information is requested by a public official, who represents that the information is the minimum necessary for the stated purpose.
- The information is requested by another covered entity.
- The information is requested by a professional employed by or performing services for the Plan, if he or she indicates that the information requested is the minimum amount needed for the intended purpose.
- The information is requested for research purposes and proper documentation has been provided (as determined under section 164.512(i) of the Regulations).

The Plan will develop and adhere to consistent regulations regarding routine recurring uses and those regulations are incorporated into this document by this reference.

For non-routine uses and disclosures that are subject to the minimum necessary standard, the determination of the minimum necessary amount will be made on an individual basis.

#### SECURITY AND CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

The Plan periodically assesses potential risks and vulnerabilities regarding Protected Health Information in its possession to develop regulations and procedures designed to safeguard protected information from loss or unauthorized use or disclosure. Procedures and regulations are reviewed periodically for adequacy and compliance with applicable law. Those regulations and procedures are revised as needed.

The Plan has adopted the following procedures to limit access to Protected Health Information to only those persons who must have access to that information to perform Plan functions:

- Access to paper and computer files containing PHI is limited to employees or service providers who need access to such information to help operate the Plan.
- Paper files are kept in secure locations, e.g., in offices that are locked when authorized personnel are not present or in locked filing cabinets.
- Care is taken to minimize incidental disclosure of PHI to unauthorized employees, clients or business associates. For example, although employees and business associates who are authorized to access PHI may use various means to communicate with each other about information that includes PHI (e.g., conversations in person or by telephone or messages sent by fax, mail or email), reasonable efforts are made to reduce the likelihood that those communications will be overheard or viewed by unauthorized people.
- Electronic files are kept on secure systems, with access available only to authorized personnel. Passwords are used to ensure that only authorized personnel can access PHI included in electronic files.
- Workstations with access to electronic files are protected against unauthorized use. Authorized employees log off of computers or secured networks before leaving their work area.
- Routine audits are conducted to monitor access to protected information, including access, log-ins, updates, and edits.
- Use of electronic files is tracked by the user to discourage unauthorized access.
- Remote access to electronic files is limited to authorized users who have been trained on proper procedures for protecting records containing PHI. Electronic safeguards are put in place to restrict unauthorized remote access.
- Copying, printing, and downloading of electronic files is limited. To override the limit, approval from the designated Privacy Official is required.
- Inactive files are stored or archived in secure locations.
- Paper copies of records containing PHI that are no longer needed are returned to the entity that provided the records or are shredded or burned or disposed of in some other way that reduces the risk of accidental disclosure.

#### DESIGNATION OF PRIVACY OFFICIAL AND CONTACT PERSON FOR COMPLAINTS

Until further notice the Supervisor of Human Resources is designated by the Plan as the Privacy Official who will coordinate the implementation and management of the Plan's privacy policies. The Privacy Official will regularly monitor the Plan's compliance with the relevant requirements of the Privacy Rule. Initial implementation will be completed on or before April 14, 2003.

In addition, until further notice, the Supervisor of Human Resources will serve as the contact person who will be responsible for receiving privacy-related complaints.

#### **RECORDKEEPING**

The Plan will maintain health information privacy records and documents required to be maintained by the Plan pursuant to Section 164.530(j) of the Privacy Rule. Records to be kept include:

- A copy of this "Regulation" under the HIPAA Administrative Simplification Regulations and any subsequent document which is intended to satisfy the "regulations and procedures" standard of Section 164.530(i) of the Privacy Rule;
- A copy of any document used by the Plan as a "Notice of Health Information Privacy Practices" to be provided to participants;
- A copy of any communication that is required under the Privacy Rule to be in writing; and,
- Documentation of any action, activity, or designation that is required under the Privacy Rule to be documented.

Such records will be kept for at least six years after the date the record is created. For documents such as this Regulation or any "Notice of Health Information Privacy Practices" provided to Plan Participants, a copy of the document will be kept for at least six years after the last date on which the document is in effect. Records may be maintained in electronic or written form.

