

Answers to Category One Case Scenarios

Note: The answers to these case scenarios are based solely on federal law. Readers should also apply relevant state laws where appropriate.

Scenario 1: Juvenile Probation and Child Welfare Agency

Law(s) referenced in this answer: FERPA and state laws/regulations.

Seventeen year-old Tommy became involved in the child welfare system two years ago as a result of chronic truancy. His child welfare agency caseworker regularly requests and receives reports from Tommy's schools that include his attendance, grades, and any disciplinary actions. Recently, Tommy was adjudicated delinquent and assigned a probation officer. The probation officer contacts Tommy's child welfare agency caseworker and asks her to provide him with the reports she receives from Tommy's school.

Who has the information?

The child welfare agency caseworker.

Who wants the information?

The probation officer.

What specific information does the requester want?

The education records that the caseworker regularly receives from Tommy's school

What does the requester want to do with the information?

It is not clear from the scenario. Presumably the probation officer wants to track Tommy's progress to ensure that he is complying with his conditions of probation.

Which laws pertain?

FERPA and state laws/regulations that govern the confidentiality and release of child welfare case records. (Also, if Tommy is in special education, IDEIA would apply.)

What does the law permit?

It depends on: (1) how the caseworker obtained the school records in the first place, i.e., what FERPA provision was used, and (2) what the state laws/regulations say about a child welfare caseworker's ability to disclose information obtained from outside sources in the case file to persons outside of her agency.

FERPA generally states that a school may disclose education records only if the recipient agrees not to re-disclose the records without first obtaining parental consent; this

provision applies to many but not all of the provisions that allow schools to disclose without first obtaining parental consent. For example, if the school discloses the records pursuant to the USA exception, FERPA says the caseworker may only re-disclose the records to another individual or agency engaged in addressing the child's education needs if the child welfare agency authorizes such re-disclosure. In this scenario, we have no information that the probation officer is engaged in addressing the child's education needs, nor that the child welfare agency authorizes the caseworker to re-disclose the records to the probation officer. So FERPA dictates that the caseworker would not automatically be allowed to share the education records with probation if the caseworker received the information via the USA. By contrast, if the school discloses the records to the caseworker pursuant to a court order in the child's dependency case, then the FERPA prohibition on re-disclosure does not apply. In that situation, the caseworker would have to consult the state laws/regulations governing the disclosure of child welfare case records to determine if he/she can give the education records to Tommy's probation officer without first getting a court order or a signed parental consent.

Scenario 2: Juvenile Probation, Prosecutor's Office and School

Law(s) referenced in this answer: FERPA and the IDEIA.

Fifteen year-old James was taken into custody by a School Resource Officer for failing to follow school rules or policies and being "ungovernable," defined in the state's children's code as a violation of law. The SRO transported James to a Multi-Agency Resource Center where the staff completed an intake form. However, the intake failed to obtain any information about James' school attendance and James' past school disciplinary history. A petition was later filed in court alleging that James was ungovernable and James was given a date to appear in court. Prior to the court date, the prosecuting attorney's office and the probation office both contact the school to request James school attendance record and his past school disciplinary history; they also want to know what services and interventions the school has offered James in the past.

Who has the information?

The school.

Who wants the information?

The prosecuting attorney's office and the probation office.

What specific information does the requester want?

James' school attendance record, past school disciplinary history, and services and interventions the school has offered James in the past.

What does the requester want to do with the information?

It is not clear from the scenario. These offices may use the information obtained to prosecute James for being ungovernable as alleged in the petition. The offices may use the information to divert James from adjudication and into some type of alternative program.

Which laws pertain?

FERPA (and IDEIA if James is receiving special education services).

What does the law permit?

The school requires prior parental consent to release the educational record to the prosecutor and the probation office. The alternative to obtaining parental consent is for prosecutor/probation office to serve the school with a court order or subpoena. Upon receipt, the school must make a "reasonable effort" to notify the student's parent of the order or subpoena before complying.

One exception that *may* apply here is the state law juvenile justice exception. Under this exception, individual states may enact statutes that permit schools to release records to juvenile justice personnel in order to assist youth in the system prior to adjudication if the recipient of the records certifies in writing that he or she will not disclose the information to a third party without first obtaining parental consent. If such a law exists in this state, the school may release the education records to the prosecutor/probation offices. The recipients, in turn, will need to provide the school with written verification that they will not re-disclose the information without parental consent. It is important to note that educational records released under this exception can only be used to assist the youth; they cannot be used to prosecute the youth.

