

1 Great Falls Public Schools

2  
3 **PERSONNEL**

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5 Health Insurance Portability and Accountability Act of 1996 (HIPAA)

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7 Note:

- 8
- 9 (1) Since Great Falls Public Schools offers a group “health care plan” for its
- 10 employees, it is affected by HIPAA. The District offers health plans that are self-
- 11 insured and therefore, is entirely responsible for compliance with HIPAA, despite
- 12 a third party administrator managing the plan.
- 13 (2) The District is also subject to HIPAA as a “health care provider” who either has a
- 14 school-based health center or a school nurse. School-based health centers staffed
- 15 and serviced by a hospital or local health department are responsible for
- 16 complying with HIPAA if there is a sharing of records containing health
- 17 information.
- 18 (3) The District provides the services of a school nurse. HIPAA regulations issued in
- 19 2000 commented that an “educational institution that employs a school nurse is
- 20 subject to [the] regulations as a health care provider if the school nurse or the
- 21 school engaged in a HIPAA transaction.” This transaction occurs when a school
- 22 nurse submits a claim electronically.
- 23 (4) Any personally identifiable health information contained in an “education record”
- 24 under FERPA is subject to FERPA, not HIPAA

25  
26 Background

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28 Great Falls Public Schools and the District’s group health plan are Covered Entities under  
29 the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and as such  
30 will be implementing regulations, the Standards for the Privacy of Individually-  
31 Identifiable Information. In order to comply with HIPAA and its related regulations,  
32 Great Falls Public Schools will comply with the following federal HIPAA Privacy Policy  
33 Rules:

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35 HIPAA required the federal government to adopt national standards for electronic  
36 health care transactions. At the same time, Congress recognized the advances in  
37 electronic technology could erode the privacy of health information and  
38 determined there was a need for national privacy standards. As a result HIPAA  
39 included provisions which mandated the adoption of federal privacy standards for  
40 individually-identifiable health information.

41  
42 The standards found in the Privacy Rule are designed to protect and guard against  
43 the misuse of individually identifiable health information (**about students,**  
44 **employees or employee dependents**), with particular concern regarding  
45 employers using an employee’s (or dependent’s) health information from the  
46 group health plan to make adverse employment-related decisions. The Privacy

1 Rule states that verbal, written, or electronic information that can be used to  
2 connect a person's name or identity with medical, treatment, or health history  
3 information is Protected Health Information (PHI) under the HIPAA privacy  
4 Rule.

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6 Under the HIPAA Privacy Rule:

- 7  
8 1. Individuals have a right to access and copy their health record to the extent  
9 allowed by HIPAA
- 10  
11 2. Individuals have the right to request an amendment to their health record. The  
12 **group health** plan may deny an individual's request under certain  
13 circumstances specified in the HIPAA Privacy Rule.
- 14  
15 3. Individuals have the right to an account of disclosures of their health record  
16 for reasons other than treatment, payment, or healthcare operations.
- 17  
18 4. PHI, including health, medical, and claims records, can be used and disclosed  
19 without authorizations for specific, limited purposes (treatment, payment, or  
20 operations of the group health plan). A valid authorization from the individual  
21 must be provided for use or disclosure for other than those purposes.
- 22  
23 5. Safeguards are required to protect the privacy of health information.
- 24  
25 6. Covered entities are required to issue a notice of privacy practices to their  
26 enrollees.
- 27  
28 7. Violators are held accountable with civil and criminal penalties for improper  
29 use or disclosure of PHI.

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31 Compliance

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33 The Human Resources Director has been designated Privacy Officer. The Privacy Officer  
34 will oversee all ongoing activities related to the development, implementation,  
35 maintenance of, and adherence to the District's policies and procedures covering the  
36 privacy of and access to patient health information in compliance with HIPAA, other  
37 applicable federal and state laws, and the District's privacy practices.

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39 As required for a Covered entity under HIPAA, the District's current plan has developed  
40 these internal privacy policies and procedures to assure the PHI is protected and that  
41 access to and use and disclosure of PHI are restricted in a manner consistent with  
42 HIPAA's privacy protections. The policies and procedures recognize routine and  
43 recurring disclosures for treatment, payment, and healthcare operations and include  
44 physical, electronic, and procedural safeguards to protect PHI. The procedures include  
45 safeguards for sending PHI via mail or fax, receiving PHI for plan purposes, and  
46 workstation safeguards and procedures for securing and retaining PHI received by the

1 plan. Plan participants are entitled to receive a copy of the plan's policies and procedures  
2 upon request.

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4 Designating a limited number of privacy contacts allows the District to control who is  
5 receiving PHI from the contract claims payor for plan operations purposes. The contract  
6 claims payor will provide only the minimum PHI necessary for the stated purpose and, as  
7 required under the Privacy Rule will provide PHI only to individuals with legitimate need  
8 to know for plan operations purposes.

