

# CYBHI

Children and Youth  
Behavioral Health Initiative

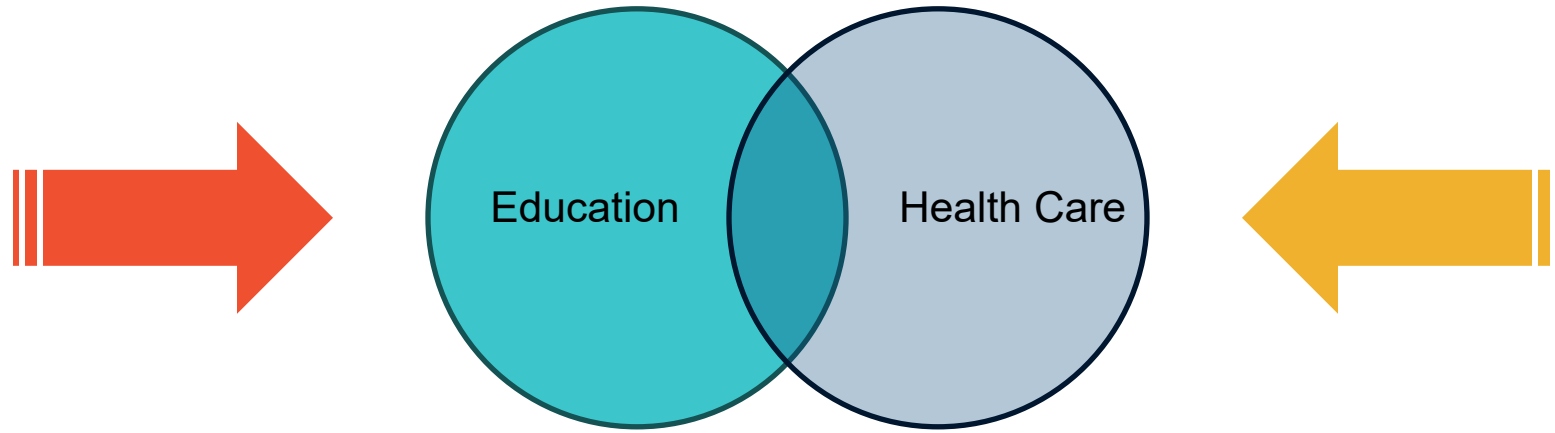


## Navigating HIPAA and FERPA for Integrated School Behavioral Health Services:

### Part 1 of 3 Toolkit Overview and Application

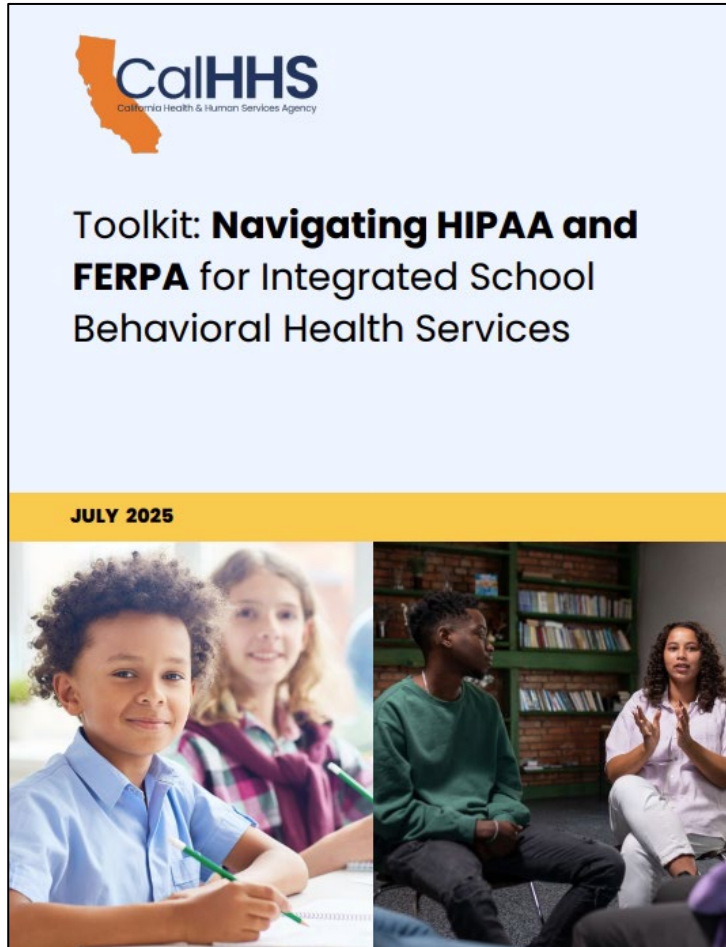


# Why Was the Toolkit Created?



- Collaborations are improving access to behavioral health services at and through schools.
- These efforts must consider the importance of privacy to maintaining confidentiality and build trust, and the importance of sharing information to administer care.
- Data privacy laws, such as the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) set boundaries regarding how, when, and with whom information may be shared.

# The Toolkit



- *Toolkit and Webinars accessible at:*  
<https://cybhi.chhs.ca.gov/resource/navigating-hipaa-and-ferpa/>



# What You Should Know

This material is provided for informational purposes only and does **not** constitute legal advice.

Local Education Agencies (LEAs) should consult with their own legal counsel to ensure compliance with applicable federal and state laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act (FERPA), and related guidance such as the HIPAA-FERPA Joint Guidance Toolkit released by the U.S. Department of Health and Human Services (HHS).

Each LEA is responsible for determining how confidentiality and data-sharing requirements apply to their specific policies, practices, and partnerships.

# Introduction of Presenters



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# Outline



Webinar Series Overview  
Intended Audience  
Toolkit Section-by-Section Overview  
Next Steps

# Series Overview

## Part One:

*Toolkit Overview and Application*

Today

## Part Two:

*Illustrative Cases – HIPAA/FERPA in Action*

October 23, 2025, 2:00pm-3:30pm

## Part Three:

*Implementation & Next Steps*

November 5, 2025, 2:00pm-3:30pm



