ADDRESSING CONFIDENTIALITY WHILE SUPPORTING THE SOCIAL-EMOTIONAL-BEHAVIORAL NEEDS OF STUDENTS WITHIN SCHOOLS

KELLY PERALES, LUCILLE EBER, CAT RAULERSON, & LAURA KERN

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Authors   Kelly Perales   Cat Raulerson
              Lucille Eber   Laura Kern

Purpose

The issue of confidentiality is often cited as a concern and, therefore, a barrier to clinicians and educators working together to better support students' mental health. This guide provides recommendations and strategies for addressing confidentiality as teams support students' social-emotional-behavioral (SEB) needs through an interconnected system within schools. In addition, district and community leaders can use the recommendations and strategies in this guide to facilitate discussion and decision making to ensure confidentiality issues do not become barriers to building a single system of SEB support for all students.

Introduction and Context

Over the past decade, district and community leaders have been collaborating in a deliberate effort to improve the mental health of all students by aligning and integrating the effective delivery of SEB interventions. The Interconnected Systems Framework (ISF) establishes a single system of service delivery for students through the intentional integration of mental health and community resources into the multi-tiered Positive Behavior Interventions and Supports (PBIS) framework in schools (Eber et al., 2020). The ISF is an expansion of the evidence-based multi-tiered system of support known as PBIS. Within the ISF, school and community mental health providers work closely with school leaders, teachers, and families through one set of integrated teams. These teams use the core features of a multi-tiered system of support (MTSS*): sharing school and community data; making decisions and problem-solving together; and selecting, implementing, and monitoring the progress of one continuum of evidence-based interventions. As the ISF work begins, the topic of confidentiality is frequently brought up as a potential challenge to educators and clinicians working together through a single system of SEB support. As systems are aligned, leaders and teams at the district and school level are encouraged to deliberately focus on eliminating perceived barriers, including confidentiality, as they create authentic partnerships that best support student success.

Historically, when students are identified as having a mental health need, they may connect with a school-employed clinician (e.g., counselor, social worker) or a community-based mental health professional working within the school or in the community. In either case, clinicians intervening with students typically follow their own organizational policies, professional codes of ethics, and laws governing protected health information regarding confidentiality. These policies may differ between education and community mental health agencies. For example, community mental health agencies typically require that parents sign consents and/or releases for any information to be shared with teachers or other staff at school if personally identifiable information is shared. Similarly,

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* Please note throughout this brief, the terms MTSS, PBIS, and ISF are used interchangeably.

if a community provider wants information about school progress for a specific student, schools often ask parents to give additional written permission. The consent might include what records are being shared, the purpose for sharing, and with whom the records are being shared. Again, it should be noted that information might be shared during meetings that does not contain identifiable information and does not require consent.

This guide describes how to address confidentiality issues while respecting the privacy of students and their families through teaming functions and structures, clear data sharing routines and procedures, and a commitment to authentic family engagement (see Weist et al., 2017). Applying the features of MTSS frameworks can ensure all voices are included, thus creating clarity and trust among professionals, families, and students to make certain that school and community partners have confidence that the privacy of student data is protected as they move forward to interconnect all SEB efforts through one system of support. Please note that examples offered in this guide are commonly observed in implementation and are not all encompassing of those that may exist in current systems. *This technical assistance guide is not intended to provide comprehensive legal guidance. District and community leaders should consult with their organization's legal resources for deciding on legal actions and procedures.*

Understanding Confidentiality

Confidentiality is keeping private information shared by students and families within the bounds of a professional relationship private. This includes records, verbally shared information, and personal sensitive data. Information that should be kept confidential is defined by several laws, and ethically by professional organizations such as the National Association of Social Workers, the National Association of School Psychologists, and the American School Counselor's Association. To better understand confidentiality and how it works within an interconnected system, an overview of concerns with confidentiality, relevant laws & polices, and teaming structures within an ISF are provided below. As mentioned previously, this is not meant to be all encompassing, rather a summary to guide leaders, along with their legal support to develop a comprehensive plan.

Concerns with Confidentiality

Although the goal of confidentiality is to protect the sharing of information for the individual, this can often create challenges for school teams, especially when working with community providers. When local regions or districts provide guidance around the confidentiality of student data privacy, a common misperception is that no communication, collaboration, or data sharing can occur without consent and/or releases. Moreover, even with a release, educators who might also be

clinicians (e.g., social workers, psychologists) might feel they can't share certain information, or they may limit communication to a minimum of one or two other professionals (i.e., administrators, counselors) and not with the team. This might weaken the effectiveness of SEB support as not all adults who interact with the student will be informed of and able to help support the intervention. For example, a clinician may think they cannot discuss the specific coping skills they are practicing with an individual student because they believe that anything that happens in their defined interactions with the student is confidential. This is problematic as it might prevent the transference and generalization of the skills outside of the clinical setting as the teacher would be unaware of specific skills to prompt and how to reinforce the student's use of the new skills within the classroom. Also, confusion over what may be shared without consent hinders communication, potentially limiting teachers' willingness to request assistance in the future. For example, if clinicians do not communicate what will happen next after a teacher makes a request for assistance with concerns for a student like depression and anxiety, those teachers may feel that their concerns are not valued or addressed. Finally, a clinician might not know what to do if they feel they need to choose between following an agency policy versus a school policy on confidentiality.