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10 The District will post a notice of privacy practices on its website. The notice informs plan  
11 participants of their rights and the District's privacy practices related to the use and  
12 disclosure of PHI. Copies of this notice may be requested from the Human Resources  
13 Department.

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15 The District has reviewed how PHI is used and disclosed by the plan and has limited  
16 disclosure of that information to employees who have legitimate need to know or possess  
17 the PHI for healthcare operations and functions. The District will make reasonable efforts  
18 to use de-identified information whenever possible in the operations of the plan and will  
19 only use the minimum PHI necessary for the stated purpose.

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21 Some of the District's employees need access to PHI in order to properly perform the  
22 functions of their jobs. The District has identified these employees and ~~has given them~~  
23 annually ensures they have received training in the important aspects of the HIPAA  
24 Privacy Rule, the privacy policy, and procedures. The District will further ensure that ~~N~~  
25 new employees who will have access to PHI have been trained on the HIPAA Privacy  
26 Rule and related policies and procedures as soon as reasonably possible after they are  
27 employed. Employees who improperly use or disclose PHI or misuse their access to that  
28 information may be subject to discipline, as deemed appropriate.

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30 In the event the group health plan must disclose PHI in the course of performing  
31 necessary plan operations functions or as required by law or a governmental agency, the  
32 plan provider has developed a system to record those disclosures and requests for  
33 disclosures. An individual may request a list of disclosures of his or her PHI made by the  
34 plan for other than treatment or claims payment purposes from the plan provider.

35  
36 In order to comply with the ~~new~~ privacy regulations, the plan has implemented compliant  
37 communication procedures. Except for its use in legitimated healthcare operations,  
38 written permission will be required in order for the District to disclose PHI to or discuss it  
39 with a third party.

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41 The HIPAA Privacy Rule prohibits the District's plan from disclosing medical  
42 information without the patient's written permission other than for treatment, payment, or  
43 healthcare operations purposes. An authorization signed by the patient and designating  
44 specified individuals to whom the District's plan may disclose specified medical  
45 information must be on file, before the plan can discuss a patient's medical information

1 with a third party (such as a spouse, parent, group health plan representative, or other  
2 individuals).

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4 The District has taken the following steps to ensure PHI is safeguarded:

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- 6 • The District and the District's plan has implemented policies and procedures to  
7 designate who has and who does not have authorized access to PHI.  
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- 9 • Documents containing PHI are kept in a restricted/locked area.
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- 11 • Computer files with PHI are password protected and has firewalls making  
12 unauthorized access difficult.  
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- 14 • Copies of PHI will be destroyed when information is no longer needed, unless it is  
15 required by law to be retained for a specified period of time.  
16
- 17 • The District will act promptly to take reasonable measures to mitigate any harmful  
18 effects known to the group health plan, due to a use or disclosure of PHI in violation  
19 of the plan's policies, procedures, or requirements of the HIPAA Privacy Rule.  
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- 21 • The District will appropriately discipline employees who violate the District's group  
22 health plan's policies, procedures, or the HIPAA Privacy Rule, up to an including  
23 termination of employment if warranted by the circumstances.  
24

25 The District has received signed assurances from the plan's business associates that they  
26 understand the HIPAA Privacy Rule, applicable regulations, and the Privacy Policy and  
27 will safeguard PHI just as the plan would.  
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29 The contract claims payor and certain other entities outside the group health plan require  
30 access on occasion to PHI, if they are business associates of the group health plan and in  
31 that role need to use, exchange, or disclose PHI from the group health plan. The plan  
32 requires these entities to sign an agreement stating they understand HIPAA's privacy  
33 requirements and will abide by those rules just as the group health plan does, to protect  
34 the PHI to which they have access  
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36 The District will ensure health information will not be used in making employment and  
37 compensation decisions. The HIPAA Privacy Rule and other applicable laws expressly  
38 prohibit an employer from making adverse employment decisions (demotions,  
39 terminations, etc.) based on health information received from the group health plan. To  
40 the extent possible, the District has separated the plan operations functions from the  
41 employment functions and has safeguards in place to prevent PHI from the plan from  
42 going to or being used by an employee's supervisor, manager, or superior to make  
43 employment-related decisions.  
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Complaints

If an employee believes their privacy rights have been violated, they may file a written complaint with the Privacy Officer. No retaliation will occur against the employee for filing a complaint. The contact information for the Privacy Officer is:

Human Resources Director  
District Office Building  
Great Falls Public Schools  
1100 4<sup>th</sup> Avenue South  
Great Falls, Montana

Legal References:

45 C.F.R. Parts 150, 162, 164 HIPAA Privacy Rule  
Title I Health Insurance Portability and Accountability Act of 1996 (HIPAA)  
20 U.S.C. 1232g; 34 CFR Part 99 Family Educational Rights and Privacy Act (FERPA)

Policy History:

Adopted on: April 14, 2004  
Revised on: November 12, 2018