



Utah State  
Board of  
Education

Student  
Services

# **PARENT CONSENT AND DISCLOSURE GUIDANCE FOR SCHOOL-BASED MENTAL HEALTH**

June 2025

## DISCLAIMER

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This information is provided to align with the current Federal law, Utah State Code, and Board Rule as of 5/26/2025. Please be aware that this guidance information may be subject to change after this date. It is the responsibility of Local Education Agencies (LEAs) to ensure that local policies and practices are compliant with law and rule, and they are advised to consult with their own legal counsel regarding these matters.

## PURPOSE

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This document was created to provide guidance for LEAs regarding when School-Based Mental Health (SBMH) staff can and should disclose confidential information to other school staff, parents, law enforcement, or other third parties. It outlines the federal and state laws and Board rules regarding requirements for parental consent and when to disclose confidential information in the school setting.

## GUIDANCE

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LEAs must follow all applicable federal and state laws and Board rules regarding requirements for disclosing information to parents. LEAs should design policies, procedures, and/or protocols for sharing confidential information disclosed to a school-based mental health professional during a confidential session. In addition to these requirements, LEAs should collaborate with school-based mental health professionals and should consider the professionals' licensing requirements and ethical guidelines related to confidentiality. LEAs should also collaborate with parents and consider their parental rights and responsibilities to and for their children. LEAs must also follow federal and state laws regarding maintaining and releasing confidential information that is noted during the provision of school-based mental health services.

## SPECIAL CONSIDERATIONS

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School-based mental health service providers include a variety of professionals with varying licensing requirements, ethical boundaries, and laws that govern their practice.

Professionals who hold a license issued by the Division of Occupational and Professional Licensing (DOPL) as Mental Health Therapists are governed by the Mental Health Professional Practices Act ([Utah Code Section 58-60](#)). House Bill (H.B.) 281 (2025) amended Utah Code Sections 53G-9-214, 53G-9-901, and 53G-9-902 and added additional specifications related to authorized personnel, confidentiality, and what constitutes a “restricted service” (see section below).

Professionals who are not licensed by DOPL, such as School Counselors, School Social Workers and School Psychologists, are not governed by the Mental Health Professional Practices Act but are governed by the same laws that educators are required to uphold related to confidentiality as well as exceptions to that law. These laws are outlined within FERPA, Utah Statute, and Board Rule (see below).

Some professionals are dual licensed by DOPL and the Utah State Board of Education (USBE). These professionals must have clearly defined job descriptions that explain their duties and responsibilities, including whether or not their job description requires them to provide Mental Health Services or Counseling Services. These individuals who are dual licensed are governed by both DOPL and USBE.

## APPLICABLE FEDERAL LAWS

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[Family Educational Rights and Privacy Act \(FERPA\)](#): Parents have access to any and all education records. FERPA also allows for sharing school records with other school personnel under certain circumstances and defines education records.

[Section 504 of the Rehabilitation Act of 1973 34 Code of Federal Regulations \(CFR\) Part 104](#): Outlines the regulations for implementing Section 504, ensuring that individuals with disabilities have equal access to education and other services.

[Individuals with Disabilities Education Act \(IDEA\) Part B](#) as amended (20 United States Code (USC) §1401 et. seq.), and its implementing regulations, 34 CFR § 300.1 et. Seq., [Utah Code Section 53E-7-204](#): Ensures that children with disabilities receive a Free Appropriate Public Education (FAPE) tailored to their individual needs. This part covers children aged 3 to 21 and mandates special education and related services.

## APPLICABLE STATE STATUTES

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[Utah Code Section 53E-9-202](#): This statute mandates that employees of educational entities must protect the privacy of students, their parents, and their families.

[Utah Code Section 53E-9-203](#): Requires that schools obtain prior written consent from a student's parent before administering any psychological or psychiatric examination, test, or treatment, or any survey that reveals personal information about the student or their family. It also outlines the requirement to inform parents of the risk for suicide or harming others.