General Overview of Laws and Policies

The educational system and mental health system are bound by laws and policies that address confidentiality and privacy. Team members might be part of different professional or clinical roles impacted by different laws.

Respectful conversations between team members will help to identify when there might be a conflict between laws and the best way to proceed. Some of the relevant laws include

- Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g; 34 CFR Part 99): addresses student educational records, including health records that are maintained by the school. Under FERPA, records that are shared with school officials with legitimate educational interests might be exempt from restrictions for confidentiality (Section 99.31(a)(1)). FERPA also contains additional rules when information can be shared when the school outsources institutional services or functions, for health and safety emergency disclosures, for directory information, for personal observations (e.g., that a student is coming to school late, appears tired, is not completing assignments) that any staff member can observe, and for compliance with judicial order or subpoena.

- Health Insurance Portability and Accountability Act (HIPAA, 1996, Pub. L. No. 104-191), applies to health care professionals and addresses individuals' protected health information.

- Individual with Disabilities Education Act (20 U.S.C. § 1400 (2004)) protects students from disclosing a student's disability or information about students.

- Protection of Pupil Rights Amendment (20 U.S.C. § 1232h) parents have the right to provide consent for surveys that address areas such as religion or income and receive notice with a chance to opt out if a survey covers certain protected information.

- States/districts/schools might have developed their own local policy guidance and/or legislation that should be examined.

- Ethical standards of practice for clinicians.

Understanding Different Types of Teams in Schools

In schools, the sharing of confidential and private information might occur in various settings and clarity is needed about what and how information is shared across tiers of support. Within a multi-tiered system of SEB support, teams meet routinely to discuss how students' needs might be addressed. Meetings typically occur at various levels (tier 1, 2, or 3) and for different purposes (systems level planning or student-specific intervention). These teams often include both general and special education teachers; school administrators; school psychologists; school social workers; school counselors; physical, speech and occupational therapists; family members; community partners, and youth. Team members might not know what information they can share in these meetings. A distinction between systems level teams and student-specific intervention teams is important when considering confidentiality policies. For example, where student-specific support plans are being discussed, schools should be mindful of who is attending the meetings and what is shared. Below are some general guidelines about the different types of school-based teams and different types of conversations within an interconnected system of SEB support. See the Appendix for additional detail about understanding confidentiality within different types of teams.

SYSTEM LEVEL PLANNING TEAMS

System level teams focus their agenda and conversations on general information regarding the supports provided at tier 1, 2, or 3. For example,

a systems level team might discuss the overall effectiveness of the tier (e.g., how many students are actively participating in Tier 2 interventions and how many are responding well) rather than discuss how specific students are doing in the small group intervention. Assessing progress on student outcomes and fidelity of interventions allows these teams to use data informed decisions for designing improvements, or fading supports. Additionally, global and/or publicly available information for a school (e.g., number of suspensions in a year, school climate data) that does not personally identify a student (e.g., their name, address, personal identifying number etc.) might not be confidential and can be shared. Because some teams include family representatives, students, community partners, and volunteers who are not officially part of the school system (e.g., not school officials), care should be taken to ensure that personal and confidential information on individual students is not disclosed to these individuals without consent. For example, in smaller school systems, with limited staff and resources, the same team members may discuss system effectiveness at each tier in one meeting. The team will want to be clear about which items on their agenda are reviewing data in aggregate and if there will be a need to excuse any team members for a portion of the meeting where confidential information will be discussed.

SEB SUPPORT TEAMS

SEB support teams (also known as problem-solving teams) comprised of selected members of the systems planning teams (e.g., school psychologists, behavior

specialists, school and/or community social workers, teachers, coaches), design simple interventions for students who may not be making progress from small group interventions that have been implemented with fidelity for a pre-determined amount of time. Typically, these teams focus on one student at a time (20-30 minutes per student) as a simple individualized support plan is designed. That student's teacher(s), parent(s) or caregiver(s), and community partners who are currently supporting the student would actively participate in the meeting, as well as the student when appropriate. For example, a student who has been part of a coping skills group for eight weeks where emotional regulation strategies are being taught is still visiting the nurse's office frequently to escape instruction. The SEB support team would meet with the student's teachers, family members, and other partners to review data, discuss the function of the behavior, and create an intervention plan to provide an additional layer of support for the student. It is likely that parental consent or consent of a student over the age of 18 will be needed as identified information is often shared.

