

# Laws and Model Policies that Guide School Health Service Programs in Michigan

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A resource for School Nurses

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## Laws and Model Policies That Guide School Health Services Programs in Michigan<sup>1</sup>

As schools plan for the health needs of children, instruction, and safe learning environments, there must be a foundation upon which they are based. Legal standards and model policies are key to the foundation for administering school health services. Legal standards include federal laws, federal regulations and Supreme Court decisions; state laws and state regulations; local ordinances, policies and procedures; and professional standards of practice (Laubin, Schwab and Doyle, 2012). It is imperative that school policies are developed and adopted in accordance with laws and standards of practice to ensure ethical and legal school health practices along with protecting student health and safety.

### HOW TO USE THIS DOCUMENT

There are a full range of laws and regulations relevant to school health service programs. **This document does not cover the entire current legal and policy landscape for school health services and new laws are continually enacted.** This guide provides an overview of federal and state laws that can establish parameters for policy options concerning Michigan school health services. Resources are listed in alphabetical order. Links to the specific federal laws are included. State laws that guide school health services include the [Michigan Revised School Code](#) (designated with 380 prefix) and the [Michigan Public Health Code](#) (designated with 333 prefix ). These state laws are hyperlinked in this document to the specific area in each of the legislative documents that best demonstrate the content being highlighted. In some current cases, the Public Act is also included to better leverage familiarity with the law.

**This document is offered as a resource to guide policy and procedure development, but it is not intended as a substitute for legal counsel.** As part of any policy development, legal review should be required.

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<sup>1</sup> Adapted from [Legal Issues Affecting School Nurse Practice, Michigan Association of School Nurses, July 10, 2003, \(Updated 2009; 2014; 2016\).](#)

Table of Contents

FEDERAL STATUTES .....5

MICHIGAN GENERAL STATUTES – School Health.....9

    Absenteeism .....9

    Abuse .....9

    Anaphylaxis – Non-Specific Epinephrine .....9

    Asthma .....10

    Autism.....10

    Bullying.....11

    Bloodborne Pathogens .....11

    Cardiac Emergency Response Plan.....11

    Child Protection .....12

    Communicable Disease .....12

    Concussions .....12

    Confidentiality .....13

    Controlled Substances .....13

    Coordinated School Health .....13

    Curriculum.....14

    Delegation and Scope of Practice.....15

    Dental .....15

    Diabetes .....16

    Do Not attempt resuscitation .....16

    Environment.....16

    Emergency Preparedness .....16

    Family Engagement.....16

    First Aid and CPR .....17

    Hearing and Vision.....17

    Health Disparities .....17

    Health Services .....17

    HIV .....18

Immunizations .....18

Marijuana .....20

Medication Administration.....20

Meningitis.....21

Mental Health .....21

Opioid Antagonist.....21

Pregnancy.....22

Record Retention .....22

Reproductive Health .....22

Restraint and Seclusion .....23

Rights of Minors .....23

School Nursing .....24

School Safety .....24

School Wellness.....25

Social Worker Role .....25

Suicide.....25

Sun Safety .....25

Telehealth .....25

Tobacco .....25

Key Federal Legislation .....26

RESOURCES .....29

A Brief Review of Federal Laws Protecting the Privacy of Education Records .30

## MICHIGAN SCHOOL HEALTH SERVICE

<b>FEDERAL STATUTES</b>		
<b>Title</b>	<b>Description</b>	<b>Training Required</b>
<i>May include name of legislation, Public Act, Common Title or Policy Title</i>	<i>Provides a general description of what the law or policy entails.</i>	<i>Identifies the training required by the law or policy</i>
<a href="#"><u>Americans with Disabilities Act of 1990</u></a>  <a href="#"><u>ADA Amendments Act of 2008</u></a>	Prohibits disability discrimination.  Restores the intent and protections of the Americans with Disabilities Act of 1990.	
<a href="#"><u>Public Law No: 116-292 H.R. 2468 School-Based Allergies and Asthma Management Program Act</u></a>	Encourages states to improve allergy and asthma care in schools by giving preference for federal grants to states that adopt certain management programs and policies. States can earn financial rewards for putting the following in place: <ul style="list-style-type: none"> <li>• Methods to identify all students who have allergies/asthma</li> <li>• Create individual student action plans</li> <li>• Require school nurses or on-site trained staff during operating hours to administer medicines for both asthma and allergies</li> <li>• Asthma/allergy training education for school staff</li> <li>• Efforts to reduce indoor asthma/allergy triggers</li> <li>• Coordinate management of care with families and health care providers</li> </ul>	
<a href="#"><u>Autism Collaboration, Accountability, Research, Education, and Support (Autism CARES) Act of 2014</u></a>	Increases awareness of Autism Spectrum Disorder (ASD), reducing barriers to screening and diagnostic services, improving evidence-based research, and increasing training of professionals to provide screening and intervention for persons with ASD.	
<a href="#"><u>Child Abuse Prevention and Treatment (CAPTA) Reauthorization Act of 2010 Public Law 111-320</u></a>	Amends and reauthorizes the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988, and for other purposes.	
<a href="#"><u>Civil Rights Act of 1991</u></a>	Applies to employee discrimination. Prohibits discrimination on basis of disability.	
<a href="#"><u>Every Student Succeeds Act (ESSA)</u></a>	Reauthorizes the 50-year-old Elementary and Secondary Education Act (ESEA), the nation's national education law and longstanding commitment to equal opportunity for all students. ESSA replaces No Child Left Behind.	

**FEDERAL STATUTES (Continued)**

Title	Description	Training Required
<p><a href="#">Family Educational Rights and Privacy Act (FERPA) 34 CFR 99</a></p> <p><a href="#">Joint Guidance on the Application of FERPA and HIPAA to Student Health Records 2019</a></p>	<p>Provides privacy restrictions on student records. School health records are covered under this act. At the elementary or secondary school level, students’ immunization and other health records that are maintained by a school district or individual school, including a school-operated health clinic, that receives funds under any program administered by the U.S. Department of Education are “education records” subject to FERPA, including health and medical records maintained by a school nurse who is employed by or under contract with a school or school district.</p> <p>Clarifies for school administrators, health care professionals, families and others how FERPA and HIPAA apply to education and health records maintained about students. This updated guidance includes additional frequently asked questions and answers addressing when a student’s health information can be shared without the written consent of the parent or eligible student under FERPA, or without written authorization under the HIPAA Privacy Rule.</p>	
<p><a href="#">Female Genital Mutilation 18 U.S. Code 116</a></p>	<p>Addresses Female Genital Mutilation (FGM) in the U.S. Makes it illegal to perform FGM in the U.S. or knowingly transport a girl out of the U.S. for purpose of inflicting FGM (Equity Now, 2016).</p>	
<p><a href="#">Presidential Policy Directive /PPD-8</a></p> <p><a href="#">FEMA Guide for Developing High-Quality School Emergency Operations Plans</a></p>	<p>Strengthens the security and resilience of the United States through systematic preparation for the threats that pose the greatest risk to the security of the Nation, including acts of terrorism, cyber-attacks, pandemics, and catastrophic natural disasters.</p> <p>Requires emergency plans to comply with legal requirements for language access.</p>	
<p><a href="#">Food Safety Modernization Act</a></p>	<p>Enables FDA to better protect public health by strengthening the food safety system.</p>	
<p><a href="#">Health Insurance Portability and Accountability Act of 1996 HIPAA Public Law 104-191</a></p>	<p>Provides privacy restrictions on student records.</p> <p>When a school provides health care to students in the normal course of business, such as through its health clinic, it is also a “health care provider” as defined by HIPAA. If a school also conducts any covered transactions electronically in connection with that health care, it is then a covered entity under HIPAA. As a covered entity, the school must comply with the HIPAA Administrative Simplification Rules for Transactions and Code Sets and Identifiers with respect to its transactions (United States Department of Education, Office of Elementary and Secondary Education (2008).</p>	

