

School-Based Health Center (SBHC) Work Group

Convened by Representative Monica Stonier

August-November 2020

EXECUTIVE SUMMARY

SCHOOL-BASED HEALTH CENTERS IN WASHINGTON

Healthy kids learn better. School-based health centers (SBHCs) provide a crucial link between health and education, improving outcomes for students in both areas.

A SBHC is a convenient and safe place in or adjacent to a school where students can receive integrated medical, behavioral, and other healthcare services such as dental care. SBHCs are a collaboration between the community, the school, and a healthcare sponsor. Depending on community need and local decision-making, some SBHCs may also serve school staff, students' siblings or other family members, or others in the community.

SBHCs address systemic inequities and social determinants of health by providing integrated health care for all children where they already spend much of their time—at school. Research has shown that SBHCs improve utilization of health care services, health outcomes, attendance, grades, and graduation rates. This in turn improves prospects for lifelong health and educational attainment. SBHCs work collaboratively with school nurses, school counselors, other school staff and other community-based organizations to serve the whole child.

In Washington we have over 30 years of experience with SBHCs. There are 55 SBHCs currently operating statewide in more than 20 school districts with services available to more than 50,000 students. At least six new SBHC sites across the state will begin to provide services in the 2020-2021 school year, with other new sites in development. Interest in the model is quickly growing as a way to serve and support Washington's students. Eighty percent (80%) of SBHCs in the state are sponsored by community health centers providing other safety net health care in the communities they serve.

During the COVID-19 pandemic, our existing SBHCs have shown exceptional creativity and commitment as they continue to support our students in Washington through tenacious outreach, health care in person and through telehealth, and coordination with schools to respond to students' and families' basic needs and provide wraparound services. With health and educational disparities increasing during the pandemic, the need for school-based health care is greater than ever. There is a tremendous opportunity to increase access to much-needed health services for our children and youth by 1) strengthening the capacity and reach of our existing SBHCs and 2) expanding and sustaining the SBHC model across the state long-term.

SCHOOL-BASED HEALTH CENTER WORK GROUP: BACKGROUND

The School-Based Health Center Work Group was envisioned in [HB 2708](#), introduced during the 2020 state legislative session and sponsored by Rep. Monica Stonier. While the bill was not passed and the work group not funded by the legislature, the work group was convened informally by Rep. Stonier in four meetings August-November 2020 with the support of the [Washington School-Based Health Alliance](#)

(WA SBHA). The original intent and stakeholder list of the work group were followed, with recommendations of the work group acknowledging the new context of the COVID-19 pandemic (work group background in [Appendix A](#), work group members and attendance in [Appendix B](#)).

SUMMARY OF WORK GROUP MEETINGS

The work group engaged over 30 state-level stakeholders, including legislators, state agencies, and state-level associations/organizations in both health and education. The work group was an opportunity to raise awareness about SBHCs in Washington, air and respond to stakeholder questions and concerns, hear from SBHC sponsors and schools about their successes and challenges in SBHC start-up and sustainability, learn about the application of HIPAA (Health Insurance Portability and Accountability Act of 1996) and FERPA (Family Educational Rights and Privacy Act) and data-sharing in SBHCs, and identify challenges and opportunities for expanding and sustaining SBHCs statewide (work group meeting agenda, slide decks and minutes in [Appendix C](#).)

WORK GROUP RECOMMENDATIONS

The work group confirmed a SBHC definition for Washington state and developed medium- to long-term goals for SBHCs in Washington in four categories: funding, training and technical assistance, data, and legal/policy.

SBHC definition for Washington State

The work group reviewed the working definition of school-based health centers and FAQs provided by the Washington School-Based Health Alliance. Overall the work group felt the definition and FAQs were clear and flexible enough to allow for diverse SBHC models to respond to community needs. A few modifications suggested by the work group have been incorporated, in [Appendix D](#).

Challenges to SBHC Expansion and Sustainability / the Work Group’s Medium- to Long-term Goals

FUNDING	
Current challenges	<ul style="list-style-type: none"> • The SBHC service model is youth-centered and relationship-based, which means longer appointments and lower productivity expectations than in a community clinic. To best serve students in a school setting, SBHCs spend significant amounts of time in outreach and in coordinating with families, school staff and community providers. They also provide population-based health education and support within the school. As a result, much SBHC time spent to serve students is not billable to insurance, and insurance reimbursements do not cover costs. • Confidential services are often not billed, especially to private payers, for fear of breaching student confidentiality through Explanations of Benefits or billing going home to students’ families. • There are geographic disparities with local levy and grant funding options. • There is a lack of state/statewide funding for SBHC planning, capital costs, start-up and ongoing operations.
Medium- to long-term goals	<p>Sustainable, statewide funding sources for SBHC planning, capital costs, start-up and operations:</p> <ul style="list-style-type: none"> • State funding for SBHC planning, start-up and operations • State capital budget grant program for SBHCs • State funding for SBHC training/TA