STUDENT INTERVENTION TEAMS

Each student who is in need of Tier 3 support has their own uniquely constructed team based on their strengths and needs. This is different than the Tier 3 systems planning team that addresses the overall functioning of Tier 3 (i.e., the school team that monitors whether interventions are being provided with adequate fidelity and in a timely manner to the appropriate number of students). It is also different than the SEB Support Team, in that team membership is made up of people who are only focused on one student who needs an individual plan. In other words, general members, such as professionals who do not work with the student, would not be present. When these individualized student intervention teams meet to design specific supports for one student, it is likely that identified information will be shared. With these meetings, schools often will need to obtain parental consent (i.e., permission) or consent of a student over the age of 18. Along with this consent, schools may provide parents or guardians with additional notices or information. Although family representatives would be part of systems planning team meeting at Tier 3, only the parent or caregiver of the individual student would join the student intervention team meeting.

Recommendations and Strategies to Effectively Address Confidentiality within an ISF

Leaders and teams need to understand the role of confidentiality and ways to effectively address any barriers when shifting to an interconnected system of SEB support. District and community leaders are encouraged to be proactive in identifying and addressing possible misperceptions about confidentiality that could interfere with fluent and effective tiered support for students. Defining realistic, safe, and productive agreements about student privacy while working within an organization's legal bounds should be initiated and led by the district and community level leaders, followed by further clarification at the school leadership team level, ensuring full representation by families, students, teachers, and clinicians.

Per an ISF process, local education and mental health agency leaders form a district and community leadership team to guide decision-making and ensure commitment and consistency among partners (Barrett et al., 2019; Splett et al., 2017). As these leadership teams engage in their action planning, they should consult their district's legal resources for deciding on policies, actions and procedures for protecting privacy.

Following the established PBIS framework illustrated in Figure 1 (Center on Positive Behavioral Interventions and Supports, 2022), the district/community leadership team organizes their efforts, including actions needed to ensure student privacy, around four executive functions (stakeholder engagement; funding and alignment; policy; and workforce capacity) and three

Figure 1. The PBIS Implementation Blueprint
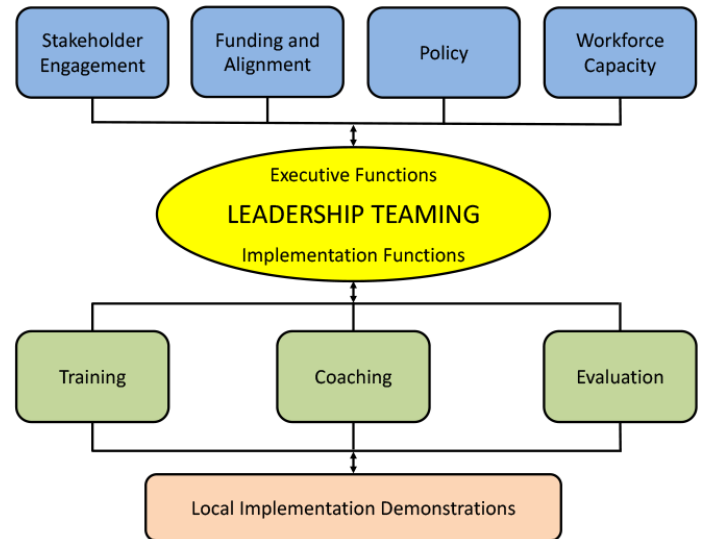
implementation functions (training, coaching, and evaluation). The strategies described below are designed to support district and community leaders as they establish policy, agreements, and procedures that protect student data privacy that reflect federal, state, and district law and policy, build workforce capacity through professional development and coaching, and authentically engage families in a practical, integrated way of work to help inform policy and practice.

1. Review Legislation and Policies for Protecting the Confidentiality or Privacy of Student Educational and Medical Information

As schools and community partners negotiate the merger of systems of SEB support in schools, leaders and practitioners should revisit their understanding and application of the federal, state and district confidentiality or privacy policy and legislation before developing or modifying agreements. The team

can reach out and develop a line of communication with their organizational legal team to help set up and review legislation and policy. For example, they might ask, what is the state and district or community leaders' guidance on current policies and laws on confidentiality? Additionally, they might ask about applicable legislation and policies that need to be considered and embedded into school policy and practice. The first step is to review the privacy legislation and policy that impacts the school with the district's legal resources and to work with any community providers and their agencies to address their applicable laws and policies.

In addition, consideration should be given to how policies and legislation affect practice, including how team meeting conversations within a school's MTSS are structured. For example, leadership may discuss the need to set an expectation that systems planning meetings do not include or discuss personally identifiable information and clarify what these teams can share without consent or permission to release information (Eber et al., 2020). Appendix A describes how to view confidentiality within the school-level team structure of a MTSS framework. For example, when teams have a systems conversation, they only discuss aggregate information (e.g., how many students are in a small group for coping skills and what percent of students are demonstrating progress) rather than information about specific students (e.g., how Dion is doing in social skills group).

As part of the review process, it is also helpful for leaders and practitioners to identify what information can be shared with and without written consent.