## MICHIGAN SCHOOL HEALTH SERVICE

### FEDERAL STATUTES (Continued)

Title	Description	
<a href="#"><u>Improving Head Start for School Readiness Act of 2007</u></a>	Updates Head Start Program requirements including a physical exam based on EPSDT guidelines; dental exam; immunizations; vision; hearing and developmental screening and a nutritional snack and lunch. 10% of the enrolled HS children must have a disability.	
<a href="#"><u>Individuals with Disabilities Act of 1997 (IDEA) 34 CFR Part 300</u></a>	Guarantees access to education and related services to assist children with disabilities who benefit from special education. <a href="#"><u>Reauthorization of 2004, Sec. 62 (26)</u></a> lists school nurse services as a related service. The Individuals with Disabilities Education Act includes the Child Find mandate. Child Find requires all school districts TO identify, locate and evaluate all children with disabilities, regardless of the severity of their disabilities. This obligation to identify all children who may need special education services exists even if the school is not providing special education services to the child.	
<a href="#"><u>Justice for Victims of Trafficking Act of 2015 Public Law 114-22</u></a>	Provides justice for the victims of trafficking through grants to States for child abuse investigation and prosecution programs, services for victims of child pornography, and domestic child human trafficking deterrence programs. The act also authorizes specialized training programs for law enforcement officers, first responders, health-care and child welfare officials, juvenile justice personnel, prosecutors, and judicial personnel to identify victims and acts of child human trafficking and to facilitate the rescue of child victims of human trafficking.	
<a href="#"><u>McKinney-Vento Homeless Education Assistance Act</u></a>	Ensures equal access to education for homeless youth by providing federal funding to states for the purpose of supporting district programs that serve homeless students.	
<a href="#"><u>Occupational Safety and Health Administration (OSHA) 29 CFR Part 1910.1030</u></a>  <a href="#"><u>Revised in 2001</u></a>	Prescribes safeguards to protect workers against health hazards related to bloodborne pathogens.  Revised Bloodborne Pathogens Standard; expands bloodborne pathogens to include any pathogenic microorganism, including hepatitis C virus (HCV) present in blood or other potentially infectious materials (OPIM).	
<a href="#"><u>Protection of Pupil Rights Amendment (PPRA) 34 CFR Part 98</u></a>	Provides mandates to school districts for the protection of student's privacy in any program funded by the U.S. Department of Education. <a href="#"><u>USDOE Protecting Student Privacy</u></a>	
<a href="#"><u>Section 504, Rehabilitation Act of 1973</u></a>	Protects the rights of children with special health-care needs (CSHCN) by providing related services, including health services, to those not eligible for special education.	
<a href="#"><u>Title IX Discrimination Based Upon Sex or Blindness</u></a>	Prohibits discrimination and exceptions on the basis of sex under any education program or activity receiving Federal financial assistance.	

**FEDERAL STATUTES (Continued)**

Title	Description	
<p><a href="#"><u>Title IV of the Civil Rights Act of 1964</u></a></p> <p><a href="#"><u>Title VI of the Civil Rights Act of 1964</u></a></p>	<p>Authorizes the Attorney General, when certain statutory conditions are met, to institute a lawsuit against public school boards, public colleges and universities, and others upon receiving a complaint of discrimination or segregation.</p> <p>Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.</p>	
<p><a href="#"><u>USDA Food and Nutrition Service Local School Wellness Policy</u></a></p>	<p>Requires local education agencies to establish a local school wellness policy. The policy must include goals for nutrition education, physical activity, nutrition guidelines for all foods sold on campus, assure that school meals meet United States Department of Agriculture (USDA) regulation, establish plan for measuring implementation of wellness policy, involve students, parents, representatives of school food authority and others.</p>	
<p><a href="#"><u>USDA Healthy Hunger-Free Kids Act of 2010</u></a></p> <p><a href="#"><u>USDA Healthy, Hunger-Free Kids Act Updates</u></a></p>	<p>Authorizes funding and sets policy for USDA's core child nutrition programs improving the critical nutrition and hunger safety net for millions of children.</p> <p><a href="#"><u>National School Lunch Program</u></a> <a href="#"><u>School Breakfast Program</u></a></p> <p>The USDA recently announced guidance for schools in ensuring access to healthy food, nutrition standards for foods sold at school, and greater integrity for school wellness policies. Includes final rules on "Smart Snacks in School", "Local School Wellness Policy", "Community Eligibility Provision" &amp; "Administrative Review".</p>	

MICHIGAN SCHOOL HEALTH SERVICE

**MICHIGAN GENERAL STATUTES – School Health**

**ABSENTEEISM**

Title	Description	Training Required
<p><i>Non-Attendance at School</i> Revised School Code <a href="#">Section 380.1586</a></p>	<p>Requires districts to address truancy or chronic absenteeism through use of early warning, parent conferencing, and parental sanctions.</p>	

**ABUSE**

Title	Description	Training Required
<p><i>Child Protection Law</i> Child Protection Law <a href="#">Section 722.623</a> <a href="#">PA 238 of 1975</a></p>	<p>Requires certain professions to report their suspicions of child abuse or neglect”. State list of <a href="#">mandated reporters</a> for abuse or neglect and online site for reporting available on the <a href="#">Online Reporting System</a>.</p>	<p><a href="#">722.629</a> Multidisciplinary services; biennial report; continuing education programs; dissemination of information. The program shall include responsibilities, obligations, and powers under this act and the diagnosis and treatment of child abuse and neglect when committed by persons responsible for the child's health or welfare.</p>

**ANAPHYLAXIS – NON-SPECIFIC EPINEPHRINE**

Title	Description	Training Required
<p><i>Stock Epinephrine in Schools</i> Public Health Code <a href="#">Section 333.17744a</a> <a href="#">PA 186 of 2014</a>  <a href="#">PA 221 of 2015</a></p>	<p>Section 333.17744a - Addresses stock epinephrine in schools. A prescriber may issue a prescription for and a dispensing prescriber or pharmacist may dispense an auto-injector epinephrine to school boards and authorized entities under certain circumstances and limit liability. This would include non-public schools.</p>	<p><a href="#">PA 221 of 2015 Sec. 1774d(3)</a> Person(s) or entity administering an epinephrine auto injector must complete an initial anaphylaxis training program and a subsequent anaphylaxis training program at least every 2 years.</p>
<p><a href="#"><i>Addendum to the 2002 Model Policy and Guidelines for Administering Medications to Pupils at School</i></a></p>	<p>The training program for non-nursing staff designated to use an epinephrine autoinjector shall be conducted under the supervision of, and shall include evaluation by a licensed, registered professional nurse.</p>	<p><a href="#"><b>MASN Safe and Legal Support of Students with Health and Medication Needs at School: Module 3</b></a></p>
<p><i>Stock Epinephrine in Schools</i> Revised School Code <a href="#">Section 380.1178</a> <a href="#">PA 187 of 2014</a>  <a href="#">PA 320 of 2020</a></p>	<p>Section 380.1178 - If an epinephrine auto-injector is administered to an individual consistent with the policies under section 1179a, they are not liable in a criminal action or for civil damages as a result of an act or omission in the administration of the medication or epinephrine auto-injector, except for an act or omission amounting to gross negligence or willful and wanton misconduct.</p>	
<p><a href="#"><u>Epinephrine Auto Injector Disposal Guide</u></a></p>	<p>Michigan Department of Environment, Great Lakes and Energy, EGLE, Regulations for disposal of unused auto-injector.</p>	

