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**Response to Request for Comments for Proposed Changes to the
Family and Educational Rights and Privacy Act (FERPA)**

The American Immunization Registry Association (AIRA) is a membership organization that promotes the development and implementation of immunization information systems (IIS), also known as immunization registries, as an important tool in preventing and controlling vaccine preventable diseases. The organization provides a forum through which IIS programs, interested organizations and individuals and communities combine efforts, share knowledge and promote activities to advance IIS and immunization programs. The State, Local, and Regional IIS programs are broadly represented in AIRA's membership.

By collecting or receiving identifiable health or other information, public health can report on disease, injury, and vital events such as birth or death. Collecting and receiving this information also helps them conduct public health surveillance, public health investigations, and public health interventions. The results of such activities are that public health can better prevent or control disease, injury, or disability. To achieve some of these public health purposes, public health is interested in fostering better exchange of immunization information between schools and population-based immunization information systems (IIS).

As such, AIRA wishes to take this opportunity for public comment on the proposed rule changes to the Family Educational Rights and Privacy Act (FERPA). Immunization information from schools will help public health entities prevent over-immunization, reduce immunization costs, ease the burden on families and physicians verifying student immunization status for school entry, assuring a more complete and accurate immunization record, and assuring children are free of disease and able to attend school. Therefore, AIRA makes the following recommendations:

1. Statute: 20 U.S.C. 1232g(b)(1)(A), Section 99.31(a)(1) [pp. 15580-15581]

Comment: Student immunization records are a legal requirement in each state for a student to attend a public school. These requirements are typically part of public health laws and regulations rather than education laws. FERPA currently includes the student's immunization record as part of his or her education record. However, a student's immunization status serves no educational purpose, only the legal purpose for allowing entry to a school. To meet this legal requirement, schools often receive

information on a student's immunization status from health care providers or parents. This information is not always added to the State, Local, or Regional immunization information system (IIS). Under current FERPA regulations, schools are not permitted to update a jurisdiction's IIS with this additional and potentially more up-to-date immunization information without individual consent. Such consent may be parental or from a child over 18 years of age. This restriction may result in over-immunization of students, increased administrative burdens, increased difficulty enrolling children into school, and the inability of public health to prevent vaccine-preventable diseases.

Recommendation: *Remove immunization record from education record.* AIRA recommends that immunization data not be considered part of the education record. By removing the immunization record from the education record, immunization information would not be subject to FERPA regulations. Immunization information is any information that a provider or clinician would need to make a decision on immunizations a child may be due for, including, in addition to the immunization itself, exemption claims, blood test results, contraindications, precautions and disease history. Sufficient demographic and personal identifiers to allow for a match with the immunization registry record would also need to be included.

Justification: By removing the immunization record from the education record and subjecting the immunization record to State, Local, or Regional rather than FERPA regulations, schools will be allowed to update their jurisdiction's IIS with immunization data collected for student entry to school. Doing so reduces the administrative burden, cost, and ineffectiveness of the current means of sharing the immunization information between the schools and the immunization information system. The resulting more up-to-date and complete IIS data will also allow public health entities easier assessment of geographical areas. Such assessments will help public health identify immunization coverage rates and pockets of need as well as at risk populations in emergency preparedness activities or in response to a public health threat or disease outbreak arising within a school or community.

2. Statute 20 USC 1232g(b)(1)(I), Section 99.36(a and c) [pp. 15588-15589].

Comment: Because immunizations are a requirement for school entry, a school's immunization information on a child may be more complete than that of the State, Regional, or Local IIS. A contributing factor to this issue is that healthcare providers may immunize a child, but fail to report it to the IIS. As a result, the IIS may notify a healthcare provider that a student requires an immunization that the student has already received. This situation may result in the student being over-immunized. Although this does not pose a hazard to the child, it may result in significant costs to parents and insurers, particularly with newer vaccines that may cost more than \$100 U.S. per dose.

Recommendation: *Subject routine immunization data collection and sharing to State, Local, and Regional public health laws and regulations, not FERPA.*

Collection and sharing of data related to routine immunizations should not be federally protected under FERPA, but should instead be subject to the data sharing rules of the individual jurisdictions. State, Local, and Regional rules regulate the disclosure of information (data sharing). In addition, HIPAA privacy rules allow covered entities to disclose identifiable health data without written authorization to public health authorities.

Justification: By subjecting schools to State, Local, and Regional regulations on collecting and sharing information on routine immunizations rather than to FERPA regulations, schools can share such data with appropriate public health entities such as a jurisdiction's IIS. The benefit is that public health will have the valuable information it requires to reduce the incidence and expense of over-immunization, as well as identify children who have not been immunized for medical or religious reasons, in the event a vaccine-preventable disease outbreak occurs.

3. Statute 20 USC 1232g(b)(1)(I), Section 99.36 (a and c) [pp. 15588-15589].

Comment: An essential role of public health is surveillance and prevention of disease. Unfortunately, FERPA restricts schools from sharing student immunization data with public health immunization information systems (IIS), creating a barrier to public health fulfilling its statutory role. Currently, FERPA allows schools to share immunization data with a State IIS in response to an emergency—not in advance as an emergency preparedness activity. As a result, when an emergency event such as Hurricane Katrina occurs, public health entities, providers, and students' families find it far more difficult or impossible to construct complete immunization records for the children. Students affected by an emergency are therefore more likely to receive unnecessary, duplicate, and costly immunizations and may experience delays in admittance to schools until they have proof of the immunizations required for school entry.

Recommendation: *Enable ongoing immunization data sharing from school to IIS as an emergency preparedness activity.* FERPA should not inhibit public health from carrying out its statutory responsibilities. Specifically, FERPA should allow schools ongoing sharing of immunization-related information with a public health IIS as an emergency preparedness activity.

Justification: By enabling schools to update State, Regional or Local IIS in advance of an emergency, public health can maintain updated immunization information. Such updated immunization information allows public health to minimize the risk and expense of over-immunization. This updated information also eases the burden of proving immunization status on displaced families enrolling their children in schools.