	<ul style="list-style-type: none"> • State funding for a state SBHC program office • Alternative payment models by MCOs and private payers for SBHCs • Administrative processes that safeguard patient confidentiality by both private payers and providers in billing and reimbursement for confidential services
Currently existing / in process	Current OIC rule-making in support of SB 5889 re confidential communications

TRAINING AND TECHNICAL ASSISTANCE	
Current challenges	There is a lack of awareness of and gaps in resources statewide for initiating and starting up a SBHC
Medium- to long-term goals	<ul style="list-style-type: none"> • Washington-specific guidance for SBHC development and operations • State SBHC program office that administers SBHC funding and provides training/TA support and/or expanded capacity of WA SBHA to provide training/TA (funding addressed above)
Currently existing / in process	<i>WA SBHA resource bank, trainings and technical assistance, SBHC toolkit in development</i>

DATA	
Current challenges	The absence of statewide SBHC data collection and limited data-sharing due to a lack of understanding of HIPAA-FERPA reduces student referrals, coordination of care, program monitoring and evaluation, and data to support SBHC funding and replication.
Medium- to long-term goals	<ul style="list-style-type: none"> • Washington-specific guidance for SBHC data-sharing • Statewide SBHC data collection and reporting to include process, quality of care, outcomes and equity metrics
Currently existing / in process	<ul style="list-style-type: none"> • <i>HIPAA-FERPA resources listed in Appendices E and G</i> • <i>Washington: SBHC data-sharing toolkit in development by UW SMART Center</i> • <i>National: national School-Based Health Alliance HIPAA-FERPA toolkit in development with National Center for Youth Law</i>

LEGAL / POLICY	
See Appendix F for a summary of work group discussions about school district authority and risk management in SBHC collaborations.	
Current challenges	<ul style="list-style-type: none"> • Differing interpretations of state law by local school district legal counsel on school district authority vis-à-vis SBHCs • Differing interpretations of risk and risk management of school districts vis-à-vis SBHCs
Medium- to long-term goals	<ul style="list-style-type: none"> • School district authority in state law vis-à-vis SBHCs clarified in new Attorney General opinion (requested by Rep. Stonier in July 2020) • Washington-specific guidance to mitigate school district risk in SBHC agreements and operational practice
Currently existing / in process	<ul style="list-style-type: none"> • <i>New Attorney General opinion to clarify current state law re SBHCs (in process)</i> • <i>WA SBHA SBHC toolkit in development</i>

NEXT STEPS

Rep. Stonier has invited work group members to join a SBHC Advocacy Coalition to track and inform these recommendations as they evolve in the legislature, as well as any other proposals introduced around school-based health care, especially in response to needs related to COVID-19.

APPENDICES

Appendix A: Work Group Background and Meeting Schedule

Appendix B: Work Group Members and Attendance

Appendix C: Work Group Meeting Agenda, Slide Decks and Minutes

Appendix D: SBHC Definition & FAQs

Appendix E: HIPAA & FERPA in SBHC Collaborations

Appendix F: School District Authority and Risk Management in SBHC Collaborations

Appendix G: Resources

APPENDIX A

Work Group Background and Meeting Schedule

Intent of the SBHC Work Group

The goals of the SBHC Work Group followed those of [HB 2708](#), which were to:

- 1) Assess different models currently used for establishing, operating, and funding school-based health centers (SBHCs); and
- 2) Make recommendations for:
 - a. A statewide definition and model options for school-based health centers;
 - b. Ways to address barriers to replication and sustainability statewide for school-based health centers; and
 - c. Statewide funding for school-based health centers

In context of the pandemic, work group recommendations were to include:

- a. Long-term: roadmap for long-term expansion and sustainability of SBHCs statewide
- b. Medium-term: strategy for 2021
- c. Short-term: immediate opportunities for:
 - a. SBHC collaboration and/or funding to address student needs in school year 2020-2021
 - b. SBHC expansion and sustainability through policy, rule-making, technical assistance, etc.