MICHIGAN SCHOOL HEALTH SERVICE

**Michigan General Statutes – School Health**

**ASTHMA**

Title	Description	Training Required
<i>Use of Inhaler/Epinephrine Auto-Injector</i> Revised School Code <a href="#">Section 380.1179</a>	Allows pupil to carry and self-administer prescribed inhalers and/or epinephrine auto-injector for emergency use with the written order and approval of the child’s physician and written permission of the parent/legal guardian.	
<a href="#">MDE Model Policy on the Management of Asthma in Schools</a>	Model policy from the Michigan Department of Education (2004). <b>Note: Not a law.</b>	Levels of Training Recommended* <b>Tier 1:</b> General Staff Education regarding condition <b>Tier 2:</b> Emergency care <b>Tier 3:</b> Daily Support

**AUTISM**

Title	Description	Training Required
<a href="#">Non-Profit Healthcare Corporation Reform Act</a> <i>Autism Coverage Fund</i>  <a href="#">PA 99 of 2012</a> <a href="#">PA 100 of 2012</a>	Mandates for-profit, commercial, Health Maintenance Organizations (HMO), and non-profit health insurance companies regulated by the state of Michigan to provide an autism benefit to its insured members covering services related to the diagnosis and treatment of autism spectrum disorders (ASD) through 18 years of age.	
<a href="#">Autism Coverage Reimbursement Act</a> <a href="#">PA 101 of 2012</a>	Creates an autism coverage reimbursement program to encourage insurance and health coverage providers to provide autism coverage; to impose certain duties on certain state departments, agencies, and officials; to create certain funds; to authorize certain expenditures; and to provide for appropriation.	
<a href="#">Federal Centers for Medicare and Medicare (CMS) Bulletin for Policy Guidance on Services to Children with ASD</a> (July 7, 2014)  <a href="#">Michigan ASD Medicaid Benefit</a>	An informational bulletin published in July 2014 clarifying Medicaid coverage of services for children with ASD under the federal Medicaid Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit. Michigan’s Medicaid treatment coverage of ASD in children, covering Behavioral Health Treatment, including Applied Behavior Analysis, and services to individuals with ASD.	

**MICHIGAN GENERAL STATUTES – SCHOOL HEALTH**

**BULLYING**

Title	Description	Training Required
<p><i>Matt Epling Safe School Law</i>                      Revised School Code <a href="#">Section 380.1310b</a>  <a href="#">PA 241 of 2011</a></p> <p><a href="#">PA 478 of 2014</a></p>	<p>Prohibits bullying; adoption/implementation; public hearing; submission of policy to department; contents of policy; annual report of incidents of bullying; form and procedure; school employee, school volunteer, pupil, or parent or guardian reporting act of bullying to school official; modified policy; definitions. Amends Revised School Code to include cyber bullying as form of bullying.</p>	<p>PA 241 of 2011 Sec. 131 (6b)                      Strongly encourages annual training for administrators, school employees, and volunteers who have significant contact with pupils on preventing, identifying, responding to, and reporting incidents of bullying.</p>
<p><a href="#">MDE Model Code of Student Conduct</a></p>	<p>Provides a tool to assist Michigan school districts in developing, updating, or revising their local codes.</p>	
<p><a href="#">MDE Model Anti-bullying Policy 2020</a></p>	<p>The Revised School Code requires the board of a school district or intermediate school district, or board of directors of a public-school academy, to adopt and implement a policy prohibiting bullying at school.</p>	

**BLOODBORNE PATHOGENS**

Title	Description	Training Required
<p><a href="#">MIOSHA Standard Rules- 05/19</a></p>	<p>Outlines employer responsibilities to employee regarding training and response to exposure to blood borne pathogens.</p>	<p>R 325.70016 Information and training. Rule 16. (1) An employer shall ensure that all category A employees participate in a training program provided at no cost to the employees and during working hours.</p>

**CARDIAC EMERGENCY RESPONSE PLAN**

Title	Description	Training Required
<p><i>Cardiac Emergency Response Plan</i>                      CERP/CERT                      Fire Prevention Code <a href="#">Section 29.19</a>  <a href="#">PA 12 of 2014</a></p>	<p>Requires K12 schools to adopt and implement a cardiac emergency response plan for the school. The cardiac emergency response plan shall address and provide for at least all of the following:</p> <ul style="list-style-type: none"> <li>(a) Use/regular maintenance of automated external defibrillators, if available.</li> <li>(b) Activation of a cardiac emergency response team during an identified cardiac emergency.</li> <li>(c) A plan for effective/efficient communication throughout school campus.</li> <li>(d) If the school includes grades 9 to 12, a training plan for the use of an automated external defibrillator and in CPR techniques.</li> <li>(e) Incorporation/integration of the local emergency response system and emergency response agencies with the school's plan.</li> <li>(f) An annual review and evaluation of the cardiac emergency response plan.</li> </ul>	<p>If the school includes grades 9 to 12, a training plan for the use of an automated external defibrillator and in CPR techniques.</p>

MICHIGAN SCHOOL HEALTH SERVICE

**Michigan General Statutes – School Health**

**Cardiac Emergency Response Plan (Continued)**

Title	Description	Training Required
<p><i>CPR Instruction in Schools</i>                      Revised School Code  <a href="#">Section 380.1170a</a>  <a href="#">Act No 388 of 2016</a></p>	<p>Requires one-time CPR and AED instruction for pupils enrolled in grades 7 through 12.</p>	

**CHILD PROTECTION**

Title	Description	Training Required
<p>Public Health Code  <a href="#">Section 333.5131 (5)(f)</a></p>	<p>State records and reports related to HIV/AIDS are not confidential if information is required under the Child Protection Law.</p>	
<p><a href="#">6869 Op. Attorney Gen. 92 (1995)</a></p>	<p>A child protective services worker may interview a child in the school setting without parental consent/school personnel involvement.</p>	
<p><a href="#">Child Protection Law</a>                       Michigan Child Protection Law  <a href="#">Section 722.623</a>   <a href="#">PA 238 of 1975</a>   <a href="#">Mandated Reporting</a></p>	<p>Delineates persons required to report child abuse or neglect; written report; transmitting report and results of investigation to prosecuting attorney or county family independence agency; pregnancy of or venereal disease in child less than 12 years of age. Section 8(8) of the Child Protection Law requires the school to cooperate with the investigation and to permit access “if access is necessary to complete the investigation or to prevent abuse/neglect child.”                      Requires certain professions to report their suspicions of child abuse or neglect”.                      State list of <a href="#">mandated reporters</a> for abuse or neglect and online site for reporting available <a href="#">Online Reporting System</a>.</p>	

**COMMUNICABLE DISEASE**

Title	Description	Training Required
<p><i>Reportable Communicable Diseases</i>                      Public Health Code <a href="#">Section 333.5111</a></p>	<p>Establishes requirements for reporting and other surveillance methods for measuring the occurrence of diseases, infections, and disabilities and the potential for epidemics.</p>	

**CONCUSSIONS**

Title	Description	Training Required
<p>Public Health Code <a href="#">Section 333.9155</a>  <a href="#">PA 342 OF 2012</a></p>	<p>Lists components of concussion awareness training program, the Michigan Department of Health and Human Services (MDHHS) requirement to review programs and materials, provides definitions.</p>	<p>Michigan Law requires all coaches/employees/volunteers /other adults involved with youth athletic activities to complete concussion awareness training every 3 years.</p>

**Michigan General Statutes – School Health (continued)**

**CONCUSSIONS (Continued)**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.9156</a> <a href="#">PA 137 OF 2017</a>	Outlines criteria for completion of training program every three years, training material requirements, removal of youth if concussion suspected, requirement for clearance from health professional	<a href="#">HEADS UP to Youth Sports: Online Training   HEADS UP   CDC Injury Center</a>  <a href="#">High School Sports Training (Concussion in Sports)</a>

**CONFIDENTIALITY**

Title	Description	Training Required
Revised Judicature Act <a href="#">Section 600.2165</a>	Communication between teacher, guidance officer, school executive, or “other professional person” are confidential.	
<i>Proof of Identity and Age</i> Revised School Code <a href="#">Section 380.1135</a>	A local school district, public school academy, or intermediate school district shall not disclose any personally identifiable information contained in a student record to a law enforcement agency, except in compliance with 20 USC 1232g, commonly referred to as the family educational rights and privacy act.	