[Utah Code Section 53G-9-203](#): Allows school personnel to provide information and observations to a student's parents in four areas: progress, health and wellness, social interactions, or behavior.

[Utah Code Section 53G-9-901](#): This statute regulates restricted services (mental health services) and who can provide a restricted service as "authorized personnel". It also outlines specific parameters for parent notification and consent regarding a restricted service.

[Utah Code Section 58-60-102](#): Mental Health Professional Practice Act defines "client" and "confidential information."

[Utah Code Section 58-60-114](#): The Mental Health Professional Practice Act outlines confidentiality requirements of mental health professionals.

## APPLICABLE BOARD RULES

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[R277-217](#): Prohibited conduct of an educator includes knowingly violating student confidentiality; required conduct of an educator includes notifying parents of risk for suicide or self-harm.

[R277-313](#): Defines mental health services, and outlines the competencies for School Counselors, School Social Workers, and School Psychologists.

[R277-487](#): Outlines the standards for protecting student data and ensuring that information is only shared with authorized individuals who have a legitimate educational interest.

[R277-609](#): LEA requirements for parent notification and court referrals.

[R277-750](#): Outlines standards and procedures for special education programs.

## **APPLICABLE PROFESSIONAL ETHICAL STANDARDS**

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School-based mental health professionals such as School Counselors, School Psychologists, and School Social Workers are required to protect student confidentiality.

[School Counselors](#): The American School Counselor Association (ASCA) states that School Counselors must “recognize their primary ethical obligation for confidentiality is to the students but balance that obligation with an understanding of parents’/guardians’ legal and inherent rights to be the guiding voice in their children’s lives. School counselors understand the need to balance students’ ethical rights to make choices, their capacity to give consent or assent, and parental or familial legal rights and responsibilities to make decisions on their child’s behalf.”

[School Psychologists](#): The National Association of School Psychologists (NASP) states that “school psychologists respect the right of persons to choose for themselves whether to disclose their private thoughts, feelings, beliefs, and behaviors...[and they] use a problem-solving model to consider carefully whether to share with third parties information that could put the student, family, or others at legal, social, or other risk.”

[School Social Workers](#): The School Social Work Association of America (SSWAA) states that “School social workers are obligated to follow local, state, and federal laws and policies related to education records access and disclosure. In addition to these laws, school social workers must consider ethical obligations, such as the responsibility to maintain client confidentiality

and encourage client self-determination. As laid out in the [National Association of Social Workers \(NASW\) Code of Ethics 1.07\(c\)](#), 'Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons.' This expectation does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or others, including the mandated reporting of child abuse and neglect. Parents and guardians generally have the right to access education records, though this does not include sole possession records or personal memory aids not revealed to others (34 CFR 99.3 and 34 CFR 99.4)."

**Specific Circumstances that require consent, parent notification, or reporting:** [SBMH Requirements Document](#).

## CONSENT REQUIREMENTS FOR AUTHORIZED PERSONNEL WHEN CONDUCTING MENTAL HEALTH SERVICES (RESTRICTED SERVICES) UTAH CODE 53G-9-902

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- "Restricted service" means a mental health service that takes place in a school setting.
- Mental Health Service as defined in R277-313 has the same meaning as Mental Health Therapy as defined in [Utah Code Section 58-60-102\(17\)](#).
- Only authorized personnel who are employed, contracted, or formally agreed upon by the LEA are permitted to provide a restricted service within the school setting.
- Authorized personnel are those that are licensed by DOPL as a Mental Health Professional, as well as School Psychologists or School Social Workers who may be licensed by DOPL as a Mental Health Professional.
- Before the initial session of a restricted service in a given school year, the appropriate LEA, school, or authorized personnel must acquire informed written parental consent using a standardized form.
- The standardized form must include: the name of the student.