This includes considering the types of team dialogue needed within a MTSS versus what needs to be protected through consent by the family or by youths after the age of 18 or older emancipated minors. Most leadership teams agree to protect personally identifiable information, such as mental health or medical diagnosis, through early engagement of families and consent to exchange such sensitive information in their procedures. Also, teams following state or organizational guidance might identify ahead of time situations when protected information could be shared without consent, such as because of a court order.

There are several resources available that might help teams understand the complexities of confidentiality within a single system of SEB support. One recent example from the Pacific Southwest Mental Health Technology Transfer Center[1] provides summaries of legislation from four states on FERPA and HIPAA. Another resource for states and districts addressing confidentiality within a single system of SEB support is the Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) And the Health Insurance Portability and Accountability Act of 1996 (HIPAA).[2] This document, issued by the U.S. Department of Education and the Office for Civil Rights at the U.S. Department of Health and Human Services, provides updated, detailed guidance to address common questions of administrators, health care professionals, and other partners, including a section on where HIPAA and FERPA may intersect and have commonalities for teams involved in policy development. Finally, leaders and teams might find this infographic from the Center for Disease Control[3] useful.

2. Develop Written Agreements and a Communication Plan to Protect Confidentiality, Such as in a Memorandum of Understanding (MOU).

Leadership teams are encouraged to: 1) establish a clear understanding of relevant legislation and policies, 2) review their current agreements about the privacy of student data, and 3) decide, in consultation with their organizations' legal resources, how to develop or modify relevant policy. These agreements might then be set into writing, such as in a Memorandum of Understanding (MOU). A MOU is a document specifying a non-binding agreement between parties (e.g., school district and mental health center) to cooperatively work together on shared goals. There are other types of agreements, such as Memorandum of Agreement (MOA) or a contract. A MOU might specify procedures for protecting the privacy of student information and how confidentiality will be addressed and documented. If a MOU already exists, it can be reviewed to determine what changes need to be made. Agreements may include how the information will be documented, with whom certain information and data can be shared, and under which circumstances sensitive information will be disclosed. For example, there might need to be a protocol about how progress monitoring of interventions will be documented, stored and who will have access to this information (Eber et al., 2020). Confidentiality policies and agreements relative to individual student data discussions might involve the consent and/or release of information forms with families and youth having control about what is shared with whom. When a release of information is used appropriately, privacy is protected because there is an agreement to what is

Figure 2. Guiding Questions for Defining Confidentiality from the ISF District Leadership Installation Guide (Eber et. al, 2020)

Current Conditions

1. Explore and describe requirements of HIPPA/FERPA.

2. Describe points of crossover

3. Describe potential roadblocks or challenges

4. Is current approach effective and efficient for delivering EBP and integration of efforts?

Probable Future

1. If current status remains the same, what will be the likely result?

2. What research supports this future?

3. Is there a need for change?

Preferred Future

1. If you were in charge, what would change? Explore possible solutions

2. What do we need to consider changing with confidentiality policies to help accomplish our vision?

shared, by whom, and when. Newly established MOU's or identified changes to those already established can be shared with district legal resources to make sure it is in compliance with existing laws.

Teams can use the ISF Discussion Guide to Establish or Enhance an MOU[4] as it includes specific guiding questions for teams to define confidentiality in current conditions and changes needed for preferred future practice within an ISF. The guiding questions about confidentiality are illustrated in Figure 2. In addition, the Discussion Guide has a section about assignments

and responsibilities that should be identified in MOUs and could assist team members in focused discussion on decisions that need to be addressed with roles and protecting the privacy of student information. The Discussion Guide promotes shared vision and ownership in finalized MOUs, fostering trusting relationships to deliver an integrated system of tiered supports.

As the leadership team moves toward an agreed upon approach across agencies, communication with families, clinicians, and other partners is critical to ensuring clarity and buy-in to the decisions that are made. Team members can share their experiences, understanding of policies, and what factors contribute to their own decisions and practices about confidential information. When needed, persons with knowledge of legal and ethical guidance from varying disciplines or from the district can be consulted to help ensure accurate and integrated local policy and procedures around confidentiality. Careful consideration might be given to the balance of protecting privacy and seeking permissions without being so guarded that progress in addressing the presenting problem is impeded. The end result is that all staff should feel confident in referring to and following their system's procedures to protect and uphold the confidentiality and privacy of those they serve through their everyday practice. Communicating roles and responsibilities regarding private information about students and families can ensure buy-in to decisions made with input from families and other partners that ensures them that they can safely share information.

Following the collaborative discussions of any proposed changes, the MOU often requires approval by appropriate oversight bodies (e.g., school board, board of directors for an agency). The MOU may be revisited and revised as needed to ensure clarity of the roles and responsibilities of all involved in protecting confidentiality. Once approved, the final MOU can be communicated to all partners, including families, clinicians, team members, and staff. Professional development and ongoing coaching help ensure messages are communicated, understood, and adhered to by all team members.