**CONTROLLED SUBSTANCES**

Title	Description	Training Required
<i>Storage of Controlled Substances</i> <a href="#">Michigan Administrative Code 338.3143</a> <a href="#">Rule 43</a>	<b>(1)</b> A controlled substance that is listed in schedule 1 of R 338.3111 to R 338.3114a shall be stored in a securely locked, substantially constructed cabinet that is anchored to a wall or the floor. <b>(2)</b> A controlled substance that is listed in schedules 2, 3, 4, and 5 of R 338.3116 to R 338.3126 shall be stored in a securely locked, substantially constructed cabinet, room, or cart.	

**COORDINATED SCHOOL HEALTH**

Title	Description	Training Required
Michigan Administrative Code <a href="#">R 388.271- R 388.275</a> Amended 2012	Requires critical health problems education program to include Coordinated school health education.  <b>Rule 3.</b> The department shall develop policies to be approved by the state board of education, with research-based statements, guidance, and resources on coordinated school health for school districts that includes, but are not limited to, all of the following: Assist school districts in the planning, organization, administration and evaluation of their coordinated school health initiatives.	

**Michigan General Statutes – School Health (continued)**

**CURRICULUM**

**Sex Education, HIV Education, Health Education and Physical Education**

<b>Title</b>	<b>Description</b>	<b>Training Required</b>
Revised School Code <a href="#">Section 380.1502</a>	Requires that health and physical education for pupils of both sexes be established and provided in all public schools. Students attending public school who are physically fit and capable of doing so must take the course in physical education.	
Revised School Code <a href="#">Section 380.1169</a>	Requires that the principal modes by which communicable diseases including HIV/AIDS are spread and the best methods for preventing these diseases be taught in every Michigan school.	Requires that each person who teaches K-12 about HIV and AIDS to be trained in HIV & AIDS through the coordinators that are attached to the ISD unless the instruction is coming from a health care provider
Revised School Code <a href="#">Sections 380.381 - 388.385</a>	Requires Health Instruction to be given in physiology and hygiene, with special reference to substance abuse, including the abusive use of tobacco, alcohol, and drugs, and their effect upon the human system.	
Revised School Code <a href="#">Section 380.1507</a>	Requires community input and advanced parent notification with op-out option of instruction in sex education; instructors, facilities, and equipment; stressing abstinence from sex; elective class; notice to parent or guardian; request to excuse pupil from attendance; qualifications of teacher; sex education advisory board; public hearing; distribution of family planning drug or device prohibited; “family planning, class,” and “course” defined. A pupil shall not be enrolled in a class in which the subjects of family planning or reproductive health are discussed unless the pupil's parent or guardian is notified in advance of the course and the content of the course, is given a prior opportunity to review the materials to be used in the course and is notified in advance of his or her right to have the pupil excused from the class. The state board shall determine the form and content of the notice required in this subsection. Parents may review HIV/AIDS curriculum, observe its instruction, and, if desired, excuse their child from these instructional units.	

**Michigan General Statutes – School Health (Continued)**

**DELEGATION AND SCOPE OF PRACTICE**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.17201</a>  Updated <a href="#">PA 499 of 2016</a>	Defines nursing scope of practice. The RN’s scope of practice includes the teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities. Public Health Code, 1978 PA 368, as amended, recognizes registered nurses as fully licensed health professionals.	
Public Health Code <a href="#">Section 333.16104</a>	Defines delegation as the “authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee and which, in the absence of the authorization, would constitute illegal practice of a licensed profession”.	
Board of Nursing General Rules <a href="#">338.10104</a>	The Michigan Board of Nursing has promulgated specific administrative rules about delegation. Only a registered nurse may delegate nursing acts, functions, or tasks.	
Public Health Code <a href="#">Section 333.16109</a>	Defines Supervision: Supervision requires continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional, the availability of the licensed health professional to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual’s functions.	

**DENTAL**

Title	Description	Training Required
<a href="#">Public Health Code Sections 333. 9312</a> <a href="#">Section 333.9316</a> <a href="#">Public Act 261 of 2020</a>	By the 2021-2022 school year, the department shall establish and maintain a dental oral assessment program to provide dental oral assessments to children residing in this state whose parents, guardians, or persons in loco parentis do not have dental oral assessments conducted as described in subsection (5)(a) but otherwise decide to have dental oral assessments conducted on their children under this section.  The law does not have an appropriation allocated to implement it and the program does not have to be implemented in any year in which there is no appropriation. The law sunsets in three years.	

**MICHIGAN GENERAL STATUTES – SCHOOL HEALTH (CONTINUED)**

**DIABETES**

Title	Description	Training Required
<a href="#">MDE Model Policy on the Management of Diabetes in the School Setting</a>	Model policy approved by Michigan department of Education 2011. Note: Not a law.	3 Tiers of Training *

**DO NOT ATTEMPT RESCUSITATION**

Title	Description	Training Required
Michigan Public Health Code <a href="#">Section 333.1052-1061</a>  <a href="#">PA 363 of 2020</a>  Michigan School Code <a href="#">Section 380.1180-1181</a>  <a href="#">PA 364 of 2020</a>	Allows a parent or guardian to execute do-not-resuscitate orders on behalf of a minor child; and creates filing, storage and notice rules regarding do-not-resuscitate orders and comfort or care plans and limitation of liability for providing these measures.	

**ENVIRONMENT**

Title	Description	Training Required
Natural Resources and Environmental Protection Act <a href="#">Section 324.8316</a>  Updated <a href="#">Act 24 of 2004</a>	Encourages districts to utilize environmentally safe chemicals/to reduce chemical exposure in schools. 2004 update includes Integrated Pest Management.	

**EMERGENCY PREPAREDNESS**

Title	Description	Training Required
Revised School Code <a href="#">Section 380.1308b</a>  <a href="#">PA 363 of 2016</a> <a href="#">PA 436 of 2018</a>	Requires School districts to develop School Safety Information Policy (SSIP) and Emergency Operations Plans (EOPs) that include procedures for plan review and update.	
<i>Drill Act</i> Fire Prevention Code <a href="#">Section 29.19</a>  <a href="#">PA 12 of 2014</a>	Requires districts to implement multi-hazard practice drills (e.g., fire, lockdown, active shooter, or evacuation drills) and encourages or requires inter-agency coordination.	

**FAMILY ENGAGEMENT**

Title	Description	Training Required
<i>School Improvement Plan</i> Revised School Code <a href="#">Section 380.1277</a>	Encourages parent or family member representation on school governance councils or in school improvement planning efforts.	