SBHC Work Group Meeting Schedule:

Meeting were held Thursdays, 9:00-11:00am:

- August 20
- September 17
- October 15
- November 12

APPENDIX B

Work Group Members and Meeting Attendance

Representing:	Representative:	8/20	9/17	10/15	11/12
WA House of Representatives	Rep. Monica Stonier, 49 th Leg District	X	X	X	X
	Rep. Paul Harris, 17 th Leg District	X	X	X	
	Rep. My-Linh Thai, 41 st Leg District	X	X	X	X
	Rep. Lillian Ortiz-Self, 21 st Leg District	X	X		X
	Mary Clogston, Staff, House Health Care Committee	X		X	
Office of Superintendent of Public Instruction (OSPI)	Ann Gray	X	X	X	X
Department of Health (DOH)	Rabeeha Ghaffar		X	X	X
	Sarah Keefe	X	X		X
Health Care Authority (HCA)	Rachel Burke	X		X	
Department of Children, Youth & Family (DCYF)	Allison Krutsinger	X			
	Jennifer Helseth		X	X	X
Office of the Insurance Commissioner (OIC)	Mandy Weeks-Green	X		X	X
WA Health Benefit Exchange	Joan Altman		X	X	
WA School-Based Health Alliance (WA SBHA)	Sandy Lennon	X	X	X	X
WA Association for Community Health (WACH)	Fathiya Abdi	X	X	X	X
WA Chapter of the American Academy of Pediatrics (WCAAP)	Sarah Rafton				
WA State School Directors Association (WSSDA)	Brenda Rogers	X	X	X	X
WA Association of School Administrators (WASA)	Tom Seigel	X	X	X	X
WA Education Association (WEA)	Simone Boe	X	X		
WA State Nurses Association (WSNA)	Jenn Muhm	X		X	X
School Nurses Organization of Washington (SNOW)	Tessa McIlraith	X	X	X	X
WA State Association of School Psychologists (WSASP)	Dr. Karen Harper	X	X	X	
WA School Counselors' Association (WSCA)	Michelle Rolan				
WA Association of School Social Workers (WASSW)	Carrie Syvertsen		X	X	X
WA Association of Educational Service Districts (WAESD)	Melissa Gombosky	X	X		X
Kaiser Permanente Thriving Schools	Jill Patnode	X	X	X	X
Medicaid Managed Care	Kristen Federici	X	X	X	
	Libby Hein				X
Private Health Insurers	Sarah Kwiatkowski	X	X	X	X
Local Health Jurisdictions	Sara Rigel	X	X	X	X
Communities in Schools of WA	Jeannie Nist	X	X	X	X
WA State Parent Teacher Association	Marie Sullivan	X	X		
	Laura Peterson	X		X	X
School District Risk Management Pools	Deborah Callahan	X	X	X	X
WA State Hospital Association (WSHA)	David Streeter		X	X	X
Accountable Communities of Health (ACH)	Jenny Slagle			X	
Dziedzic Public Affairs	Erin Dziedzic	X	X	X	X

APPENDIX C
Work Group Meeting Agenda, Slide Decks and Minutes

AGENDA FOR MEETING THURSDAY, AUGUST 20, 2020: [MEETING SLIDE DECK](#) and [MINUTES](#)

Timeframe	Agenda Item	Facilitator
9:00-9:20	Welcome and introductions	Rep. Stonier
9:20-9:35	Overview of SBHC workgroup goals, scope, timeline, norms, Q&A	Rep. Stonier
9:35-10:00	Overview of SBHCs / SBHCs in Washington state, Q&A	WA SBHA
10:00-10:10	Break	
10:10-10:45	Work group member discussion: <ul style="list-style-type: none"> • Do you have questions about the definition/models of SBHCs in WA? What could be clarified? Do you have any specific concerns about SBHCs to note? • What are your goals for the long-term expansion and sustainability of SBHCs in WA? • What do you see as key barriers to SBHC expansion and sustainability in WA? How might barriers be addressed? What questions do we have / what additional information do we need? 	Rep. Stonier
10:45-11:00	Summarize discussion highlights and next steps	Rep. Stonier

AGENDA FOR MEETING THURSDAY, SEPTEMBER 17, 2020: [MEETING SLIDE DECK](#) and [MINUTES](#)