# Who the Toolkit is for?

- Anyone building or improving **school -behavioral health partnerships** , whether you're just starting out or have been running programs for years
- Organizations supporting **CYBHI Fee Schedule implementation** , and beyond
- Both by **administrators** and **frontline providers**
- **Education agency representatives** (e.g., superintendents, principals, county administrators, and/or school-based health team members)
- **Behavioral health representatives** (e.g., county health and/or behavioral health teams, community-based organizations, representatives from health plans or managed care plans)
- **Legal counsel** This might include attorneys from multiple partner organizations



# How Was the Toolkit Developed?

- This toolkit was developed by the State of California with input from youth, families, and wide range of experts
- Experts included: Health care providers, health plans, TK -12 education, and legal sectors, with special acknowledgment to Rebecca Gudeman and Elizabeth Estes
- Administrative support was provided by Third Sector Capital Partners

# Scope and Limitations

## The Toolkit Can Help You...

- Refresh your existing knowledge of FERPA and HIPAA
- Learn how FERPA and HIPAA may apply to different network designs in your ecosystem
- Reflect on existing or planned network designs, considering how FERPA and HIPAA apply to them
- Understand key administrative and operational considerations that come with FERPA and HIPAA Privacy Rule compliance

## Limitations of Toolkit...

- Does not address all confidentiality laws that must be considered.
- Does not address confidentiality laws that apply to electronic record storage and transfer
- Is California Specific
- Has a behavioral health focus
- Written for readers who are already somewhat aware of FERPA and HIPAA
- Toolkit is a starting point, not a step-by-step guide