**MICHIGAN GENERAL STATUTES – SCHOOL HEALTH (CONTINUED)**

**FIRST AID AND CPR**

Title	Description	Training Required
<a href="#">Medical Services and First Aid</a> MIOSHA Rule 7201.R325.47201, Part 472	Requires employer to have an adequately trained first aid certified person on site. [BSR/CET-5951 (11/01)] “in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees.” An employer shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body of any person may be exposed to injurious or corrosive materials.	
Revised School Code <a href="#">Section 380.1531d</a>  <a href="#">PA 18 of 2003</a>	Requires newly hired teachers to be certified in CPR/AED/First Aid. There are no requirements for recertification.	

**HEARING AND VISION**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.9301</a>	Requires local health departments to conduct free periodic hearing and vision testing for children.	
Public Health Code <a href="#">Section 333.9307</a>	Requires a child registered for the first time in a kindergarten or first grade in a school in this state to present to school officials, at the time of registration or not later than the first day of school, a certificate of hearing and vision testing or screening or statement of exemption.	

**HEALTH DISPARITIES**

Title	Description	Training Required
Revised School Code <a href="#">Section 380.1272a</a>	Recommends strategies to ensure students have access to breakfast and lunch programs at school.	

**HEALTH SERVICES**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.9101</a>	Requires the department (MDHHS) to establish a plan for health services for pupils in elementary and secondary schools of this state. Plan shall include a definition of school health services and standards for implementation.	

**Michigan General Statutes – School Health (Continued)**

**HIV**

Title	Description	Training Required
Child Protection Law <a href="#">Sections 722.621 to 722.636</a>	Allows information pertaining to an individual infected with HIV, or diagnosed with AIDS, to be released if the information is part of a report required under the child protection law.	
Public Health Code <a href="#">Section 333.5131</a>	HIV-related information is confidential and cannot be released unless the patient authorizes disclosure, or a statutory exception applies.	
Public Health Code <a href="#">Section 333.5131(5)(c)</a>  <a href="#">PA 536 of 2018</a>	Allows Exceptions for the Michigan Department of Health and Human Services or local health officer to release information pertaining to an individual who has HIV/AIDS to a school employee if the information is necessary to prevent a reasonable foreseeable risk of transmission of HIV to pupils in the school district. The school employee is bound by the confidentiality requirements of the statute.	

**IMMUNIZATIONS**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.9205</a>	Requires that a parent/guardian of a child provide for the child's immunization by an authorized health professional, physician, local health department, clinic, or other agency offering immunizations for diseases and within an age period prescribed by the department.	
Public Health Code <a href="#">Section 333.9208</a>	Requires a parent, guardian, or person in loco parentis applying to have a child registered for the first time in a school, to present to school officials, at the time of registration or not later than the first day of school, a certificate of immunization or statement of exemption.	
Public Health Code <a href="#">Section 333.9215</a>	Immunization exemption/waiver requirements.	
Revised School Code <a href="#">Section 380.1177</a>	Requires the parent/guardian of a child enrolling in school for the first time to submit a certificate showing required immunizations have been given; or a physician-signed waiver that required immunizations could not be given because of medical contradictions or a parent/guardian signed waiver that for religious or other reasons the immunization has not been given.	

**Michigan General Statutes – School Health (Continued)**

**Immunizations (Continued)**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.9209</a>	Requires schools to report their students' immunization status to their Local Health Departments before November 1 of each year and before the following February 1, to update the list to show the additional immunizations received by each child since entering the school.	
Public Health Code <a href="#">Section 333.9206</a>	Requires a parent, guardian, or person in loco parentis applying to have a child registered for the first time in a school in this state and, beginning January 1, 2014, a parent, guardian, or person in loco parentis of a child entering the seventh grade, to present to school officials, at the time of registration or not later than the first day of school, a certificate of immunization or statement of exemption. A teacher or principal shall not permit a child to enter or attend school unless a certificate indicating that a minimum of 1 dose of an immunizing agent against each of the diseases specified by the department has been received and certified to by a health professional.	
Revised School Code <a href="#">Section 380.1177</a>	Requires a child enrolling in a public or nonpublic school for the first time or, beginning in the 2014-2015 school year, enrolling in grade 7 for the first time to submit 1 of the following: 1) signed physician statement of immunization compliance, signed parent statement for religious objection or signed physician statement child in the process of compliance.	
<a href="#">Michigan Communicable Disease Rules</a>	Requires any parent/guardian who claims a nonmedical waiver to receive education regarding the benefits of vaccination and the risks of disease from a county health department before obtaining the certified nonmedical waiver form through the Local Health Department. The new rule requires the use of the State of Michigan nonmedical waiver form dated January 1, 2015.	

MICHIGAN SCHOOL HEALTH SERVICE

MICHIGAN GENERAL STATUTES – SCHOOL HEALTH (CONTINUED)

MARIJUANA

Title	Description	Training Required
Michigan Regulation and Taxation of Marihuana Act <a href="#">Section 333.27954</a>	Prohibits : (b) transfer of marihuana/marihuana accessories to person under 21; (c) any person under the age of 21 to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana. (h) possessing marihuana accessories or possessing or consuming marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.	

MEDICATION ADMINISTRATION

Title	Description	Training Required
<i>Liability</i> Revised School Code <a href="#">Section 380.1178</a>	Sets forth legal provisions for the immunity of school employees, <b>designated by the school administrator</b> , against an allegation of “simple” negligence if the employee administers the medication under certain requirements including being in the presence of another adult.	
Revised School Code <a href="#">Section 380.1179</a>  <i>Asthma Inhaler Law</i> <a href="#">PA 73 of 2004</a>  <i>Stock Epinephrine Law</i> <a href="#">PA 187 of 2013</a>  <i>FDA Approved OTC Law</i> <a href="#">PA 243 of 2018</a>  <a href="#">PA 320 of 2020</a>	A student may self-carry and an asthma inhaler of an epinephrine auto injector providing provisions have been met. PA 187 Section 11.78 (1), A school board shall insure in each school that operates with an instructional and administrative staff of at least 10, there is at least 2 employees at the school who have been trained in the appropriate use and administration of an epinephrine auto-injector and that, in each school it operates with an instructional and administrative staff of fewer than 10, there is at least 1 employee at the school who has been trained in the appropriate use and administration of an epinephrine auto-injector.	The training required under this subsection shall be conducted under the supervision of, and shall include evaluation by, a licensed registered professional nurse. See “Anaphylaxis” for additional information. <a href="#">Michigan Association of School Nurses</a>
<a href="#">Attorney General Opinion, No. 5679, April 11, 1980</a>	States that a physician delegates and, therefore must supervise the act of medication administration if the school district does not employ a school nurse.	
<a href="#">MDE Model Policy and Guidelines for Delivering Medication at School</a>	The Michigan Department of Education memo to school superintendents outlining a model medication policy (2002). <b>Note: Not a law.</b>	

**MICHIGAN GENERAL STATUTES – SCHOOL HEALTH (CONTINUED)**

**MENINGITIS**

Title	Description	Training Required
Revised School Code <a href="#">Section 380.1177a</a>  <a href="#">PA 121 of 2008</a>	Requires schools to provide information on meningococcal disease, vaccine & availability of vaccine to parents of 6th, 9th & 12th graders.	

**MENTAL HEALTH**

Title	Description	Training Required
Mental Health Code <a href="#">Section 330.1707</a>	Allows a minor of 14 years of age or older up to 12 visits or four months whichever comes first to request and receive mental health services on an outpatient basis without the consent or knowledge of a parent or guardian. Consent to inform the parent or guardian must be obtained from the minor unless there is a compelling need for disclosure and the minor is informed of the health professional's intent to notify the party.	