Scenario 3: School Resource Officer and School Counselor

Law(s) referenced in this answer: FERPA

A school resource officer (SRO), who is employed by the school district's police department, is concerned about a student. He has observed the student hanging out with known gang members and has seen him out after curfew a number of times.

The SRO asks the guidance counselor if she can share with him the student's attendance and disciplinary records, grades, home address, and phone number. He explains that he plans to go to the student's home and ask one or both of his parents to talk with him about how to help the student stay out of trouble.

Who has the information?

The guidance counselor.

Who wants the information?

The SRO.

What information does the requester want?

He wants the student's attendance and disciplinary records, grades, home address, and phone number.

What does the requester want to do with the information?

The SRO is planning to go to the student's home and try to talk to the student's parent(s) about how to prevent him from getting into trouble.

Which laws are relevant in this situation?

The school counselor's disclosure of information to the SRO is governed by FERPA.

What do the laws permit and what do they prohibit?

A student's home address and phone number are considered "directory information" under FERPA. According to the U.S. Department of Education, directory information includes, but is not limited to, the following data about a student:

- Name
- Address and telephone number
- Date and place of birth
- Participation in school activities and sports
- Dates of attendance
- Photograph

A school may release directory information without obtaining parental consent *if* the school has already notified parents about the specific types of directory information it may disclose *and* parents have the opportunity to notify the school in writing that they do not want information about their child disclosed.

By contrast, a student's attendance and disciplinary records and grades are not directory information and require parental authorization for disclosure. However, the following exceptions to the parental authorization requirement *may* apply in this situation:

- FERPA allows disclosure without parental consent to other school officials who have a legitimate educational interest in the records. The school must include in an annual notification to parents the specific criteria for determining who is a *school official* and what constitutes a *legitimate educational interest*. Additionally, if the SRO (and any other individuals) in this case example were to receive information under this exception, they would have to be informed that they cannot re-release the information except in accordance with FERPA.

- FERPA also allows disclosure without parental consent if required to comply with a court order or subpoena. If the school receives such an order or subpoena, it must make a “reasonable effort” to notify the parents about the court order/subpoena before releasing the records to law enforcement.

Scenario 4: Student Assistance Program and Children & Youth Caseworker

Law(s) referenced in this answer: 42 CFR Part 2.

Sally runs the Student Assistance Program (SAP) at a local area high school. She receives a phone call from a case worker at the local children & youth agency who informs her that one of her students, 15-year-old Jake, is on her caseload. The caseworker states that Jake informed her that he was receiving substance abuse treatment and counseling through the SAP. The caseworker wants to get information about Jake’s participation in the SAP – what kinds of treatment he’s receiving and how he’s doing – to present at Jake’s next court hearing.

Who has the information?

Sally, who runs the SAP at the school.

Who wants the information?

Children & Youth caseworker

What specific information does the requester want?

The Children & Youth caseworker requests treatment information and information about Jake’s progress in the SAP.

What does the requester want to do with the information?

The caseworker wants to provide the information to the Court at the next hearing.

Which laws pertain?

The Federal Drug & Alcohol (D&A) regulations at 42 CFR Part 2. Schools providing D&A prevention and treatment services are bound by the Federal D&A regulations. FERPA does not apply to the SAP counselor.

What does the law permit?

According to federal regulations, if the state law permits Jake to consent to his own substance abuse counseling, only he can consent to the SAP program releasing the requested information to the caseworker.

Federal D&A regulations require the following elements in an authorization to release records:

- Name/designation of persons authorized to disclose information
- Name/designation of persons or organization authorized to receive the information
- Patient's name
- Purpose of the disclosure
- Specifics as to what information is to be disclosed
- Patient's signature and the date
- Statement of individual's right/procedure to revoke authorization
- Expiration date or event

Alternatively, the SAP may disclose information upon receiving a court order accompanied by a subpoena. However, the court can issue the order only on a showing of good cause, weighing the public interest against the potential injury to the youth.

Scenario 5: Special Education Teacher, Children & Youth Caseworker, and Foster Parent

Law(s) referenced in this answer: FERPA and the IDEIA.