Timeframe	Agenda Item	Facilitator/Presenter
9:00-9:15	Welcome and introductions	Rep. Stonier
9:15-9:20	Review of SBHC workgroup goals, scope, timeline, norms	Rep. Stonier
9:20-9:30	SBHC model of care (<i>models nationally, across Washington, in King County</i>) <ul style="list-style-type: none"> • A youth-centered, whole-child approach • Implications for: <ul style="list-style-type: none"> ○ Collaboration / coordination with school community ○ Funding gaps 	Sara Rigel, Program Manager, Public Health—Seattle & King County School-Based Partnerships Program and Acting Board President, Washington School-Based Health Alliance
9:30-10:10	SBHC PANEL #1: SBHC-School Collaborations <ul style="list-style-type: none"> • Student needs • SBHC-school collaboration • Challenges met in SBHC start-up & collaboration 	Rep. Stonier, Facilitator SBHC & school panelists from: <ul style="list-style-type: none"> • Davis High School SBHC, Yakima • Lincoln High School SBHC, Walla Walla • Rogers High School, Spokane
10:10-10:15	Break	
10:15-10:55	SBHC PANEL #2: Gaps / challenges in funding SBHCs: <ul style="list-style-type: none"> • Planning • Capital costs • Start-up • Ongoing operations: <ul style="list-style-type: none"> ○ SBHC model & productivity ○ Medicaid and private insurance billing 	Rep. Stonier, Facilitator SBHC healthcare sponsor panelists: <ul style="list-style-type: none"> • Community Health of Central Washington (Yakima) • Healthpoint (Renton, SeaTac & Seattle) • The Health Center (Walla Walla)
10:55-11:00	Summarize discussion highlights and next steps	Rep. Stonier

AGENDA FOR MEETING THURSDAY, OCTOBER 15, 2020: [MEETING SLIDE DECK](#) and [MINUTES](#)

Timeframe	Agenda Item	Facilitator/Presenter
9:00-9:15	Welcome and introductions	Rep. Stonier
9:15-9:20	Review of SBHC workgroup goals, scope, timeline, norms	Rep. Stonier
9:20-10:00	<p>HIPAA-FERPA and school-based health centers:</p> <ul style="list-style-type: none"> • Washington Integrated Student Supports Protocol background • Why share data in a SBHC collaboration? • HIPAA & FERPA overview • A note re SBHCs, minor consent and confidential services • HIPAA & FERPA application in SBHC collaborations: <ul style="list-style-type: none"> ○ Institutional level <ul style="list-style-type: none"> ▪ MOUs ▪ Data-sharing agreements ▪ Operationalizing in practice ○ Individual student level <ul style="list-style-type: none"> ▪ FERPA consent ▪ HIPAA release of information • Data and data-sharing for outcomes evaluation / funder and stakeholder support of SBHCs • HIPAA-FERPA guidance, training and resources available 	<p>Panel:</p> <ul style="list-style-type: none"> • Sandy Lennon, Executive Director, WA SBHA • Sara Rigel, Board Member, WA SBHA and Program Manager, Public Health—Seattle & King County School-Based Partnerships Program • Janet Cady, Nurse Practitioner and Site Medical Director, School-Based Health, Neighborcare Health • Ronald Boy, Senior General Counsel, Seattle Public Schools • Jill Patnode, Program Manager, Kaiser Permanente Thriving Schools • Kelly Whittaker, Senior Research Associate, UW SMART Center
10:00-10:05	Break	
10:05-10:20	Update on OIC Rule-Making: Confidential Communications	Mandy Weeks-Green, OIC
10:20-10:55	<p>Small group discussions:</p> <ul style="list-style-type: none"> • Grounding again in work group goals • Breakouts: Questions to consider: <ul style="list-style-type: none"> ○ Do you have any specific feedback to proposed statewide definition of SBHCs? (<i>will provide</i>) ○ What more do you want to hear and learn about SBHCs? ○ What outcomes (short-, medium- and/or long-term) would you like to see from work group? • Reporting highlights back to full group 	Rep. Stonier
10:55-11:00	Next step: survey of work group participants before final 11/12 meeting regarding work group recommendations	Rep. Stonier

AGENDA FOR MEETING THURSDAY, NOVEMBER 12, 2020

Timeframe	Agenda Item	Facilitator/Presenter
9:00-9:15	Welcome and attendance	Rep. Stonier
9:15-9:20	Review of SBHC workgroup goals, scope, timeline, norms	Rep. Stonier
9:20-10:20	Review of proposed medium- to long-term goals for SBHCs in Washington	Rep. Stonier
10:20-10:30	<p>Next Steps:</p> <p>Timeline for final report/recommendations of work group:</p> <ul style="list-style-type: none"> • Draft report sent to work group by Mon, Nov 16 • Comments back to Sandy Lennon by Mon, Nov 23 • Report finalized by Tue, Dec 1 <p>Invitation to join advocacy coalition to develop 2021 legislative strategy with Rep. Stonier</p>	<p>Sandy Lennon</p> <p>Rep. Stonier</p>

APPENDIX D

School-Based Health Center Definition & Frequently Asked Questions (FAQs)

What is a School-Based Health Center (SBHC)?