**OPIOID ANTAGONIST**

Title	Description	Training Required
<i>Administration of Opioid Antagonists</i> <a href="#">Public Act 38 of 2019</a>  <i>Opioid Antagonist Law</i> <b>REPEALED</b> <a href="#">Public Act 385 of 2016</a>	Repeals Revised School Code language relating to the authority of school districts and school employees to administer opioid antagonists.  PA 385 – Optional legislation allows a school board to require, in each school it operates, that there are at least two employees who have been trained in the appropriate use and administration of an opioid antagonist.	
<b><i>Administration of Opioid Antagonist Act</i></b> <a href="#">Section 15.671-15.677</a> <a href="#">PA 39 of 2019</a>	An agency that purchases, possesses, or distributes an opioid antagonist under section 103, and an employee or agent that possesses or in good faith administers an opioid antagonist under section 105, is immune from civil liability for injuries or damages arising out of the administration of that opioid antagonist to an individual under this act if the conduct does not amount to gross negligence that is the proximate cause of the injury or damage.	Immunity is assured in this case if the employee or agent has been trained in the proper administration of that opioid antagonist. If a district chooses to stock opioid antagonist, at least two employees in each school are recommended to be trained in the appropriate use and administration of an opioid antagonist. <b>Training materials available:</b> <a href="#">MASN Safe and Legal Support of Students with Health and Medication Needs at School: Module 4</a>  <a href="#">NASN Naloxone Toolkit</a>

**MICHIGAN GENERAL STATUTES – SCHOOL HEALTH (CONTINUED)**

**PREGNANCY**

Title	Description	Training Required
<p><i>Consent of Minor to Provision of Health Care</i>  Public Health Code <a href="#">Section 333.9132</a></p>	<p>Allows a minor to consent to the provision of prenatal and pregnancy related health care by a health facility or agency or health professional.  For medical reasons the treating physician or another health professional (on the advice of the treating physician) may withhold or provide information regarding the minor to the parent, guardian, or person in loco parentis even if the minor refused to have the information released.</p>	
<p>State School Aid Act <a href="#">Section 388.1709</a></p>	<p>Requires all school districts to provide homebound or hospitalized instructional services to students who are absent for five or more consecutive school days because of a medical condition, including pregnancy, childbirth, and recovery.</p>	
<p><i>Safe Delivery of Newborns Law</i> Probate Code <a href="#">Section 712.20</a> <a href="#">Additional information for safe delivery</a></p>	<p>Allows parents to safely surrender their newborn child no more than 72 hours old to an employee who is inside and on duty at any hospital, fire department, police station, or by calling 911. This program is a safe, legal and anonymous alternative to abandonment or infanticide and releases the newborn for placement with an adoptive family.</p>	

**RECORD RETENTION**

Title	Description	Training Required
<p>Penal Code Section <a href="#">750.491</a></p>	<p>Requires that all public records be listed on an approved <a href="#">Records Retention and Disposal Schedule</a> that identifies the minimum amount of time that records must be kept to satisfy administrative, legal, fiscal and historical needs.</p>	
<p>Records Reproduction Act <a href="#">MCL 24.401-24.406</a></p>	<p>Identifies acceptable formats for retaining public records. Different types of school health records vary in the amount of time they need to be retained.</p>	

**REPRODUCTIVE HEALTH**

Title	Description	Training Required
<p>School Aid Act <a href="#">Section 388.1766</a></p>	<p>Requires School Boards to adopt and implement a disciplinary policy for dispensing or distributing family planning or drug or device, dispensing prescriptions for family planning drug, or making referrals for abortion or assisting pupil in obtaining abortion.</p>	

**MICHIGAN GENERAL STATUTES – SCHOOL HEALTH (CONTINUED)**

**REPRODUCTIVE HEALTH (CONTINUED)**

Title	Description	Training Required
Revised School Code <a href="#">Section 380.1507</a>	Prohibits a person from dispensing or otherwise distributing a family planning drug or device in a public school or on public school property. "Family planning" means the use of a range of methods of fertility regulation to help individuals or couples avoid unplanned pregnancies; bring about wanted births; regulate the intervals between pregnancies; and plan the time at which births occur in relation to the age of parents. It may include the study of fetology. It may include marital and genetic information. Clinical abortion shall not be considered a method of family planning, nor shall abortion be taught as a method of reproductive health.	
<i>Parental Rights Restoration Act</i> <a href="#">Section 722.903</a>	Prohibits an abortion to be performed on minor without her consent and that of one parent or guardian except in medical emergency; court may waive parental consent if minor is mature and well-informed so as to be able to make the decision, or waiver is in minor's best interest.	

**RESTRAINT AND SECLUSION**

Title	Description	Training Required
Revised School Code <a href="#">Section 380.1307</a>  <a href="#">PA 394 of 2016</a> <a href="#">PA 401 of 2016</a>  <a href="#">MDE Policy for the Emergency Use of Seclusion and Restraint</a>	Requires districts to adopt policies limiting use of restraint and seclusion that include comprehensive student protections, including the provision of mandatory training for school personnel.	A comprehensive training framework including awareness training for all school personnel who have regular contact with pupils, and CPR/First Aid for key identified personnel.

**RIGHTS OF MINORS**

Title	Description	Training Required
<i>Rights of Minors</i>  Mental Health Code <a href="#">Section 330.1707</a>	Allows a minor to request and receive mental health services on an outpatient basis without the consent or knowledge of a parent or guardian. Consent to inform the parent or guardian must be obtained from the minor unless there is a compelling need for disclosure and the minor is informed of the health professional's intent to notify the party.	

**Michigan General Statutes – School Health (Continued)**

**RIGHTS OF MINORS (Continued)**

Title	Description	Training Required
<p><i>Substance Use Disorder Services</i></p> <p>Mental Health Code <a href="#">Chapter 2A</a></p>	<p>Allows a minor professing to be a substance abuser to consent for the provision of treatment for the substance abuse may be provided by the minor.</p>	
<p>Public Health Code <a href="#">Section 333.5127</a></p> <p><a href="#">PA 69 of 2016</a></p>	<p>Allows a minor who professes to be infected with an sexually transmitted infection (STI) to seek medical or surgical treatment or services by a hospital, clinic, or physician without the consent of a parent, guardian, or person in loco parentis. For medical reasons, the treating physician or another health professional (on the advice of the treating physician) may withhold or provide information regarding the minor to the parent, guardian, or person in loco parentis even if the minor refused to have the information released.</p>	
<p><a href="#">Michigan Laws Related to Right of a Minor to Obtain Health Care without Consent or Knowledge of Parents</a></p>	<p>Summarizes the rights of minors to consent to various types of health care without the consent or knowledge of their parents. It also covers whether the law permits information concerning the minor’s health care to be shared with the parent.</p>	

**SCHOOL NURSING**

Title	Description	Training Required
<p>Revised School Code <a href="#">Section 380.1252</a></p>	<p>Allows a board of a school district to employ registered nurses necessary to provide professional nursing services.</p>	
<p>LARA <a href="#">Rule 340.1161</a></p>	<p>School Nurse Certification rules through the Michigan Department of Education.</p>	

**SCHOOL SAFETY**

Title	Description	Training Required
<p>Fire Prevention Code <a href="#">Section 29.19</a></p> <p><a href="#">PA 481 of 2014</a></p>	<p>Amends the Fire Prevention Code to require a school that has any grades between K-12 to conduct a minimum of two (2) drills in which occupants are restricted to the interior of the building (<a href="#">Lock Down Drills</a>) and the building is secured. Requires a K-12 school to conduct a minimum of six (6) rather than eight (8) fire drills.</p> <p>Also amends the Fire Prevention Code to require a school that operated any grades between K-12 to conduct some of the drills required under the Code during lunch or recess or at other times when a significant number of students were gathered, but not in the classroom. (<a href="#">Terrorism Drills</a>)</p>	

MICHIGAN SCHOOL HEALTH SERVICE

**Michigan General Statutes – School Health (Continued)**

**SCHOOL WELLNESS**

Title	Description	Training Required
<a href="#">MDE Model Local Wellness Policy</a>	Michigan State Board of Education Model Local Wellness Policy.	

