

Section 400 – Personnel

Employee Health and Well-Being

Disclosure and Protection of Employee Health Information

File: 404.10

This Notice of Health Information Privacy Practices explains how the O'Neill Public School District (school district) will use and/or disclose Protected Health Information (PHI) of employees of the district in compliance with the Health Insurance Portability and Accountability Act (HIPAA).

The Federal Health Insurance Portability and Accountability Act (HIPAA) provides as one of its provisions that group health care plans sponsored by employers and all health care providers, including physicians, hospitals, labs, pharmacies, etc., must protect the confidentiality of what the law terms "protected health information" (PHI).

Protected Health Information (PHI) is information communicated by a covered entity orally, on paper, or by electronic means that individually identifies and relates to an individual employee's, dependent's, or retiree's past, present, or future medical condition, provision of medical care, enrollment, premium, physical or mental health status, or treatment and personal demographic information.

Covered entities must safeguard the PHI of individuals and may not release such information to any individual or agency, including the individual's spouse or other family members, without the written authority of the individual. The provisions of this act became effective on April 14, 2003.

The school district provides our employees with health insurance through the Educators Health Alliance (EHA), underwritten by Blue Cross Blue Shield of Nebraska. Because EHA is a fully insured program, EHA will not seek or maintain any PHI. The only information EHA will receive from Blue Cross Blue Shield of Nebraska will be summative information needed to manage the Plan, to determine appropriate levels of coverage and set premium rates.

Employers are not directly covered by the provisions of the act. However, employers are indirectly covered because it may become necessary, from time to time, for the school district to obtain health information related to the employment policies of the school district and to comply with state and federal law.

For the school district to obtain employment related, health information about an employee from a third party, the employee must provide written authorization for the school district to do so. The appropriate authorization forms are available from the school district.

Under what circumstance would the school district need health information?

1. Enrollment of employees in the BCBS health plan, vision care, dental, and other insurance plans.
2. Accounting for sick leave under the school district's sick leave policy.
3. Filing worker's compensation claims for employees injured on the job.

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4. Seeking medical certification for eligibility for short-term or long-term disability insurance.
5. Seeking certification for fitness to return to work after a medical leave of absence or a disability leave.
6. Medical information necessary for the school district to comply with the Americans with Disability Act.
7. Certification for eligibility of leave as provided for in the Pregnancy Discrimination Act.
8. Medical information necessitated by compliance with OSHA.
9. On other occasions to allow the employer to be assured that the employee is medically capable of performing all of the necessary duties required by the school district, including suspected drug or alcohol abuse.
10. For costing out negotiations proposals affecting coverage and single or marital status.
11. To comply with state and federal law.
12. Other employment related matters.

In order for the employee to be assured of the benefits to which he or she is entitled under the provisions of state or federal law and the policies and negotiated agreement of the school district, it will be necessary for the employee to comply with the request for information related to these business purposes; and failure to comply with that request, in a timely fashion as set forth in any written request, will result in forfeiture of the benefits at issue.

The school district will not use any health information to discriminate against an employee or his or her spouse or dependents and will confine the use of such information to the specific use for which it is intended. Further, the school district will not provide or share this information with any other individual or party, except for legitimate employment related matters and then only on a need-to-know basis or unless you provide written authorization to release of information to a third party.

All employment related health information will be maintained.

Misuse of Protected Health Information. The inappropriate access to or use of PHI is prohibited by federal law and is punishable by fines and in some instance incarceration. Any misuse of PHI by any employee of the school district in violation of federal law or the school district's employment policies jeopardizes the financial interest of the Association and may result in job sanctions, including termination of employment.

Sick Leave Forms. In order to protect personal health information of the employee, when reporting sick leave or medical/dental appointments, the employee should provide only the information requested on the form (i.e. doctors appointment) and should refrain from providing any specific medical symptoms unless specifically requested by the school district.

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Employment Forms. The school district will request personal information regarding insurance coverage, etc. upon initial employment and on those occasions when employment related health information changes, i.e. changing from single to married status.

Notification of Injury Under Workman's Compensation. A staff member injured on the job shall notify the school district verbally of any injury as soon as practicable but within the legal requirements of the insurance carrier. That policy and federal law authorizes the school district to disclose that information to the insurance carrier as part of any claim procedure without further authorization from you. The verbal notification is for the convenience of the staff members, but the school district may require the staff members to complete a written document relating the nature of the accident and injuries.

Specific Requests for PHI. Specific requests by an employee or by the school district for PHI, related to items set forth earlier in this policy, will be in writing and related to the purposes outlined in this policy. An employee will be provided with a copy of any form requesting PHI. The school district will maintain a copy as part of the employer's employment record.

All information acquired under the provisions of this policy will be maintained by the school district as part of the employee's employment record, and a reasonable effort will be made to protect its confidentiality and security.

Questions about this policy may be directed to the school district.

Rights Provided by HIPAA. Employees of the school district have the following rights regarding medical information the school district may obtain from or about employees:

- A. **Right to Inspect and Copy.** The employees have a right to inspect and copy medical information the school district maintains in the course of employment related activities, except any information compiled in anticipation of or for use in any civil, criminal, or administrative action or proceeding.
- B. **Right to Amend.** If an employee thinks that medical information about the employee is incorrect or incomplete, the employee may ask to amend the information. The request to amend the information must be in writing. The request must identify the specific information the employee wishes to amend and include information setting forth the reasons the employee believes the information is inaccurate. The request for amendment, along with the reasons provided, will be filed with related employment documents.
- C. **Restrictions or Confidential Communications.** The employees have a right to request restrictions and confidential communications concerning protected health information. Such restrictions or directives must be filed in writing and

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may not be retroactive in nature. Such restrictions may not be in conflict with necessary business practices or provisions of law.

- D. Right to Accounting of Disclosure. The school district has the right to disclose PHI information acquired in the course of employment with its management staff, legal counsel, insurance companies, etc., on a business need basis or in order to comply with law. The school district will not disclose any PHI that is part of an employment record under any other circumstances, including disclosure to other family members, unless the school district receives a written request on a form signed by the employee identifying what information the employee wishes disclosed and to whom. A copy of any request for disclosure will be maintained in the employment file and is subject to inspection by the employee. The school district is not required to maintain such records longer than six (6) years or to maintain any information about disclosures or disclosure request prior to April 14, 2003.
- E. Right to Revocation of Disclosure. If an employee authorizes disclosure of any information, either to the school district and/or to another party, the employee may revoke that authorization in writing at any time. Revocation of disclosure must be filed with the school district and will be maintained as part of the employment file. However, if the PHI is essential to secure employment benefits, revocation may result in denial of benefits.
- F. Complaint Alleging Violation. If an employee feels that his or her PHI has been used inappropriately or in violation of this policy, the employee may file a written complaint with the school district or with the US Department of Health and Human Services.
- G. Change of Notice of Health Information Privacy Practices. The school district has the right to amend this Notice at any time in the future consistent with law. Until such amendment is made, the school district will abide by the terms of this Notice.

Legal Reference: 1996 Health Insurance Portability and Accountability Act (HIPAA)
Family Educational Rights and Privacy Act (FERPA)

Cross Reference: 402.06 Employee Records
804.01 Computer Security
804.02 Data or Records Retention