A SBHC is a student-focused health center located in or adjacent to a school where students can receive integrated medical, behavioral health, and other healthcare services such as dental care.

How are SBHCs operated and funded?

Collaboration & management. SBHCs are a collaboration between the community, the school, and a healthcare sponsor. The healthcare sponsor can be a community clinic or healthcare system, hospital, public health department, or tribal program. The sponsor staffs and manages operations of the SBHC.

Funding. SBHCs may be funded through a mix of public funding, private donations, the community benefit contribution of healthcare sponsors, public and private insurance billing, and in-kind support from school districts and schools.

Staffing. SBHCs are staffed according to school community needs and resources. SBHCs typically include at minimum a primary care provider, behavioral healthcare provider, and a clinic coordinator. Dental and other health professionals may also provide services at the SBHC.

Hours of operation. SBHCs are open during the school day to serve students where they already spend much of their time—at school. Ideally a SBHC has a consistent presence in the school, open for as many days of the week as students need and resources allow. Some SBHCs are also open outside of school hours to serve families, school staff, or community members.

Insurance enrollment & coordination of care. SBHCs help students and families enroll in insurance and connect with a primary care provider and other specialty providers as needed. SBHCs coordinate care with other community service providers to ensure efficient and effective care.

Coordination with school community. SBHCs are integrated within the school community to optimize student and school-wide wellness. The SBHC care team collaborates with students, families, teachers, the school nurse, counselors, other staff and school leadership to support student development and academic success.

What services do SBHCs provide?

From primary to integrated care. SBHCs provide comprehensive primary medical care that may include preventive well-child care, health screening and education, sports physicals, immunizations, management of chronic medical conditions, treatment of illness or injury, laboratory services, prescription of medication, reproductive health services, and referrals. Ideally SBHCs offer an **integrated model** of primary medical care and mental health counseling to address the needs of the whole child. SBHCs may also include dental or vision care, substance abuse services, nutrition counseling, and school-wide health education. Some SBHC services may be provided through mobile or telehealth programs.

Complementary care to school nurse services. SBHCs provide physical, behavioral, dental and other health services beyond the scope of the school nurse, supporting and complementing—not replacing—the school nurse role in student health. SBHC providers and the school nurse work collaboratively to improve student health and academic outcomes.

Prevention & wellness. SBHCs are a resource for prevention, wellness, and health promotion throughout the school community.

Who is served by SBHCs?

School locations. SBHCs are typically located in schools where students have socioeconomic, geographic, or other barriers to accessing healthcare in the community. A SBHC may be in any school where a need for services and resources are identified.

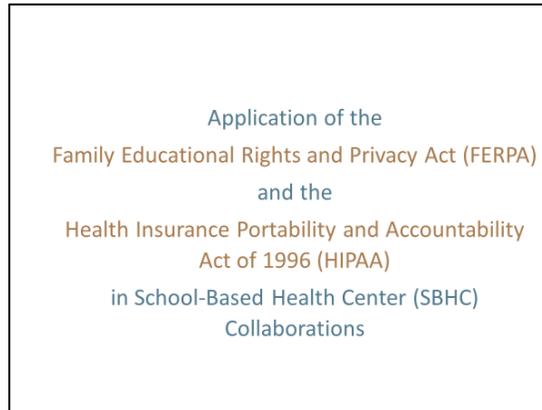
Eligibility for services. SBHC services are available to all students in the school. In some cases, SBHCs also serve students from other schools in the district, families of students, school staff, or community members.

Enrollment and consent. Students must be enrolled by their families to receive the full range of services provided by the SBHC. Every effort is made to involve students' families in their care. Students not enrolled in the SBHC by their families may access confidential behavioral or reproductive health services, if available in the SBHC, according to Washington state's minor consent laws as they could with any other healthcare provider in the community.

APPENDIX E

HIPAA & FERPA in SBHC Collaborations

Work group members had a number of questions about the intersections and application of HIPAA and FERPA in school-based health centers (SBHCs). At the October meeting, a panel presented on this topic (see meeting agenda and presenters in Appendix C).



Before discussing the “how” of complying with HIPAA and FERPA in SBHCs, the panel grounded the work group in the “why” of SBHC collaboration and of data-sharing, referring to the Washington Integrated Student Supports Protocol (WISSP) established by the legislature in 2016 as part of a set of strategies to close educational opportunity gaps. The WISSP highlights the need for **collaboration with community-based organizations to provide nonacademic supports to reduce barriers to learning** and outlines the need for 1) an MOU to lay out the goals and parameters of collaboration between a school and community-based organization and 2) policies and protocols for communication, student referrals, and sharing data.