Ten year-old Linus recently entered the child welfare system. The local children & youth agency places Linus with a foster family. The children & youth case worker learned during his investigation that Linus has an IEP. The case worker and Linus's foster mother each contact the special education teacher at Linus's school to obtain a copy of Linus's IEP; they tell the teacher that they want to be included in all future meetings at the school regarding Linus. Later, the case worker and the foster mother both attend an IEP meeting for Linus. At the end of the meeting, the special education teacher asks the case worker and foster mother to sign the IEP on the line "parent/guardian".

Who has the information?

The special education teacher.

Who wants the information?

The children & youth caseworker and Linus's foster mother.

What specific information does the requester want?

The children & youth caseworker and Linus's foster mother wish to obtain a copy of Linus's IEP and to be included in future IEP meetings.

What does the requester want to do with the information?

The scenario doesn't specifically say, but presumably the caseworker and foster mother want the IEP, and to be included in IEP meetings, to ensure that Linus is receiving the instruction and educational supports he needs.

What laws pertain?

FERPA and the Individuals with Disabilities Education Improvement Act (IDEIA). The IDEIA confidentiality regulations incorporate FERPA but also contain some provisions that apply to only special education records.

Which does the law permit?

Under the Uninterrupted Scholars Act (USA) which amended FERPA, the children and youth caseworker has access to Linus' education record and IEP. Under the USA, the children and youth caseworker, who has the right to access a child's case plan under state law and whose agency has legal responsibility for the care of the youth, can access the child's educational records. The child welfare caseworker may then disclose the records to individuals/entities engaged in addressing the youth's education needs as long as the child welfare agency authorizes those individuals/entities to receive such records. Thus, the educational information could possibly be shared with the foster mother for purposes of addressing the youth's education needs without consent of the parent if the child welfare agency authorizes it. Alternatively, the court in the child welfare agency may issue an order authorizing the school to release records to the foster mother. FERPA allows schools to release records in response to a court order. Normally, FERPA requires the school to notify the parent before disclosing records pursuant to a court order. However, USA amended FERPA to specifically provide that if such an order is issued in a child welfare case to which the child's parent is a party, the school is not required to provide additional notice to the parent prior to releasing the records.

It is important to note that under IDEIA a "parent" – the education decision maker in the special education system – can be a biological or adoptive parent, a foster parent (if permitted under state law), a guardian generally or specially authorized to make education decisions for the child, someone with whom the child lives who acts as the parent, someone who is legally responsible for the child's welfare, or a surrogate parent. Therefore in this scenario, if the foster mother is permitted under state law to act as the education decision-maker, and the birth or adoptive parent is not attempting to act as the education decision-maker, the foster mother can act as the education decision maker. In that case, the school must release the IEP and other education records to her and invite her to IEP meetings. The foster mother as educational decision-maker can also sign the IEP.

If state law does NOT permit a foster parent to act as an IDEIA "parent," the juvenile court can appoint the foster parent as a "surrogate parent" for a child who is in the custody of a child welfare agency. The caseworker is not allowed to sign the IEP as the

parent because she is not the parent under IDEIA definitions. Note that a court cannot appoint either a public or private child welfare agency caseworker to act as a surrogate parent for IDEIA purposes.

Scenario 6: Child Welfare Agency and Prosecutor

Law(s) referenced in this answer: state laws.

Denise, age 13, is arrested for assault on her mother. At the intake interview, Denise claims self-defense and talks about past instances in which her mother has hurt her. In investigating the case and determining whether to file charges, the district attorney contacts the child welfare agency to ask if the agency has a pending or substantiated abuse or neglect case against the parent, and specifics concerning the allegations and the family's history. The district attorney asks a number of questions: is the child welfare agency investigating the same incident? Has the parent abused the youth in the past? Is the family receiving services? This information could impact the prosecuting agency's decision as to whether to file a petition against the youth, and also how to proceed if the case is filed (for example, whether to consent to an Adjourment Contemplating Dismissal).

Who has the information?

The child welfare agency.

Who wants the information?

The district attorney.

What specific information does the requester want?

The district attorney has the following questions: does the agency have a pending or substantiated abuse or neglect case against the parent? If yes, what are/were the allegations? What is history of the family involvement with the agency? Is the child welfare agency investigating the same incident for which Denise is current charged? Has the parent abused the youth in the past? Is the family receiving services?

What does the requester want to do with the information?

