

Health Insurance Portability and Accountability Act (HIPAA) Genetic Information Nondiscrimination Act (GINA)

The Health Insurance Portability and Accountability Act (HIPAA) and the Genetic Information Nondiscrimination Act (GINA) mandate protecting the privacy of an individual's or the employee's family member(s) personally identifiable health information. This means that employees who go on family or medical leave or request an accommodation due to a medical condition are protected by HIPAA and GINA confidentiality rules to prevent the nature of their or their families' medical condition from being disclosed.

What do I do if an employee discloses the need for time away from work for more than three (3) days due his/her or a family member's medical condition?

For employees who need time off work for medical reasons (including leave for the birth of a baby), you should require that they complete the FMLA Leave Notice on their Employee Access and contact **Penny Peart** in Human Resources at (801) 567-8249. **Do not ask the employee to disclose the reason for the medical leave.**

It is unlawful to convey e-mails, announcements at staff meetings, and other methods of communication indicating the employee is on "medical leave" as well as the specifics of employees' (or their families') medical conditions. If it is necessary for business purposes to communicate that an employee is or will be off work, you can indicate that they are "on leave," but do **not** disclose he/she is on "medical leave".

What do I do if I am made aware of the nature of the medical condition of an employee or his/her family member?

If the employee gives you medical information voluntarily, this information should be kept strictly confidential. In correspondence or performance evaluations, there should be no reference to an employee's or family members' medical leave and/or medical issues. As indicated above, you can reference a "leave" if necessary for business purposes, but not "medical leave." **When documenting performance concerns/issues, avoid referring to a medical condition/leave or physical limitations.**

As a supervisor, can I ask an employee for a note from a doctor certifying the use of sick leave (unrelated to FMLA leave)?

Under no circumstances should you request or accept medical information regarding the employee or the employee’s family member(s). If you request a note signed by a doctor, the note should contain only the following information:

- Dates the employee is/was unable to work
- Date the employee is released to return to work
- Physical limitations/work restrictions and duration of restrictions (***must be submitted to Human Resources for review***)

Human Resources will make medical inquiries to support requests for leave under the Family Medical Leave Act (FMLA), Sick Bank and requests for reasonable accommodations under the Americans with Disabilities Act (ADA). HR maintains medical records in a file separate from employee personnel files, and shares medical information strictly on a need-to-know basis according to federal regulations.

Medical documents in response to a request by Human Resources should be forwarded directly to Human Resources to be placed in a confidential medical file and not kept within the school/department. Any documentation retained at the school/department must be kept in a confidential file (e.g., physical limitations to performing the job, doctor’s note releasing the employee to return to work, etc.).

The District prides itself on respecting and maintaining the privacy of employee medical information. While it is understood that administrators have the best interest of their employees in mind, it is important to balance good intentions with confidentiality and discretion when handling medical issues.

What do I do if I am made aware of health information regarding a student?

Questions regarding protection of student health information should be referred to the appropriate administrator.

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