An essential function of MOUs is to ensure that clinicians from collaborating mental health agencies working in schools are full members and active participants in MTSS teams and processes. Ideally, the collaborating clinician will be viewed as a member of the school's MTSS and provided full access to teams and information (including receiving a badge, a school email, etc.) versus the commonly seen co-located approach where they may be restricted from some teams and/or receiving certain information (Weist et al., 2009). All team members will have received training together about the agreed upon decisions regarding respecting confidentiality and private information.

3. Coaching to Establish MTSS Functions and Structures Within School Teams.

As clinical roles adapt to the MTSS, managing confidentiality is a critical topic for on-going professional development and coaching. Similar to policy development among system leaders previously

discussed, supervisors and coaches will need to assess the current understanding among clinicians and school staff (e.g., teachers, administrators) about how confidentiality is being addressed while simultaneously building knowledge of current MOU procedures that ensure the protection. The following steps are recommended for teams to follow to develop a focused coaching plan to build workforce capacity on confidentiality within a single system of SEB supports:

3A. ASSESS CURRENT SYSTEMS AND IDENTIFY TARGETS FOR PROFESSIONAL DEVELOPMENT ON CONFIDENTIALITY

The leadership team may consider forming a workgroup representing implementation partners (e.g., community and school-employed clinicians and supervisors) to review the formal policy agreements developed and gather feedback through informal interviews or focus groups with a variety of staff. The feedback will help determine the prevalence of similar or differing views regarding protecting private student information within MTSS. Hearing from staff and teams about how they currently operate and share information, and their reactions to proposed changes will allow coaches and leaders to design professional development, technical assistance (TA), and coaching targets for clinicians. The district and school ISF installation guides provided in Volume 2 of the ISF series (Eber et al., 2020) include strategies for assessing current structures and gaps that can be useful in this step. For example, the school level Changing Role of the Staff Discussion Guide[5] may help identify current gaps and targets for coaching to address how information sharing happens and what

training and coaching may be needed as they shift to address protecting private information. Use of school team fidelity data such as the Interconnected Systems Framework Implementation Inventory (ISF-II; Splett et al., 2020) or Tiered Fidelity Inventory (TFI; Algozzine et al., 2014) may also assist teams in identifying gaps in professional development. For example, the ISF-II items within the collaborative planning and training domain can be helpful in informing an action plan. Similarly, the intervention and evaluation items in the TFI may help coaches and teams in their planning.

3B. ESTABLISH PROFESSIONAL DEVELOPMENT TO COMMUNICATE PROCEDURES THAT PROTECT CONFIDENTIALITY

Training should occur at least annually regarding how to protect student and family privacy based on shared agreements and procedures at the district level. Reviewing shared agreements and role-playing scenarios aligned with current practice gaps will build fluency among all staff. For example, if a clinician has not previously been part of an integrated team, team members may role-play effective meeting routines that protect private information. Most importantly, having coaches join team meetings in schools and provide ongoing technical assistance will ensure new learning is incorporated into practice and prevent drift into old routines. Within schools, conversations about students should focus on teaching pro-social, coping, and problem-solving skills for SEB wellness within a MTSS framework. Coaches can ensure that discussions do not veer into disclosing protected information that is not needed to design interventions.
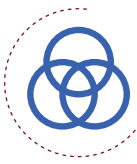
3C. COACH TEAMS TO FOCUS ON SYSTEMS

Ongoing coaching support is crucial to guide effective team meetings, especially during the shift to applying team-based decision-making and ongoing use of data across all tiers of support. As previously described, systems planning teams focus on the overall functioning of tiers rather than discussing individual students by name and presenting problems. (This is applicable to school teams with and without community providers.) Coaches can help ensure that systems planning teams at all tiers contain their conversations to the overall effectiveness by discussing fidelity and progress of the interventions (see Appendix A). This effort toward systematic progress monitoring and improvement is a critical difference for many practitioners who are not experienced with applying MTSS for SEB supports. Teams and coaches can use the School Level Intervention Mapping Tool[6] (Pohlman et al., 2019) from the School Installation Guide to identify critical uses of data to identify interventions, ensure fidelity, and monitor progress with opportunities to discuss any concerns over the privacy of student information. For example, while completing this activity, a coach would model how to share progress monitoring data for a coping skills group so that the Tier 2 Systems Team can evaluate the effectiveness of the intervention and determine next steps for the group as a whole without private student information being shared. Helping teams shift their conversations to the use of data decision rules will support their efforts toward protecting private student information.

In addition to guiding systems teams towards aggregate data discussions, those who coach across tiers should ensure confidentiality is protected regarding individual intervention planning meetings at Tier 3 and SEB support meetings at Tier 2, where the team discusses and designs interventions for individual students. For both systems planning teams and student-specific intervention teams, it is recommended that coaches and leaders ensure that all participants of these conversations continuously review the confidentiality agreements with all team members and ensure that families and students have provided consent when sharing information needed to plan individualized interventions. For example, when an individual student intervention team is meeting, the team does not need to know a student's mental health diagnosis or details of private information the student and family may have shared with one team member. The team will protect family information designated as private, while also addressing the presenting problem with intervention. By applying the policy and MOU agreements developed at the district level, everyone will be able to protect private information and provide necessary interventions as appropriate.