- the name of the individual giving informed consent (parent or guardian).
- the name(s) of the authorized personnel that will be providing the mental health services (i.e. restricted service).
- a statement that the authorized personnel will provide information about the mental health service, to the parent within one business day after each session has taken place, including a statement that the parent/guardian has the right to opt out of receiving these notifications at any time.
- When obtaining consent, the LEA, school, or authorized personnel must consult with the parent and give them the opportunity to identify topics or issues to address or not address with the student.
- The requirement to obtain prior informed written parental consent before providing a restricted service may be postponed if waiting to contact a parent would put the student or another person at immediate risk of serious bodily injury or suicide, as defined in [Utah Code Section 76-1-101.5](#).
- A student's Individual Education Plan (IEP) or Section 504 Plan that includes a mental health service (restricted service) satisfies the informed parental consent requirement. Mental Health services must be provided solely by authorized personnel, and only within the scope of their relevant licenses. Restricted services required by an IEP or Section 504 Plan may be provided in the presence of others, such as other students in a group setting, if required in the IEP or Section 504 Plan. Unless restricted services are provided as part of an IEP or Section 504 Plan, they must be provided individually (not in the presence of others).
- Authorized personnel may not address a topic or issue with a student when a parent/guardian has expressly stated not to address the topic or issue with the student. An exception to addressing banned topics would include instances where:
  - An omission would compromise the student's immediate safety.
  - The student discloses information that creates a duty for authorized personnel to make a mandatory report; in this case, the authorized personnel may further discuss the topic only to the extent necessary to make the report.

- The student disclosed information that makes the authorized personnel suspect there may be a case of child abuse or neglect under [Utah Code Section 80-2-602](#); or any other legally mandated duty to report an incident.

## RESTRICTED SERVICES FREQUENTLY ASKED QUESTIONS (FAQ)

- **Question (Q).** What information must be included when notifying a parent that a restricted service has been provided?
  - **Requirement:** The following information must be included in parental notification:
    - Notice that the restricted service took place; and
    - The topic of the restricted service
    - It is important to note if the student discloses information that creates a duty on the authorized personnel to make a mandatory report, disclosure of the topic would not be required under Utah Code Sections [58-60-114](#) and [53E-9-203\(7\)](#).
  - **Best Practice:** Providers should consult with parents and students to collaborate on what information will be communicated during the parent notification. Parents should be informed of progress towards therapy goals, coping strategies, and/or conflict resolution plans that were developed. Any pertinent information should be shared that the parent needs to help support the student in the home and at school.
- **Q.** What should authorized personnel do if a student receiving mental health services brings up a topic in the session that the parent has identified as a banned topic?
  - **Requirement:** Providers must consult with the parents when receiving consent on how they would like the authorized personnel to respond when the student brings up a banned topic. Providers should not ask the student questions about the topic or provide additional information about the topic. If child abuse or neglect is suspected, under [Utah Code Section 80-2-602](#) providers can inquire only to the extent necessary to gain information for mandatory reporting.



- **Best Practice:** Providers should inform the parent of the topic and the response to the topic (only if notification would not compromise the student's immediate safety). The focus should be on validating the student's feelings and redirecting the conversation to focus on the root cause of the issue they may be struggling with. Providers should explain to the student that their parent has requested that this topic not be discussed and that additional information about the topic cannot be provided. The student should be encouraged to discuss this topic with their parent(s) or guardian(s). Providers may not provide additional information on or give opinions about the topic.
- **Q.** Can authorized personnel conduct mental health services in front of other students?
  - **Requirement:** It depends on the circumstances. If the student receives mental health services as part of their IEP or Section 504 Plan, services can be provided in front of other students or individuals if the IEP or 504 plan requires such. If mental health services are NOT part of a student's IEP or Section 504 Plan, then services can only be provided individually, not in the presence of other students or individuals.
  - **Best Practice:** Mental health services should be outlined in the IEP or Section 504 Plan. When working with a student in a group setting or with other individuals present, remember to respect confidential information concerning the student or family. The services provided in front of other individuals and students should focus on conflict resolution strategies, practicing coping strategies in the larger setting, reinforcing positive behaviors, and/or observing the student for the purpose of conducting a mental health assessment or evaluation.
- **Q.** When providing mental health services, can properly licensed and authorized personnel provide a diagnosis?
  - **Requirement:** Properly licensed and authorized personnel can provide a diagnosis. If a diagnosis is provided from another agency or therapist, personnel can make a treatment plan from that diagnosis, if such is within the scope of practice for their applicable license and the LEA's policies. Personnel should refer to their school/LEA's policy on

providing a diagnosis in an educational setting to determine the best course of action.