The district attorney wants to consider this information in deciding whether to file a petition against the youth, and also how to proceed if the case is filed (for example, whether to consent to an Adjourment Contemplating Dismissal).

What laws pertain?

State laws govern the confidentiality and release of records held by the child welfare agency. Federal laws don't tell us what to do in this situation.

What does the law permit?

We have to research that state's laws to find out that answer.

Scenario 7: Independent Living Provider and School

Law(s) referenced in this answer: FERPA .

Seventeen year-old Charmaine is in 11th grade and is living in an Independent Living (IL) arrangement; she was placed there by the dependency court. The IL provider case worker contacts Charmaine's high school guidance counselor with some questions about Charmaine's educational progress. Specifically, the IL worker wants to know the following information about Charmaine: why she was not promoted to 12th grade at the start of the school year; how many credits and what courses she needs to graduate; her new anticipated graduation date; her current course load; and her grades thus far in this school year.

Who has the information?

The high school guidance counselor.

Who wants the information?

The IL provider case worker.

What specific information does the requester want?

The IL worker wants to know the following information about Charmaine: why she was not promoted to 12th grade at the start of the school year; how many credits and what courses she needs to graduate; her new anticipated graduation date; her current course load; and her grades thus far in this school year.

What does the requester want to do with the information?

It's not clear from the scenario. Again, presumably the case worker wants the information in order to support Charmaine in her educational goals.

What laws pertain?

FERPA governs the disclosure of educational records by the school counselor.

What does the law permit?

The school counselor will need a signed release from Charmaine's parent, or a court order or subpoena, to release the requested information to the IL worker.

It is unclear if the Uninterrupted Scholars Act amendment to FERPA applies in this scenario. FERPA as amended by USA allows "an agency caseworker or other representative of a State or local child welfare agency...who has the right to access a student's case plan" and is "legally responsible for the care and protection of a child" to obtain the child's education records. Based on the plain language of the amendment, a

private provider may count an “other representative” of a child welfare agency. However, no federal guidance has been issued on this topic. Therefore, see your state’s guidance on how to interpret USA.¹

Alternatively, the court in Charmaine’s child welfare case may order disclosure of the education record to all parties listed in the court order. If the IL worker agency was listed in the court order, the school may disclose the education records to her without first notifying Charmaine’s parent.

Scenario 8: Multi-agency Meeting to Develop Re-Entry/Transition Plan

Law(s) referenced in this answer: FERPA and HIPAA.

Bill, a 15 year-old youth, is currently placed in a RTF because of a delinquency adjudication. At his last hearing, the RTF told the judge that Bill will be discharged in a month. Bill has an open child welfare case as he has been involved in the child welfare system since age 7. Bill’s child welfare case worker convenes a multi-agency team meeting to develop a re-entry/transition plan for Bill for his return to the community. In attendance at the meeting: the child welfare case worker; a representative of the RTF; a teacher and school counselor from the local high school that Bill was attending before his placement; an outpatient mental health counselor who treated Bill previously; and a juvenile probation officer. Everyone is confused about whether they are allowed to talk to one another and what information they can share.

Who has the information?

Every person at the meeting has information about Bill.

Who wants the information?

Child welfare caseworker and everyone else at the meeting.

What specific information does the requester want?

We don’t know for sure. Presumably the caseworker would like to collect information about Bill’s progress in the RTF, including mental health treatment and educational progress; his ongoing treatment needs; and what treatment and education options are available to him once he returns to the community.

¹For example, Florida issued a Joint Letter from their Departments of Education and Public Welfare, on April 9, 2013 that includes private providers as “other representatives” and defines “legally responsible.” Florida’s guidance explains, “DCF, acting individual or through a contracted Community Based Care agency (CBC), and an individual case worker of a child in the child welfare system are ‘legally responsible’ for any child for whom the dependency courts of this State have issued an order placing the child in shelter care pursuant to § 39.402, Florida Statutes, and/or adjudicated the child dependent pursuant to § 39.507, Florida Statutes.” Available at http://fostercareandeducation.org/portals/0/dmx/2013/08/file_20130802_094543_iXZSl_0.pdf.

What does the requester want to do with the information?

The caseworker would like to create a re-entry/transition plan to assist Bill's return to the community after discharge from the RTF; the plan will presumably identify an appropriate placement.

Which laws pertain?