#### **SAFEGUARDS**

The Plan will maintain appropriate administrative, technical, and physical safeguards to protect the privacy of PHI. The Plan will comply with all applicable requirements of the Security Rule, on or before the required compliance date.

#### **TRAINING**

The Plan and Cecil County Public Schools will see that each Cecil County Public Schools employee, who requires access to protected health information relating to the Plan, receives appropriate training regarding the relevant requirements of the Regulations and of these Regulations and Procedures. The Plan will provide additional training to all such employees, as needed, following any relevant change to the Plan's regulations and procedures. Each employee's compliance with the requirements of the regulation will be periodically monitored and employees will receive additional training if appropriate.

The Plan will maintain appropriate records regarding each employee's completion of training requirements. Specifically, the Plan will require each employee who receives such training to review and sign a document that provides an overview of the health information privacy requirements.

#### **REQUIRED HEALTH PLAN NOTICES**

The Plan will maintain a "Notice of Health Information Privacy Practices" ("Privacy Notice") that describes the Plan's health information privacy practices for Plan participants. The Plan will comply with the requirements specified in the Plan's Privacy Notice, which is incorporated into these Regulations and Procedures by this reference. The Privacy Notice is intended to be consistent with the Regulations and Procedures described in the body of this document. To the extent that there is any conflict between the requirements specified in the Privacy Notice and in any other part of these Regulations and Procedures, the Privacy Notice, as interpreted by the Plan Administrator and to the extent that the Privacy Notice is consistent with the requirements of the Regulations, will prevail.

To the extent required by the Privacy Rule, the Privacy Notice will be distributed as follows:

- Before April 14, 2003, to all employees who participate in the Plan, as of that date;
- Upon enrollment, to any employee who enrolls in the Plan after April 14, 2003; and,
- Within 60 days of any material revision to the Notice to all employees who participate in the Plan.

In addition and at least once every three years, the Plan will inform current employees who participate in the Plan that the Notice is available and that a participant may obtain a copy of the Notice by requesting one from the Benefits Office. This information may be included in the Plan's summary plan description or other documents provided to participants as long as that approach satisfies the requirement mentioned in the previous sentence.

The Privacy Rule does not require the Plan to automatically distribute a privacy notice to non-employee participants. However, the Plan's Privacy Notice will be available upon request to anyone covered under the Plan.

The Plan may choose to distribute a Privacy Notice by email or other electronic means permitted under the Privacy Rule. In addition, any website (on the Internet or on an internal Intranet) that provides information about employee benefits to employees will include a link to a copy of the Privacy Notice, which will be available for download. However, a paper copy of the Notice will always be available upon request to any participant.

Notwithstanding the above, the Privacy Rule does not require the Plan to automatically distribute a Privacy Notice to participants in any fully-insured health plan or coverage option covered by these Regulations and Procedures. Instead, the insurance issuer is required to provide a notice for such participants. However, the Plan's Privacy Notice will be available upon request to participants in any insured health plan covered by these Regulations and Procedures.

#### **ELECTRONIC TRANS ACTIONS**

Effective beginning October 16, 2003, the Plan (together with its Business Associates, where appropriate) will comply with all applicable requirements of the Electronic Transactions Standards when engaging in a covered transaction. The Plan will begin testing its software and systems, as required by the Electronic Transactions Standards, on or before April 16, 2003. In addition, the Plan's contracts with any Business Associate will include provisions requiring the Business Associate to conduct any covered transaction engaged in on behalf of the Plan according to the applicable standards.

#### **BUSINESS ASSOCIATE AGREEMENTS**

Any Business Associate of Cecil County Public Schools or the Plan will be required, as a condition for receiving PHI from or on behalf of the Plan on or after April 14, 2003, (or for using, disclosing, or continuing to maintain PHI previously received from or on behalf of the Plan after that date), to comply with the requirements of the Administrative Simplification Regulations, as they apply to the Plan on or before the date required under the Privacy Rule, the Plan or Cecil County Public Schools will enter into a written agreement (or will modify an existing agreement) that meets the Business Associate Agreement requirements of the Privacy Rule, as they apply to the Plan.