**SOCIAL WORKER ROLE**

Title	Description	Training Required
<a href="#">Michigan Administrative Code Rules 340.1011</a>	State law encourages or requires districts to implement identification and referral processes to link students and families with needed resources.	

**SUICIDE**

Title	Description	Training Required
<a href="#">Save Our Students Act</a> Michigan Revised School Code <a href="#">Section 380.1893</a>  <a href="#">PA 211 of 2020</a>	Ensures that each school that offers any of grades 6 to 12 and that provides identification cards to pupils enrolled at the school includes on each identification card provided to a pupil a local, state, or national suicide prevention hotline telephone number printed on it	

**SUN SAFETY**

Title	Description	Training Required
Public Health Code <a href="#">Section 333.13405</a>  <a href="#">PA 368 of 2008</a>	Requires a tanning customer under 18 years of age, a written statement signed by the customer's parent or legal guardian while the parent or legal guardian is physically present at the tanning facility and signed in the presence of the owner or operator. The customer agrees to use protective eyewear.	

**TELEHEALTH**

Title	Description	Training Required
<a href="#">Public Act 101 of 2020</a>	Provides for medical reimbursement for in home or in school telemedicine services.	

**TOBACCO**

Title	Description	Training Required
MCL 722.641, 722.642, and 722.644 <a href="#">PA 18 of 2019</a>	Prohibits sale of electronic cigarette or any oral device that provides vapor nicotine to minors.	

## Key Federal Legislation

### [Anti-Discrimination Laws Regarding HIV Infection](#)

There are a number of federal and state statutes that prohibit discrimination against someone who is HIV-infected or believed to be HIV-infected. These include Section 504 of the Federal Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act (ADA) of 1990, and the Michigan Persons with Disabilities Civil Rights Act of 1976. These statutes provide that a person who is HIV-infected, or is believed to be HIV infected, must be treated in a non-discriminatory manner as any non-HIV-infected person.

### [Americans with Disabilities Act](#)

The ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. The ADA does not specifically name all of the impairments that are covered.

A major life activity includes education. Therefore, if a student attends school and has a disability (of which HIV is one), the ADA affects the school's responsibility to that student. School teams are responsible for determining what barriers exist for a student with a disability and how to resolve those issues.

The Americans with Disabilities Act (ADA) provides comprehensive civil rights protections for individuals with disabilities.

Title II of the ADA covers programs, activities and services of public entities. Title II requires that "No qualified individual with a disability shall, by reason of such disability be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity".

### [The Family Educational Rights and Privacy Act \(FERPA\)](#)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Parents or eligible students have the right to inspect and review the student's education records maintained by the school. In general, parental consent is required for others to access information in students' health records. FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials, including teachers who have a "legitimate educational interest"
- Mandatory reporting of certain communicable diseases
- Instances of child abuse or neglect
- Appropriate officials in cases of health and safety emergencies
- To comply with certain legal situations including subpoenas or investigations of criminal offenses

### [Health Information Portability and Accountability Act of 1996 \(HIPAA\)](#)

Public Law 104-191, Health Information Portability and Accountability Act of 1996 (HIPAA) was implemented by the federal government to ensure uniform privacy protections of individuals' health information, including those with HIV. HIPAA provides privacy regulations to protect patients by limiting the ways that health plans, pharmacies, hospitals, and other covered entities can use patients' personal medical information. A school is subject to HIPAA if it provides medical care and electronically transmits health information as part of a "covered transaction" (i.e., billing). The Privacy Rule of the law, however, provides a broad exemption for personal health information maintained in education records, which is protected under FERPA.

## [Joint Guidance on the Application of FERPA and HIPAA to Student Health Records](#)

The U.S. Department of Education and the Office for Civil Rights at the U.S. Department of Health and Human Services released updated joint guidance in December 2019 addressing the application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to records maintained on students.

The guidance, which was first issued in November 2008, clarifies for school administrators, health care professionals, families, and others how FERPA and HIPAA apply to education and health records maintained about students. The revised guidance includes additional frequently asked questions and answers addressing when a student's health information can be shared without the written consent of the parent or eligible student under FERPA, or without written authorization under the HIPAA Privacy Rule

## [Individuals with Disabilities Education Act](#)

The Individuals with Disabilities Education Act (IDEA) (formerly called P.L. 94-142 or the Education for all Handicapped Children Act of 1975) requires public schools to make available to all eligible children with disabilities, a free appropriate public education in the least restrictive environment appropriate to their individual needs. IDEA requires public school systems to develop appropriate Individualized Education Programs (IEP's) for each child. The specific special education and related services outlined in each IEP reflect the individualized needs of each student.<sup>2</sup>

The IEP outlines the specific services and supports the child's needs within the least restrictive environment (LRE). The IEP and LRE provisions have been protected as basic rights of children with disabilities. Parent involvement is also a fundamental principle of IDEA. Parents must be fully informed of their children's rights, and they can participate in all decisions affecting their child. IDEA also outlines due process provisions, which allow parents to challenge school district decisions.<sup>3</sup>

IDEA release and disclosure requirements are substantially identical to those in FERPA.

## [Section 504 of the 1973 Rehabilitation Act](#)

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in all programs and activities conducted by recipients of federal financial assistance. This applies to employees of education agencies as well as to students.

In matters pertaining to education, the lead agency is the U.S. Office for Civil Rights, U.S. Department of Education. Section 504 has a substantial effect on education, since educational programs for students with disabilities must be equal to those provided to others. Educational agencies that receive U.S. Department of Education funds, either directly or indirectly, are considered recipients.

Like IDEA, Section 504 requires identification, evaluation, and provision of appropriate services, notification of parents, an individualized accommodation plan, and procedural safeguards. Accommodation plans (including individual health care plans) are developed to provide needed health services in the school for children requiring medication or other health services. These activities must be performed in accordance with Section 504 regulations, which have some requirements that differ from those of IDEA.

Bloodborne Pathogen Standard

29 CFR Part 1910 (December 1991), Occupational safety; Bloodborne Pathogen Standard is a law requiring employers to protect employees from occupational exposure to bloodborne pathogens. Under 1910.1030, public school employers who have employees with occupational exposure (as defined by paragraph (b) of the standard) must establish an Exposure Control Plan which describes how the following elements of the standard, at a minimum, will be implemented: methods of compliance, including engineering and work practice controls, personal protective equipment, and housekeeping; Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up; Communication of Hazards to Employees; and Recordkeeping, including medical records, training records, and Sharps Injury Logs.

The Exposure Control Plan also must include an exposure determination, which lists all job classifications in which all employees in those job classifications have occupational exposure, all job classifications in which some employees have occupational exposure, and those tasks and procedures in which occupational exposure occurs and are performed by those employees determined to be occupationally exposed. Any employee, determined to be occupationally exposed, as defined by the standard, must be offered the Hepatitis B vaccination within 10 working days of initial assignment but after the employee has received the initial training required by this standard.