Bill's education records from both the RTF school and local high school are subject to FERPA. Treatment information from the RTF and outpatient mental health provider would be subject to HIPAA. The probation officer's and child welfare caseworker's ability to share information from their respective case files is subject to state law.

What does the law permit?

The Uninterrupted Scholars Act (USA) which amended FERPA allows the child welfare worker to obtain Bill's educational records. Under FERPA as amended by the USA, the child welfare worker, who has the right to access a child's case plan under state law and whose agency has legal responsibility for the care of the youth, can access the child's educational records. The child welfare caseworker may then disclose the records to individuals/entities engaged in addressing the youth's education needs if the child welfare agency authorizes those individuals/entities to receive education records. As long as the disclosure to other members of the transition team is for addressing the youth's education needs, and the child welfare agency authorizes the other members of the transition team to receive such records, no consent will be required.

If the USA criteria described above is not met, in order for the Child Welfare caseworker to disclose the information to other members of the team, FERPA requires a signed consent from Bill's parent (or education surrogate). Under FERPA, written authorization to release education records must:

- Specify the records to be disclosed
- State the purpose of the disclosure
- Identify the party or class of parties to whom disclosure is to be made
- Be signed and dated by the parent or guardian

Without parental consent, school officials may release information contained in Bill's education records in response to a court order or subpoena. But before releasing such information, they must make a "reasonable effort" to notify the parent of the order or subpoena. It is important to note, however, that under the USA amendment to FERPA, a school can release education records to any party listed on a court order issued in a child welfare case, such as the child welfare agency or caseworker, caretaker, children's attorney, or court appointed special advocate. Under FERPA as recently amended, schools do not need to provide notice to parents prior to the release of records

pursuant to the court order exception when the parents are parties to the child welfare case and, therefore, already are on notice that the school records will be shared.

If state law permitted Bill to consent to his own mental health treatment both in the RTF and through the outpatient mental health provider, Bill may consent to the release of that information at the meeting by signing a consent form. However, if Bill did not consent to the mental health care, HIPAA requires the consent of Bill's parent/guardian or a court order in order for the information to be shared at the multi-agency teaming.

Scenario 9: Juvenile Probation Officer and Outpatient Mental Health Counselor

Law(s) referenced in this answer: HIPAA.

Sixteen-year-old Katy is before Judge Hicks on charges of aggravated assault. This juvenile has been in his courtroom a number of times on various charges, this being the most serious. Katy has pled guilty to the current charge and has been adjudicated delinquent. The probation officer is preparing a report for the court to aid in disposition, and the officer wishes to obtain information about Katy's diagnosis, treatment plan and overall progress in treatment to include in the report. He contacts Katy's outpatient mental health counselor.

Who has the information?

An outpatient mental health counselor.

Who wants the information?

The juvenile probation officer.

What specific information does the requester want?

The probation officer is preparing a report for the court to aid in disposition, and the officer wishes to obtain information about Katy's diagnosis, treatment plan and overall progress in treatment to include in the report.

What does the requester want to do with the information?

Prepare a report for the court to aid in disposition.

Which laws pertain?

HIPAA

What does the law permit?

The outpatient mental health therapist may release the requested information to the juvenile probation officer if she has a signed authorization. The counselor will need to consult state law to determine whether it is the parent or the student who must sign

the authorization. If state law allows the student to consent to receive mental health services from the counselor, it is the student who must sign the release. If state law requires parental consent before the student can receive the counseling, then the parent must sign the authorization to release information.

Under HIPAA, an authorization must contain the following eight elements:

- Specific description of PHI to be released
- Name/description of persons or class of persons authorized to disclose PHI
- Name/description of persons or class of persons authorized to receive PHI
- Expiration date or event
- Statement of individual's right/procedure to revoke authorization
- Statement that disclosed PHI may be subject to re-disclosure by recipient and not protected by HIPAA
- Signature of individual & date (or of the individual's personal representative with a description of that person's authority to act)
- Purpose of disclosure ("at request of individual" suffices)

Alternatively, the counselor can disclose information to the probation officer if served with a subpoena or court order. If served with just a subpoena, the counselor must inform the student of the subpoena. (Note: the counselor can only provide information contained in psychotherapy notes if the youth gives her written authorization.)