- **Best Practice:** Students who are exhibiting mental health concerns and who have been referred to a mental health therapist, whether in the school setting or through community partners, should be assessed (with parent consent) to inform short-term therapy goals and treatment plans. A formal diagnosis may be needed to address intensive treatment needs and medication management.
- **Q. Who can ask a student about suicide?**
  - **Requirement:** For the purposes of referring the student to appropriate prevention services and informing the student's parents, any school employee, agent, or school resource officer who believes a student is at risk of attempting suicide, physical self-harm, or harming others may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others (Utah Code 53E-9-203(7)).
  - **Best Practice:** When possible, make the best effort to notify and get consent from the parent before conducting a suicide risk assessment.

## RELEASING CONFIDENTIAL INFORMATION IN EDUCATION RECORDS

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**Family Educational Rights and Privacy Act (FERPA):** [FERPA](#) is a federal law that applies to “educational agencies or institutions” that receive federal funds under programs administered by the United States (U.S.) Secretary of Education. Student health records created or maintained by a licensed medical professional employed by or acting on behalf of a school or district are part of the education record because they (1) contain information related to a student and (2) were created and are being maintained by a school employee or agent. This means the health records created by a school employee are subject to the same confidentiality protections.

### Basic FERPA Rule:

- Parents are entitled to access their students' education records until the student reaches the age of 18.
- Without parental consent, other individuals in very limited circumstances are entitled to access a student's education record. Examples include school officials with the need to know in order to carry out their job duties, and law enforcement officials in the case of a health or safety emergency.
- Educational Records are defined as records that are directly related to students and are maintained by the school or district.

\*Exclusion: "sole possession" records (notes kept in the sole possession of the maker, usually made as "memory aids" for the person who created the record.) If SBMH staff keep notes solely in their possession, to refresh their memory of their meetings with students, these would not be considered education records. If, however, SBMH staff share their notes with ANYONE, they must be made available to parents.

## RELEASING CONFIDENTIAL INFORMATION FAQ

- Q. Are my records as a mental health provider protected by FERPA?
  - Yes. "Many schools are not required to comply with the HIPAA Privacy Rule because the school maintains health information only in student health records that are "education records" under FERPA and, thus, not "protected health information" under HIPAA. Because student health information in education records is protected by FERPA, the HIPAA Privacy Rule excludes such information from its coverage" (Evidence-Based Practice in School Mental Health, 2019).
- Q. If I am contracted by the school to provide mental health services, are my records still considered a part of the educational record?
  - Yes, you are considered an agent of the school, which makes your records part of the educational record.
- Q. Where should I document my services provided to students?
  - Your school/district should have a secure platform where your records can be kept.

- Q. Can my records be subpoenaed in legal proceedings?
  - Yes, any records you keep can be subpoenaed in the event of legal proceedings. Any formal notes could be requested as well as any personal notes kept in a private notebook. FERPA requires that parents be notified when records are subpoenaed, and parents have the right to have information removed from the record if it is misleading or inaccurate.
- Q. Who should/can I share my records with?
  - You should ensure that you have authorization to release information signed by a parent/guardian before releasing any information to any outside entities. When considering sharing information with individuals within the school/district, you should consider whether the information is required for the individual to do their job. Provide only the minimum amount of information needed for them to support the student within the scope of their work. When considering what information to share with a parent/guardian, you should consider the privacy and confidentiality agreements you have made with the student and what information would be helpful for the parent to support their child. Parents/guardians have a right to access any information documented in their child's record.
- Q. Should my mental health records include a diagnosis?
  - If you are a licensed Mental Health Therapist (i.e. licensed by DOPL) and are authorized personnel to provide mental health services in the school setting, then you can provide a diagnosis, and you may include that in your clinical notes. You should refer to your school/district policy on providing a diagnosis in an educational setting to determine the best course of action.
  - If you are not a licensed Mental Health Professional or authorized personnel, you may only make a note of a previous diagnosis.
- Q. What should I include in my mental health records?
  - If you provide counseling services, your progress notes should be brief and related to aspects of the student's progress. You may include important issues or concerns related to the services being provided. You may consider using the SOAP method:

- Subjective - the student's perspective on the problem
- Objective - provider's observations and data obtained
- Assessment - providers analysis of the subjective and objective components
- Plan - including frequency of visits, recommendations, etc.
- Authorized personnel providing mental health services may consider including: Diagnosis(es) and/or documented history of diagnoses
  - Treatment modality/evidence-based intervention used
  - Progress or lack of progress
  - Treatment plan (as well as any modifications to the plan)
  - Clinical impressions
  - Relevant psychosocial information
  - Safety issues
  - Clinical emergencies/actions taken
  - Any known medications taken by the student
  - Consultations/collaborations with other professionals
  - Recommendations
  - Referrals made
  - Information about abuse/suspected abuse

## THE THERAPEUTIC RELATIONSHIP

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A therapeutic relationship is a professional, interpersonal alliance between a healthcare provider (such as a therapist, counselor, or doctor) and a client or patient. This relationship is characterized by trust, respect, and collaboration, with the primary goal of supporting the client's well-being and facilitating positive change. The therapeutic relationship is crucial for students because it fosters a safe and supportive environment where they can openly discuss their thoughts, feelings, and challenges. Here are a few key reasons why trust and confidentiality are so important in this context:

- **Building Trust:** Trust is the foundation of any therapeutic relationship. When students feel they can trust their therapist or counselor, they are more likely to share personal and sensitive information, which is essential for effective therapy.

- **Ensuring Confidentiality:** Confidentiality assures students that their disclosures will be kept private. This is vital for creating a safe space where they can express themselves without fear of judgment or repercussions.
- **Promoting Emotional Safety:** A strong therapeutic relationship provides emotional safety, allowing students to explore their feelings and experiences without feeling vulnerable or exposed.
- **Facilitating Growth and Healing:** When students trust their therapist and feel confident that their information is confidential, they are more likely to engage fully in the therapeutic process, leading to better outcomes in terms of personal growth and healing.
- **Encouraging Open Communication:** Trust and confidentiality encourage students to communicate openly, which is essential for identifying and addressing the root causes of their issues.

Overall, the therapeutic relationship is a cornerstone of effective therapy and helps students feel supported and understood as they navigate their personal challenges.

## **COLLABORATION WITH PARENTS**

Balancing the therapeutic relationship and respecting the student's confidentiality with the need to inform parents about a student's progress can be challenging, but it's essential for effective therapy. Some strategies that may help therapists better collaborate with parent(s) and guardian(s) include:

- At the beginning of therapy, therapists should clearly explain the limits of confidentiality to both the student and their parent(s)/guardian(s). This includes discussing what information the parent wants to be shared with them, as well as topics the parent would not like to be addressed in therapy. Also, discuss what can be shared and under what circumstances according to legal requirements. Make a plan for therapy goals and discuss what will be shared and under what circumstances.
- When communicating with parents/guardians, therapists can focus on general progress and topics discussed rather than specific details. This helps maintain confidentiality while keeping parents well informed.
- Therapists can offer educational sessions for parents/guardians to help them understand the therapeutic process and the importance of confidentiality. This can foster a supportive environment for the student at home and school.

- Therapists can schedule regular check-ins with the student and their parents/guardians to discuss progress. These meetings can be structured to ensure the student's privacy is maintained while providing parents with the information and updates they need to help support the student at home and school.
- Therapy progress notes should be documented in a safe, secure platform, and parents/guardians have access to these as part of their student's education records. Readily make them available during your regular check-ins or whenever a parent requests them.
- Keeping detailed records of what has been shared with parents will help ensure transparency and accountability.