

Effective Date: 8/6/20	400-20 Protecting Staff Health Status and Health Information Policy
Revision Date:	Approved by: DPISA Board

I. Purpose.

The Duluth Public Schools Academy, Charter School District 4020-07 has adopted this policy in order to clarify how it will handle protected health information (“PHI”) concerning its employees. DPISA is committed to protecting the privacy and confidentiality of its employees’ PHI. Employee PHI will only be requested, collected, stored, and disseminated as needed and in accordance with state and federal law. Moreover, all DPISA employees whose job duties include accessing PHI must ensure that said access and use is done as privately and confidential as possible.

II. PHI Defined.

PHI refers to individually identifiable health information received by DPISA’s group health plan(s) or received by a health care provider, health plan, or health care clearinghouse that relates to past, present, or future health of an individual or to payment of health care claims. PHI includes, but is not limited to: physical or mental health conditions, health status, claims experience, medical histories, physical examinations, genetic information, and evidence of disability. Additionally, PHI includes many common identifiers that are included in medical documentation (e.g. name, address, birth date, and Social Security number).

III. Rules Governing Use or Transmission of PHI.

Generally, DPISA receives employee PHI in connection with group health plan(s) administration. As part of this plan administration, DPISA typically: performs plan enrollment; assists employees with changes in enrollment and payroll deductions; provides employees assistance with claims issues / resolutions as well as explanation of benefits issues; and assists employees with coordinating benefits with insurance providers. Generally, this plan administration and assistance occurs on an annual basis, but sometimes must be performed more frequently (i.e. on an intermittent basis).

All DPISA employees who receive or have access to PHI as part of their duties must ensure that the privacy and confidentiality of employees’ PHI is preserved to the greatest extent possible. At all times, DPISA employees must safeguard PHI information and take all necessary steps to ensure that only the minimum amount of PHI is received or transmitted. Moreover, only those DPISA employees that need to know or access PHI for performance of their duties are permitted to access DPISA employee PHI. Anyone who does not have a need to know shall not be permitted to access or receive PHI.

In addition to the foregoing, all disclosures and use of PHI must be in compliance with all state and federal law. Any disclosure or use of PHI that is inconsistent with state and/or federal law is strictly prohibited. Any DPSA employee that fails to properly handle and/or safeguard PHI may be subject to discipline, up to and including discharge. Any DPSA employee that has questions or concerns regarding the handling or disclosure of PHI is encouraged to reach out to their supervisor and/or the Head of Schools or her/his designee so that the matter can be addressed properly.

The following is an overview of types of disclosures of PHI that are generally permitted under state and federal law:

- **To the Individual** – DPSA may disclose PHI to the individual who is the subject of the information.
- **Treatment, Payment, Health Care Operations** – DPSA may use and disclose PHI for its own treatment, payment, and health care operations activities. It also may disclose PHI for the treatment activities of any health care provider, the payment activities of another covered entity and of any health care provider, or the health care operations of another covered entity involving either quality or competency assurance activities or fraud and abuse detection and compliance activities, if both covered entities have or had a relationship with the individual and the protected health information pertains to the relationship.
- **Uses and Disclosures with Opportunity to Agree or Object** – informal permission may be obtained by asking the employee outright, or by circumstances that clearly give the employee the opportunity to agree, acquiesce, or object. Where the employee is incapacitated, in an emergency situation, or not available, DPSA generally may make such uses and disclosures, if in the exercise of its professional judgment, the use or disclosure is determined to be in the best interests of the employee. Only the Head of Schools or her designee is authorized to make PHI disclosures under this paragraph.
- **Informal Authorization from Employee** – DPSA also may rely on an employee's informal permission to disclose to the employee's family, relatives, or friends, or to other persons whom the employee identifies, PHI directly relevant to that person's involvement in the employee's care or payment for care.
- **Public Interest and Benefit Activities** – DPSA may also disclose PHI, without the employee's authorization or permission, in situations that are classified national priority purposes, including: as required by law, for public health activities, for health oversight activities, for judicial and administrative proceedings, for law enforcement purposes, to decedents, for cadaveric organ, eye, or tissue donation, for research

purposes, to address serious threats to health and safety, and to aid essential government functions. Only the Head of Schools or her designee is authorized to make PHI disclosures under this paragraph.