Washington Integrated Student Supports Protocol (WISSP)

Background

In 2016, the Washington State Legislature created the Washington Integrated Student Supports Protocol (WISSP) when it passed 4SHB 1541. The WISSP was one of an extensive set of interdependent strategies for closing educational opportunity gaps recommended by the State’s Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC). The components of the WISSP framework include needs assessments, community partnerships, coordination of supports, integration within the school, and a data-driven approach.

Washington Integrated Student Supports Protocol (WISSP)

Community Partnerships (WISSP page 8):

Community partners must be engaged to provide nonacademic supports to reduce barriers to students’ academic success, including supports to students’ families. RCW 28A.300.139

The protocol for Community Partnerships includes:

- Create clear partnership policies, communication protocols, and a memorandum of understanding (MOU) for each partnership that outlines its goals, scope, funding needs, types of services to be offered, and the indicators that will be used to measure progress.
- Develop a streamlined referral process to be used by both school and community organizations to ensure students have rapid access to supports at the earliest sign of need, along with protocols for sharing data about the outcome of referrals and student progress.

Panelists shared why data-sharing in a SBHC collaboration specifically is important, an overview of HIPAA-FERPA in SBHCs, and examples of how data-sharing is operationalized at the institutional and individual student level (slides below). Panelists emphasized that data-sharing is key to providing student supports, advancing equity, knowing school district collaboration with SBHCs is a benefit to the district and results in positive academic outcomes, and demonstrating the value of the SBHC model to policymakers and funders. While data-sharing can be a challenge, particularly for school districts, schools and healthcare sponsors new to the SBHC model, we have significant experience navigating HIPAA-FERPA in SBHC collaborations in Washington.

HIPAA & FERPA in SBHC collaborations

Why do we share data in a SBHC collaboration?

To **improve health and academic outcomes** of students by facilitating:

- Student referral
- Coordination of care
- Program monitoring and evaluation
- Program improvements to advance equity
- Data to justify SBHC support, funding and replication to reach more students

HIPAA & FERPA Overview

SBHCs → HIPAA	Schools → FERPA
<ul style="list-style-type: none"> • Covers student protected health information (PHI) held/transmitted by a healthcare provider, i.e. information from the SBHC's medical record <ul style="list-style-type: none"> • Includes demographics, name, address, birthdate, SSN, and any other personally identifiable data • Also includes info relating to past, present, or future physical or mental health condition, healthcare provided to patient, or payment for healthcare 	<ul style="list-style-type: none"> • Covers personally identifiable information (PII) in a student's education record <ul style="list-style-type: none"> • Includes name, address, SSN, birthdate, student immunization history on record with the school nurse, or other info that could identify a student • Schools can disclose "directory info" without consent unless parent/student requests otherwise
<ul style="list-style-type: none"> • The person able to consent for care is the person who signs a Release of Information (ROI): parent/guardian, or student if student 18 or older or if relating to confidential care • ROI can be general or can be limited in timeframe and scope of information to be shared 	<ul style="list-style-type: none"> • A parent or eligible student (aged 18 or older) can authorize disclosure (i.e.: FERPA release form)
<ul style="list-style-type: none"> • Disclosure without consent is only allowed to parties who could prevent or lessen a serious and imminent threat to safety 	<ul style="list-style-type: none"> • Schools/agency can make case-by-case disclosures without consent to address "articulable and significant threat"

Source: <http://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Public-Health-and-Schools-Toolkit/Comparison-of-FERPA-and-HIPAA-Privacy-Rule/>

HIPAA & FERPA application in SBHC collaborations

A note re SBHCs, minor consent and confidential services

- **Concerns about privacy can prevent adolescents from seeking care.** From both a clinical and a public policy perspective, protection of confidentiality for adolescents, e.g. in Washington's minor consent laws, has been based on recognition that some minors would not seek needed health care, including mental health, substance abuse and reproductive health care, if they could not receive it confidentially, and that their forgoing care would have negative health implications for them as well as society.
- **Minor consent and confidentiality may be critical for some students to initially seek and access care, which is more likely to happen if care is available at school.** Once in care, many students benefit from parent/guardian involvement if that involvement is possible for the family and safe for the student.
- **SBHC enrollment and consent.** Students must be enrolled by their families to receive the full range of services provided by the SBHC. Students not enrolled in the SBHC by their families may access confidential mental health, substance abuse, or reproductive health services, if available in the SBHC, according to Washington state's minor consent laws as they could with any other healthcare provider in the community.
Every effort is made by SBHC staff to involve students' families in their care.

