

HYBRID-ENTITY STATUS OPERATION PROCEDURES

**Introduction**

The *Health Insurance Portability and Accountability Act* (HIPAA) and associated regulations apply to individuals and organizations designated as a “covered entity” defined in 45 CFR 160.103 as follows:

“...(1) a health plan; (2) a health care clearinghouse; [and] (3) a health care provider who transmits any health information in electronic form in connection with a transaction covered by [45 CFR 160].”

The Northwest Educational Service District 189 (NWESD 189) does not primarily engage in covered activities; however, the Behavioral Health functions, the Quality Management functions, and certain functions of the Technology Services Department do fall within the above definition and, therefore, are designated as Hybrid Entity health care components covered by HIPAA. Thus, while the NWESD 189 maintains responsibility for overall oversight, compliance, and enforcement obligations, HIPAA requirements apply only to the NWESD 189 designated health care components

**Designations of Health Care Components**

The NWESD 189 designates departments/programs as health care components based on meeting one or more of the following criteria:

- 1) A department or program that would meet the definition of a covered entity if it were a separate, legal entity.
- 2) A department or program that performs functions or transactions under HIPAA.
- 3) A department or program that performs activities that would make it a business associate, pursuant to 45 CFR 160.103, if it were a separate legal entity.

The following NWESD 189 departments are designated as covered components and are, therefore, required to comply with all applicable HIPAA regulations.

- **Behavioral Health Department** as they would meet the definition of a covered entity if they were a separate, legal entity and perform functions or transactions regulated by HIPAA.
- **Quality Management Department** as they perform functions or transactions regulated by HIPAA.
- The **Technology Services Department** as department personnel have access to individually identifiable health information in providing support services to the Behavioral Health Department and/or Quality Management Department. The performance of these activities would make the Department a business associate if it were a separate legal entity.

## **Exclusions**

Any individually identifiable health information maintained by any other department/program on any student receiving educational or educational support services is specifically excluded from coverage as Protected Health Information (PHI) or Electronic Protected Health Information (ePHI) under HIPAA; student health information maintained by these departments/ programs is governed by the *Family Educational Rights and Privacy Act* (FERPA).

The NWESD 189 payroll/personnel office maintains employee health records in its capacity as an employer. These records are excluded from the definition of PHI and ePHI under HIPAA. Furthermore, the payroll/personnel office maintains various employee health insurance records in its capacity as the employer liaison to various employee health plans. These health plans are separate legal entities regulated by HIPAA, and have compliance obligations separate and apart from the NWESD 189.

The NWESD 189 Superintendent, or designee, and the Assistant Superintendent of Operations, may access PHI or ePHI on a limited and restricted basis in order to resolve compliance and grievances related to the operations of one or more health care components. Consent is required as part of the complaint and grievance process, thus these positions are not HIPAA regulated.

## **Transfer of PHI between Covered and Non-Covered Departments/Programs.**

Except as allowed by law, PHI and ePHI will not be shared between designated health care components and non-health care components with the NWESD 189 without written authorization from the individual/parent/guardian, as appropriate.

## **Designation of Privacy and Security Officers**

The Superintendent, under the direction of the Board of Directors, has delegated privacy and security responsibilities to the following positions:

- 1) Assistant Superintendent for Finance and Compliance is designated the Privacy Officer.
- 2) Quality Manager, in conjunction with the Director of Technology Services, is designated the Security Officer.
- 3) The Payroll/Personnel Administrator is designated the primary liaison to employee health plans.

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