4. Authentically Engage Families

Family-school-community partnerships are integral to student success (Sheridan et al., 2019; Smith et al., 2020; Weist et al., 2017). When it comes to confidentiality, a parent or caregivers' role in protecting their child's privacy and eliminating barriers to support is essential. Often due to the stigma of mental health challenges, families might not want the school to know

about private information as they are concerned that it will negatively impact their child at school. Instead, families should feel they can trust the staff at school and that professionals want to help their child with all aspects of development. When families feel a part of the process, they are willing to trust that their private family information will be kept confidential and that if personal information is shared, that they have the opportunity to know what is being shared, why, and have given permission regarding what is to be shared and with whom. Districts, schools, and mental health partners can use the following three strategies to engage family members and caregivers authentically:

4A. INFORM

Providing information to families about how their private information will be protected is a critical step to authentic engagement. This includes explaining the policies and agreements about confidentiality as part of a consent process, as well as how decisions will be made with them about what is shared. Similar to academics, families should be made aware of what practices and interventions are in place and available across the continuum to support student wellbeing. They should be provided information about mental health and the signs and symptoms of concern to watch for in their child. Families should be told who to reach out to or what to do if they are concerned about their child. Regular communication should be provided to families, especially when concerns arise at school. Families should be told what processes are in place to determine student needs, including what data is collected and used. This should be shared in multiple ways, such as in a parent handbook, on

the school district website, and in other ways that academic information is shared (i.e., curriculum night, social media, etc.). For example, the Center for Disease Control's one-page infographic with a crosswalk of HIPPA and FERPA[7] could be shared with families with opportunities provided for them to ask questions. Establishing open communication encourages trust and a willingness to share confidential information. Finally, parents should feel comfortable in making a decision to opt out or not share information with the school.

4B. INCLUDE

Including family perception and perspective across the continuum of a MTSS can improve family-school partnerships. As district and community leaders
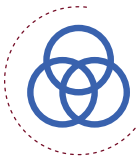
develop policies, seeking input from families may increase their buy-in and understanding of the decisions being made. For example, leaders can ask families to share their current knowledge of how confidentiality is addressed within their child's school or by mental health professionals or if a family would consider consenting to share certain information or signing a release to share information with their community-based providers. Common ways to obtain family voice are through surveys, focus groups, and engaging in collaborative decision making with an existing parent group (i.e., PTO, PTA) or by having conversations with families of students who might require individualized interventions. To bolster inclusion and shared decision-making, districts and schools should have family members as part of their leadership teams, making sure to reach out to make sure the teams include the diversity of the student population. Team membership will keep the family voice front and center in decision-making and ensure that opportunities to gather input and feedback from all families will occur. The team members might need to be involved in professional development with educators so that they understand what can be shared at team meetings and what would be considered confidential. They will also be able to share information with other families on the processes (not the information during team meetings) so that there is a greater understanding of how private information will be protected while providing necessary interventions. School teams often do not include family members when they are meeting to discuss advanced tiers

(Tiers 2 and 3) because they are concerned about confidentiality. As noted above, when discussing systems, data, and practices in general, family voice can be valuable to the problem-solving process.

4C. INVOLVE

Involving families in all aspects of their children's education helps support student success. The most important way to include families is in shared decision-making specific to their child. Students spend more time outside of school than at school, and families know their children best. When families are alerted at the first sign of concern, they are more likely to join in problem identification, solving, and resolution. This includes SEB support meetings for students who is not responding at Tier 1 as consideration for additional intervention is being discussed. In addition, involvement means having families provide input on which intervention would be the best match; ensuring families know what skills are being taught and how to practice and reinforce them outside of school; and having families provide feedback on progress before, during, and at the end of an intervention. If we involve families all along when decisions are being made for their child, they are more likely to provide their consent and permission, in writing about what confidential information can be shared. Active participation might remove any perceived barriers about confidentiality.

For more resources on family engagement, please see the Family Topic section of the Center on PBIS website.[8]

Summary

When partnering within an MTSS framework, local education and mental health agency leaders and staff should directly address confidentiality issues to make sure they do not become barriers to developing a single system of SEB support and work with their organizations' legal resources to align school policy with federal, state and district legislation and policy. Changing how clinicians work in schools through a MTSS can be challenging when there are so many factors to consider, such as funding, policy, professional standards, and personal preferences. It is essential to identify procedures and processes that are mutually agreeable while ensuring compliance with federal and state regulations and consider professional standards of ethical practice. The goal is to find common ground in redefining these policies and procedures to allow for efficient processes for data collection, sharing, and decision making across tiers while adhering to the level of confidentiality and ensuring effective support to be in place to improve student outcomes. Engaging families in the process of decision-making from the beginning and across all aspects of this work is imperative. Creating and communicating shared policies and procedures, navigate and leverage funding sources together, and develop written mutually agreed upon MOUs to articulate collective decisions. The degree to which this work is carried out collaboratively with all partners will impact how barriers are reduced and/or eliminated.