HIPAA & FERPA application in SBHC collaborations

Institutional level	Individual student level
Memoranda of Understanding (MOU)	FERPA consent
Data-sharing agreements	HIPAA Release of Information (ROI)
Operationalizing in practice	

HIPAA & FERPA application in SBHC collaborations

Memorandum of Understanding (MOU) between school district and health care sponsor to set expectations, and define school and SBHC roles and responsibilities, around **student confidentiality**.

The MOU clarifies:

- Protected health information under HIPAA, including:
 - Minor consent law in Washington
- Protected education information under FERPA
 - Parental access to FERPA records until student age 18
- HIPAA and FERPA releases of information required to share information between parties
- Maintenance of confidentiality of shared information

HIPAA & FERPA application in SBHC collaborations

School district data-sharing agreements with the goals of, for example:

- Preserving the anonymity of student identities, including assurance that identifiable student data is not released to third parties
- Enhancing the ability of the school district and SBHC to improve academic achievement for students by allowing access to individual student records consistent with the requirements of FERPA
 - *Option to designate SBHC providers as agent / institutional partner of the district*
- Accurately measuring the district and SBHC's progress toward improving student outcomes and indicators, and meeting set targets and other goals

HIPAA & FERPA application in SBHC collaborations

Operationalizing in practice between SBHC and school. In compliance with HIPAA and FERPA, SBHC and school decide protocols and practice for e.g.:

- Student referrals and handoffs to SBHC by school staff
- School passes for students to leave class for SBHC appointments
- Recording attendance in school system vis-à-vis SBHC appointments to maintain student privacy
- Care coordination and parameters for:
 - SBHC staff communication with school staff re individual student care and progress
 - SBHC staff participation in student support meetings with school staff

HIPAA & FERPA application in SBHC collaborations

FERPA consent to share student's education data with SBHC is typically included in SBHC registration packet. Parent or eligible student (18 or older) provides consent.

- *I consent to the release of my child's education records from [XX] School District to the [SBHC]. I understand that education records include, but are not limited to...*
- *I understand that the purpose of sharing these records with the above-mentioned entities is to keep my child's school-based health center medical and/or mental health provider informed of his/her academic program and progress. In collaboration with [SBHC sponsor], [XX] SBHC staff will work with my child and/or his/her school in an effort to improve my child's success at school.*
- *I acknowledge that I may revoke this consent...*

HIPAA & FERPA application in SBHC collaborations

Release of Information (ROI) per HIPAA to share student health information with school staff and others:

- Under HIPAA, the **school nurse** is part of a student's health care team for the purposes of care coordination. No ROI is necessary for SBHC to share student health information with school nurse, though confidential health information should not be entered into school records to maintain student privacy. The school nurse can provide e.g. student vaccination records to the SBHC for those students already registered with the SBHC and with a FERPA consent on file.
- To share health information with others: the person able to consent for care is the person who signs the ROI (parent/guardian, or the student if the student is 18 or older or if ROI is relating to confidential care)
- ROI can be general, or limited in timeframe and scope of information to be shared

APPENDIX F

School District Authority and Risk Management in SBHC Collaborations

During the work group and previously, concerns have been raised by the school district risk pools and some individual school districts about the risk to school districts in SBHC collaborations. Risk management is essential in SBHC collaborations, and we have 30 years of experience to draw from in mitigating SBHC risk through legal agreements and operational practice in Washington.

School district concerns about risk and district liability, if not considered in the context of Washington's experience to date, can create challenges to initiating a SBHC collaboration and to coordination between parties once a SBHC is open—ultimately limiting the care and support provided to students. This needs to be addressed as the SBHC model expands across the state.

The work group discussed and responded to risk and liability concerns as follows:

No known SBHC-related litigation to date

- Deborah Callahan, Executive Director of the Washington Schools Risk Management Pool (WSRMP), indicated that no SBHC-related lawsuits have come to WSRMP, though she was uncertain whether individual school districts may have handled cases internally.
- Ronald Boy, Senior General Counsel of Seattle Public Schools noted that to date, with 30 years of experience with SBHCs and currently 29 SBHCs in operation, there have not been any lawsuits against Seattle Public Schools relating to SBHC operations.

School district authority

- With expansion of and growing interest in SBHCs across the state, questions have been raised regarding the authority of school districts to enter into these agreements, particularly in school districts new to SBHCs.
- Of particular note are two Attorney General (AG) opinions from the 1980s ([1988 No. 2](#) and [1989 No. 17](#)) that were issued around the time of the first SBHC pilot in Seattle. These have been cited as limiting districts' authority in ways that are not consistent with the past 30 years of experience in Washington. Since these opinions were issued, school districts have been given broader authority in state law, districts are investing in facilities to provide SBHCs in consideration of the benefits to the district, and SBHCs have grown significantly across the state (along with growth of other school-based health services such as behavioral health care).
- To clarify current state law regarding school district authority vis-à-vis SBHCs, Rep. Stonier requested an updated Attorney General opinion in July 2020.