Scenario 10: Contracted School Mental Health Provider, Community Mental Health Provider, Teacher, Principal, and SAP Coordinator

Law(s) referenced in this answer: HIPAA, FERPA, and 42 CFR Part 2.

A middle school teacher refers her 14 year-old student, Marcus, to a mental health therapist with whom the school contracts. Marcus has been acting out in class lately and she wants to determine if he needs any supportive services. The contracted therapist conducts an assessment and refers Marcus to a community outpatient mental health provider for treatment. The teacher asks the therapist about the results of the assessment and what services the therapist recommends.

Fast forward to the following year: Marcus is now in high school where he is exhibiting aggressive behaviors and has come to school intoxicated on a few occasions. The high school principal contacts the middle school counselor who tells him that the contracted mental health therapist conducted an assessment and made referrals; the principal then calls the therapist to ask for the results of the assessment and what treatment plan was implemented. In the meantime, the principal refers Marcus to the school's Student Assistance Program (SAP) for substance abuse counseling, and to the same community

mental health agency to which the middle school referred Marcus last year. The principal tells the SAP coordinator to keep him posted on Marcus's progress. The SAP coordinator contacts the community mental health agency to find out if Marcus did any therapy there last year.

Who has the information?

The mental health therapist with whom the middle school contracts, the community mental health agency, and the SAP coordinator.

Who wants the information?

The middle school teacher seeks information from the school mental health therapist; the high school principal seeks information from the middle school mental health therapist and the high school SAP coordinator; and the SAP coordinator seeks information from the community mental health agency to share with the high school principal.

What specific information does the requester want?

The middle school teacher asks the middle school therapist about the results of Marcus's assessment and what services the therapist recommends. The high school principal asks the middle school therapist for the results of the assessment and what treatment plan was implemented. The high school principal asks the SAP coordinator to keep him posted on the student's progress. The SAP coordinator contacts the community mental health agency, on the high school principal's behalf, to find out if Marcus did any therapy with the agency.

What does the requester want to do with the information?

The middle school teacher wants to know what support should be provided to Marcus. The scenario doesn't tell us what the high school principal wishes to do with the information, but presumably it's for the same purpose – to figure out what supports need to be put into place for Marcus.

Which laws pertain?

Multiple federal laws are at play here!!

The ability of a school-based mental health counselor ability to disclose information may be governed by either FERPA or HIPAA. If the counselor is a school employee, her ability to share information is governed by FERPA. If she is employed by a health care provider outside the school, it's likely that he or she has to follow the HIPAA confidentiality rules. **HIPAA and FERPA cannot apply to the same records; it has to be one or the other.** So the answer to this question depends on who employs the mental health counselor. In this case, the school is contracting with the mental health counselor, so she would likely be considered a school official who is governed by FERPA.

The SAP coordinator's disclosure of student information is governed by the federal drug & alcohol regulations.

The community mental health agency is governed by HIPAA.

What does the law permit?

FERPA requires that a parent consent to the release of all education records to third-parties. But there is a FERPA exception to obtaining parental consent that *may* apply here to allow the mental health therapist to release information to the middle school teacher and the high school principal. But we do not have enough information to know. First, FERPA allows school officials to disclose information in the education record to other "school officials/teachers" within the school who have a "legitimate educational interest" in that information. If the school has a policy of allowing such release, the school must include, in its annual written notification to parents, the specific criteria for determining who is a school official and what constitutes a legitimate educational interest. Employees of organizations with whom the school contracts to provide services may be considered "school officials." A school official has a "legitimate educational interest" in the information when he or she needs the information to do his/her job. But any disclosure made under this exception must satisfy the criteria included in the school's annual written notification to parents. Also, individuals who receive information under this exception must be made aware that they cannot rerelease the information except in accordance with FERPA. BUT NOTE: any notes made by a school professional, such as a mental health therapist, that the professional does not share with others may not be released with the educational record, even to the parent.

According to federal drug & alcohol regulations, if the state law permits Marcus to consent to his own substance abuse counseling, only he can consent to the SAP program releasing the requested information to the high school principal.

As per HIPAA, the community mental health agency can release information to the SAP coordinator or high school principal if the agency has a signed authorization. The counselor will need to consult state law to determine whether it is the parent or the student who must sign the authorization. If state law allows the student to consent to receive mental health services from the agency, it is the student who must sign the release. If state law requires parental consent before the student can receive the counseling, then the parent must sign the authorization to release information.