References

Algozzine, B., Barrett, S., Eber, L., George, H., Horner, R., Lewis, T., Putnam, B., Swain-Bradway, J., McIntosh, K., & Sugai, G (2014). *School-wide PBIS Tiered Fidelity Inventory*. OSEP Technical Assistance Center on Positive Behavioral Interventions and Supports. www.pbis.org.

Barrett, S., Eber, L., Perales, K., & Pohlman, K. (2019). *Interconnected Systems Framework 201: When School Mental Health is Integrated Within a Multi-Tiered System of Support: What's Different*. Center on Positive Behavioral Interventions and Supports (PBIS Center)/Substance Abuse and Mental Health Services Administration (SAMHSA). Retrieved: https://www.pbis.org/resource/theinterconnected-systems-framework-201-when-school-mental-health-is-integrated-within-a-multitiered-system-of-support

Center on Positive Behavioral Interventions and Supports. (2022). *Positive Behavioral Interventions and Supports (PBIS) Implementation Blueprint*. Eugene, OR: University of Oregon. Retrieved from https://www.pbis.org/resource/pbis-implementation-blueprint

Eber, L., Barrett, S., Perales, K., Jeffrey-Pearsall, J., Pohlman, K., Putnam, R, Splett, J., & Weist, M.D. (2020). *Advancing Education Effectiveness: Interconnecting School Mental Health and School-Wide PBIS, Volume 2: An Implementation Guide*. Center for Positive Behavior Interventions and Supports (funded by the Office of Special Education Programs, U.S. Department of Education). Eugene, Oregon: University of Oregon Press. Retrieved: https://www.pbis.org/resource/interconnecting-school-mental-health-and-pbis-volume-2

Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 CFR Part 99.

H.P. George, K.E. Cox, D. Minch, T. Sandomierski (2018). District practices associated with successful SWPBIS implementation. *Behavior Disorders, 43*, 393-406 10.1177/0198742917753612

Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 264, 110 Stat. 1936 § 264, 110 Stat.1936.

McIntosh, K., Mercer, S. H., Hume, A. E., Frank, J. L., Turri, M. G., & Mathews, S. (2013). Factors related to sustained implementation of school wide positive behavior support. *Exceptional Children, 79*, 293–311.

Pohlman, K., Barret, S., Eber, L., & Perales, K. (2019). *School Level Intervention Mapping Tool*. Center for Positive Behavior Interventions and Supports (funded by the Office of Special Education Programs, U.S. Department of Education). Eugene, Oregon: University of Oregon Press.

Sheridan, S. M., Smith, T. E., Kim, E. M., Beretvas, S. N., & Park, S. (2019). A meta-analysis of family-school interventions and children's social-emotional functioning: Child and community influences and components of efficacy. *Review of Educational Research, 89*(2), 296-332. Retrieved: https://doi.org/10.1007/s10648-019-09509-w

Smith, T. E., Holmes, S. R., Sheridan, S. M., Cooper, J., Bloomfield, B., & Preast, J. (2020). A meta-analysis is the effects of consultation-based family-school engagement interventions on student and parent outcomes. *Journal of Educational and Psychological Consultation*. Advance online publication.

Splett, J.W., Perales, K., Al-Khatib, A., Raborn, A., & Weist, M.D. (2020). Preliminary development and validation of the Interconnected Systems Framework Implementation Inventory (ISF-II), *School Psychology, 35*(4), 255-266.

Splett, J. W., Perales, K., Halliday-Boykins, C. A., Gilchrest, C. E., Gibson, N., & Weist, M. D. (2017). Best practices for teaming and collaboration in the interconnected systems framework. *Journal of Applied School Psychology, 33*, 347–368. Retrieved: https://doi.org/10.1080/15377903.2017.1328625
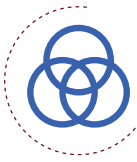
U.S. Department of Health and Human Services and U.S. Department of Education (2019). *Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) And the Health Insurance Portability and Accountability Act of 1996 (HIPAA) To Student Health Records*. Retrieved: https://studentprivacy.ed.gov/resources/joint-guidance-application-ferpa-and-hipaa-student-health-records

Weist, M.D., Garbacz, A., Lane, K.E., & Kincaid, D. (2017). *Aligning and integrating family engagement in Positive Behavioral Interventions and Supports (PBIS): Concepts and strategies for families and schools in key contexts*. Center for Positive Behavioral Interventions and Supports (funded by the Office of Special Education Programs, U.S. Department of Education). Eugene, Oregon: University of Oregon Press.