Mitigating risk in SBHC collaborations

Agreements

It is common practice for school districts in Washington to have a lease agreement and memorandum of understanding (MOU) with a SBHC's healthcare sponsor. The lease agreement stipulates parameters for the use of school district space and for the landlord-tenant relationship. The MOU describes the purpose of the SBHC collaboration (as with other community-based organizations providing student

supports) and delineates district and healthcare sponsor roles and responsibilities, including around student confidentiality and compliance with HIPAA and FERPA.

The specific nature of these agreements will follow local school district policy around district collaboration with community-based organizations providing student supports and are negotiated between the school district and healthcare sponsoring agency in consultation with their respective legal counsel. Agreements commonly include that healthcare sponsors are solely responsible for the operations and services provided in the SBHC and clear indemnification of the school district.

Operational practice

Once a SBHC is in place, it is incumbent upon the school district and SBHC sponsor to follow these agreements, including compliance with HIPAA and FERPA, and to ensure the delineation of roles remains clear (i.e. the school district is not involved in the clinical operations of the SBHC).

Perspective from Seattle Public Schools

In response to questions that arose during the work group regarding school district legal agreements with SBHCs and district liability, Ronald Boy, Senior General Counsel of Seattle Public Schools, indicated:

- SBHC agreements are drawn up directly between the school district and the healthcare sponsoring agency, and there is no added layer of liability protection for school districts by having SBHC grant funding through Seattle/King County levies.
- School districts cannot control who may name them in a lawsuit, but if they were named in a SBHC-related suit, school district protection will ultimately come from indemnification of the school district in legal agreements and clear delineation of roles between district and healthcare provider in legal agreements and in practice. (Though coordination between parties is essential to the goals of district-SBHC collaboration as laid out in the MOU.)
- Seattle Public Schools stipulates SBHC sponsors' insurance requirements and minimum levels of coverage in their lease agreement, and treats SBHCs the same as other community-based organizations using their buildings/working with students. While different healthcare sponsors / sponsor types may have different insurers (e.g. federally-qualified health centers may carry federal malpractice insurance), again, school district protection will ultimately come from indemnification of the school district in legal agreements and clear delineation of roles between district and healthcare provider in legal agreements and in practice.
- While any additional immunity for school districts through legislation is welcome from a district legal perspective, school district protections in SBHC collaborations are already strong between the lease agreement, MOU, and the robust oversight and regulation of healthcare providers.

APPENDIX G

Resources

Background Materials / Resources:

[School-Based Health Care in Washington: Snapshot of School Health Services, School-Based Health Services & School-Based Health Centers \(SBHCs\)](#)

[SBHCs in Washington FAQ](#)

[Listing of SBHCs in Washington as of Spring 2020](#)

[States with State Funding for SBHCs](#)

[Guidance for Washington School-Based Health Centers for 2020-2021 School Reopening](#)

[Washington Integrated Student Supports Protocol](#), OSPI

[School Nurses and SBHCs in Washington](#)

[SBHCs and School Nurses](#)

HIPAA-FERPA:

[Federal Joint Guidance on Application of HIPAA and FERPA](#)

[Consent & Confidentiality in School-Based Health Care](#), slide deck from conference session, Washington State Student Health Summit 2019

[Recording: WA SBHA Community of Practice on Consent & Confidentiality in School-Based Health Care](#)

[Summary of Minor Consent Law in Washington](#)

Other states' guidance on HIPAA-FERPA, e.g. [California](#)

Videos:

[Working Together to Support Every Student's Needs](#), Dr. Ben Danielson, Odessa Brown Children's Clinic, on school-based health centers

Paper Tigers documentary re Lincoln High School in Walla Walla, including Lincoln HS's SBHC sponsored by The Health Center: [YouTube trailer](#), [YouTube movie for rent or purchase](#), on [Amazon Prime](#)

[Kaiser Permanente's SBHC back-to-school video, Franklin High School](#), Seattle

[Community Health Care video tour of new SBHC at Bethel Middle School](#), Spanaway

[Student and staff stories of SBHC impact, The Health Center at Lincoln High School](#), Walla Walla

[Classes Are Virtual but School Clinics are Open: Country Doctor at Meany Middle School](#), King County TV

Other:

[Kaiser Permanente's year one data on SBHC planning and start-up investments](#)