Additionally, it is critical to note that information external to DPSA's health plan is not considered PHI if the information is being furnished for claims processing purposes involving workers' compensation or short or long term disability and medical information received to verify Americans with Disabilities Act ("ADA") or Family and Medical Leave Act ("FMLA") status.

IV. Retention of Records Concerning PHI.

All records relating to or containing PHI shall be retained by DPSA for a period of six (6) years (as required by federal law), unless a longer period of retention is required by state law. Records that have been retained for the full period required by law shall be destroyed in a manner that ensures that the PHI cannot be compromised in the future.

V. COVID-19 Procedures.

DPSA is committed to providing a safe and healthy workplace for all its employees. To ensure that, DPSA has developed the following procedures in response to the COVID-19 pandemic. All employees are responsible for understanding and complying with all aspects of these procedures. DPSA cares deeply for all members of its community.

The COVID-19 pandemic is a fluid situation and circumstances can change quickly. As such, these procedures will change as needed. DPSA will provide updates when changes are made. These procedures are heavily informed by guidance from the Centers for Disease Control and Prevention ("CDC"), the Minnesota Department of Health ("MDH"), and follows guidance from the Governor of Minnesota (the "Governor:"). In the event that any of the procedures described in this policy come into conflict with guidance from the CDC, MDH, or the Governor and/or state or federal law then those other authorities control. DPSA is committed to following the applicable state and federal guidelines to ensure the health and safety of everyone in the DPSA community.

Any employee experiencing symptoms of coronavirus should follow CDC and MDH guidelines on staying home and returning to work.

The following steps should be taken when reporting confirmed positive COVID-19 illness while at home:

- **Employee Steps** – (1) notify the designated administrator of illness and the need to stay home, (2) do not come to work, (3) follow a

primary health provider's guidance, (4) contact human resources about a possible FMLA leave, (5) provide any requested information to the MDH for contact tracing, and (6) provide a return to work statement from a primary care provider to human resources before returning to work.

- **Administrator Steps** – notify the Head of Schools or her designee that an employee is out ill. Remember that PHI is confidential and should not be shared without employee approval. Notifications to others within the DPSA community should be vague so as to avoid disclosing PHI.
- The Head of Schools or her designee will be notified by MDH of positive results and will arrange for the affected employee's area to be thoroughly cleaned.

The following steps should be taken when reporting suspected or confirmed COVID-19 illness while at work:

- **Employee Steps** – (1) wear a face covering, (2) inform designated administrator, (3) call a primary care provider to review symptoms, (4) make preparations to leave work immediately (if immediate departure is not possible, stay isolated in an office or the closest space for isolation until able to leave campus), (5) keep designated administrator informed about the need to be out and expected return, (6) contact human resources about a possible FMLA leave, (7) provide any requested information to the MDH for contact tracing, and (8) provide a return to work statement from a primary care provider to human resources before returning to work.
- **Designated Steps** – (1) ensure the employee is wearing a face covering, (2) ensure that the employee leaves campus as soon as possible, and (3) notify the Head of Schools or her designee that an employee is out ill. Remember that PHI is confidential and should not be shared without employee approval. Notifications to others within the DPSA community should be vague so as to avoid disclosing PHI.
- The Head of Schools or her designee will be notified by MDH of positive results and will arrange for the affected employee's area to be thoroughly cleaned.

Further, employees should be aware that supervisors, the Head of Schools, human resources personnel, and the School Nurse may be made aware of their COVID-19 diagnosis / status. Said DPSA personnel shall take all necessary steps to protect the privacy and confidentiality of the employee's COVID-19 related PHI. Depending on the circumstances, it may be necessary for DPSA to contact other employees about potential COVID-19 exposure. In such circumstances, the employee's identity will not be shared with co-workers if the employee states they would like that information to remain confidential.

Any PHI concerning an employee's COVID-19 diagnosis / status and/or disclosed health conditions will not be placed into the employee's personnel file. If an employee has disclosed a health condition that puts them at a higher risk for coronavirus, only their supervisor, Head of Schools, and human resources will be made aware of this information. This information shall not be used adversely.