The Exposure Control Plan must be reviewed at least annually and updated whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and also to reflect new or revised employee positions with occupational exposure. Although documentation of the review is not required, it is recommended that the employer do so to ensure that the review is being conducted at least on an annual basis and that each affected employee has access to the most current plan.

In addition to the annual review of the Exposure Control Plan, the employer must provide information and training as outlined in paragraph (g) (2) (vii) to employees with occupational exposure at the time of initial assignment to tasks where occupational exposure may take place, at least annually thereafter (which means within one year of their previous training), and whenever changes (i.e. to tasks or procedures) take place that affect the employee's occupational exposure. Training must be documented in accordance with paragraph (h) (2) (i) of the standard.

**\*Tiers of Training**

Refers to the multi-tiered system of support recommended to train staff to support a student with a health need in school.

## RESOURCES

Jones, S.E. (2008). Executive Summary. A CDC review of school laws and policies concerning child and adolescent health. *Journal of School Health, 78*(2), 69 -128. doi: 10.1111/j.1746-1561.2007.00272\_4.x

Laubin, M.C., Schwab, N., & Doyle, J. (2012). Understanding the legal landscape. In C. Constante (Ed.), *School Nurse Administrators* (pp. 459 – 519). Silver Spring, MD: National Association of School Nurses.

HIV/STD and Sex Education in Michigan Public Schools, A Summary of Legal Obligations and Best Practices. Available at [http://www.michigan.gov/documents/mde/3\\_Four\\_Page\\_Summary\\_of\\_Legal\\_Obligations\\_249414\\_7.pdf](http://www.michigan.gov/documents/mde/3_Four_Page_Summary_of_Legal_Obligations_249414_7.pdf)

Michigan Board of Nursing Administrative Rules  
[http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin\\_Num=33810101&Dpt=CH&RngHigh=](http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33810101&Dpt=CH&RngHigh=)

Michigan Revised School Code <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-451-of-1976.pdf>  
<http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-451-of-1976.pdf>

Michigan Current Revised School Code (PA 451 of 1976) and State School Aid Act (PA 94 of 1979)  
Provisions Regarding the Teaching of HIV/AIDS, Sex Education, Health Education, and Physical Education in Michigan Schools  
[http://www.michigan.gov/documents/Current\\_Revised\\_School\\_Code\\_115941\\_7.pdf](http://www.michigan.gov/documents/Current_Revised_School_Code_115941_7.pdf)

Michigan Public Health Code  
[http://www.legislature.mi.gov/\(S\(mcs4ho55goeot1royfu1ne45\)\)/mileg.aspx?page=getobject&objectname=mcl-act-368-of-1978](http://www.legislature.mi.gov/(S(mcs4ho55goeot1royfu1ne45))/mileg.aspx?page=getobject&objectname=mcl-act-368-of-1978)

Protecting and Disclosing Student Health Information. How to Develop School District Policies and Procedures, 2005. The Guidelines, reviewed by representatives from the U.S. Depts. of Education and Health and Human Services, were developed in conjunction with representatives from 20 national organizations. Available from the American School Health Association at [http://www.ashaweb.org/i4a/ams/amsstore/category.cfm?category\\_id=1](http://www.ashaweb.org/i4a/ams/amsstore/category.cfm?category_id=1)

# MICHIGAN SCHOOL HEALTH SERVICE

## A Brief Review of Federal Laws Protecting the Privacy of Education Records

Federal Law	Federal Agency	Right Afforded to	Contents of Education Records	Notification Requirement	Prior Consent	Requirement of Recording Release
Family Educational Rights and Privacy Act (FERPA)	Family Policy Compliance Office	Parents and eligible students	All education records as defined in the law	Local education agency to notify annually	Required with exceptions	Recordation requirements
Every Child Succeeds Act (ESSA)	U.S. Department of Education	Parents and eligible students				
Individuals with Disabilities Education Act (IDEA)	Office of Special Education Programs	Parents and students who have reached the age of majority under state law	All education records as defined in FERPA	Local education agencies to notify annually	Required with exception	
Health Insurance Portability and Accountability Act	Office for Civil Rights of U.S. Department of Health and Human Services	Patients	Privacy Rule does not apply to records protected by FERPA and IDEA	Health care providers must provide Notice of Privacy Practices	By patient	

		Who must comply?	Protected information	Permitted disclosures <sup>1</sup>
FERPA	<p>The <b>Family Educational Rights and Privacy Act (FERPA)</b> is a federal law enacted in 1974 that protects the privacy of <b>student education records</b>.</p> <p>The Act serves two primary purposes:</p> <ol style="list-style-type: none"> <li>1. Gives parents or eligible students more control of their educational records</li> <li>2. Prohibits educational institutions from disclosing "personally identifiable information in education records" without written consent</li> </ol> 	 <ul style="list-style-type: none"> <li>• Any public or private school: <ul style="list-style-type: none"> <li>– Elementary</li> <li>– Secondary</li> <li>– Post-secondary</li> </ul> </li> <li>• Any state or local education agency</li> </ul> <p>Any of the above must receive funds under an applicable program of the US Department of Education</p>	 <p><b>Student Education Record:</b> Records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution</p>	 <ul style="list-style-type: none"> <li>• School officials</li> <li>• Schools to which a student is transferring</li> <li>• Specified officials for audit or evaluation purposes</li> <li>• Appropriate parties in connection with financial aid to a student</li> <li>• Organizations conducting certain studies for or on behalf of the school</li> <li>• Accrediting organizations</li> <li>• Appropriate officials in cases of health and safety emergencies</li> <li>• State and local authorities, within a juvenile justice system, pursuant to specific state law</li> <li>• To comply with a judicial order or lawfully issued subpoena</li> </ul>
HIPAA	<p>The <b>Health Insurance Portability and Accountability Act (HIPAA)</b> is a national standard that protects sensitive <b>patient health information</b> from being disclosed without the patient's consent or knowledge. Via the Privacy Rule, the main goal is to</p> <ul style="list-style-type: none"> <li>• Ensure that individuals' health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public's health and well-being.</li> </ul> 	 <ul style="list-style-type: none"> <li>• Every healthcare provider who electronically transmits health information in connection with certain transactions</li> <li>• Health plans</li> <li>• Healthcare clearinghouses</li> <li>• Business associates that act on behalf of a covered entity, including claims processing, data analysis, utilization review, and billing</li> </ul>	 <p><b>Protected Health Information<sup>2</sup>:</b> Individually identifiable health information that is transmitted or maintained in any form or medium (electronic, oral, or paper) by a covered entity or its business associates, excluding certain educational and employment records</p>	 <ul style="list-style-type: none"> <li>• To the individual</li> <li>• Treatment, payment, and healthcare operations</li> <li>• Uses and disclosures with opportunity to agree or object by asking the individual or giving opportunity to agree or object</li> <li>• Incident to an otherwise permitted use and disclosure</li> <li>• Public interest and benefit activities (e.g., public health activities, victims of abuse or neglect, decedents, research, law enforcement purposes, serious threat to health and safety)</li> <li>• Limited dataset for the purposes of research, public health, or healthcare operations</li> </ul>

1. Permitted disclosures mean the information can be, but is not required to be, shared without individual authorization.

2. Protected health information or individually identifiable health information includes demographic information collected from an individual and 1) is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse and 2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual; and  
 (i) That identifies the individual, or  
 (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

For more information, please visit the Department of Health and Human Services' [HIPAA website](#) and the Department of Education's [FERPA website](#).