Weist, M.D., Paternite, C.E., Wheatley-Rowe, D., & Gall, G. (2009). From thought to action in school mental health promotion. *International Journal of Mental Health Promotion*, *11*(3), 32-41.

APPENDIX A

From Chapter 5, Advancing Education Effectiveness: Interconnecting School Mental Health and School-Wide PBIS, Volume 2: An Implementation Guide (Eber et al., 2020)

Confidentiality at Tier 1

At Tier 1, teams discuss data pertinent to all students, staff, and settings in aggregate. Because school and community data are reviewed broadly at Tier 1, teams do not discuss individual students. Confidentiality at this tier will include decisions on what information the team will and will not share with other stakeholders. For example, the team may have access to data on staff who need additional support with classroom management practices. This sharing of information is an administrative and coaching issue and is not information that team members would share outside of the team meeting.

Confidentiality at Tier 2

Within the PBIS Framework, there are typically two types of meetings at Tier 2: a systems meeting and a problem-solving meeting. At the systems level, teams do not discuss individual students but instead review overall system's effectiveness by discussing the number of students supported through each intervention and the number of students responding to each intervention. For example, a clinician facilitating a small group intervention for students with depression would share skills being taught and data indicating how many students were making progress. However, the clinician would not share details of what students were sharing during the group intervention. Fidelity data is also reviewed to allow the team to determine if the

lack of effectiveness is related to the accuracy of the delivery of the intervention or a mismatch between the intervention and the needs of the students. Confidentiality decisions address how fidelity and progress monitoring data are described and who has access to the data outside of the team meeting.
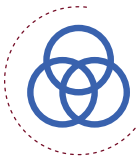
The second type of Tier 2 meeting follows a problem-solving method designed to create a support plan for students who have not responded adequately to lower-level Tier 2 interventions but who do not require a highly individualized Tier 3 process and plan. These meetings typically follow a brief, structured problem-solving format (approximately 20 minutes per student) for developing a quick/simple behavior support plan for one student at a time. This team is a standing team trained to conduct this brief behavior intervention planning and may include students and their teachers and family. For example, a student who may be participating in a small group intervention for coping skills who has begun experiencing active fight, flight, or freeze because of a recent trauma in the community. In developing a support plan, the team may discuss the traumatic event and how it manifests in the student's presenting problems at school. Confidentiality routines might include sharing release form with the family and team members, acknowledging that families always have the option to decide what information can and cannot be shared outside of the meeting.

Confidentiality at Tier 3

Like Tier 2, the Tier 3 Systems team meetings focus on access, fidelity, and the overall effectiveness of all Tier 3 interventions. This systematic review of interventions is organized by categories (e.g., complex function-based behavior support plans, person-centered plans, cognitive behavioral therapy plans), with a discussion about the number of students supported with each type of intervention, the number of students experiencing success, and the levels of fidelity of the different interventions. Tertiary Systems meetings do not include the development of interventions for individual students, as each student needing Tier 3 support has their individual team that meets regularly to build support networks, design and refine specific strategies, and review data. Instead, the Tertiary Systems Team is charged with monitoring the student identification process, selecting interventions, assessing supports needed for Tier 3 facilitators, ensuring quick access for students, and examining aggregate Tier 3 fidelity and outcome data in the same way the Secondary Systems team does for Tier 2 interventions.

Like the Tier 2 problem-solving intervention process, confidentiality policies and agreements relative to individual student intervention teams also involve the release of information forms with families/youth always having the option to decide what is shared with whom. Tier 3 interventions effectively engage families who need to be active participants in decision-making, thus consenting to share information about their child across systems. However, it is still essential to routinely address confidentiality, reminding team members not to share information outside the intervention team. Typically, organizations have a formal release of information forms used. As partnering agencies merge into one system, the executive level district/community team will decide which release forms will be needed. These decisions provide documentation of the agreements between entities for sharing protected information. It is recommended that coaches and leaders ensure that all participants of individual Tier 3 intervention teams continuously review the confidentiality agreements with all team members and ensure families and students are comfortable with decisions about sharing information.

Embedded Hyperlinks

1. http://www.cars-rp.org/_MHTTC/docs/HIPAA-FERPA-Laws.pdf

2. https://studentprivacy.ed.gov/resources/joint-guidance-application-ferpa-and-hipaa-student-health-records

3. https://www.cdc.gov/phlp/docs/hipaa-ferpa-infographic-508.pdf

4. https://drive.google.com/file/d/12aUsSOd37G0UgNmPEdb6kA9LFkdXPM_b/view

5. https://docs.google.com/document/d/10T5F0cuRJr2r_WCavz31J9-pTH2YnvHQ/edit?usp=sharing&ouid=113754821035822214810&rtpof=true&sd=true

6. https://drive.google.com/file/d/1-B1PiqYbu7b5QEndfV0xezpZ695-vSyb/view

7. https://www.cdc.gov/phlp/docs/hipaa-ferpa-infographic-508.pdf

8. https://www.pbis.org/topics/family