*Pgs. 8-9 of Toolkit*

# Key Terms and Concepts



# “NETWORK DESIGN”

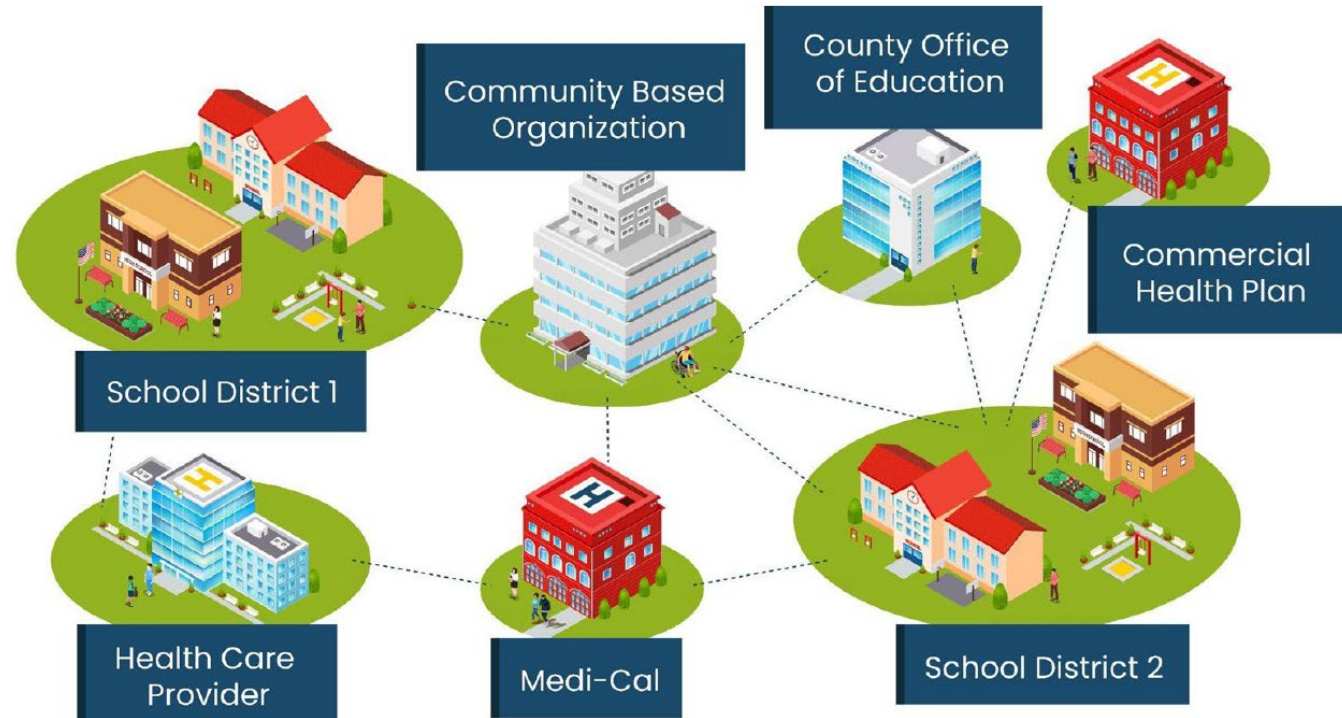


School District 1

Community Based Organization



# “ECOSYSTEM”





# Section One

## FERPA & HIPAA Overview

- Key definitions and scope of each law
- When each law applies and when they don't
- Common myths and clarification of overlaps
- Summary chart comparing key provisions



### *Recommendation:*

Read this section first so all parties establish consistent baseline to facilitate understanding of the case examples later in the Toolkit.

# What is FERPA?

## Family Education Rights and Privacy Act (FERPA)

FERPA protects the privacy and controls disclosure of students' "education records." Education records are records that hold "personally identifiable information" (PII) about a student that are maintained by "educational agencies or institutions."

Educational agencies include:

- **Public schools**
- Public educational agencies that direct or control schools, such as **school districts**, **county offices of education**, and **state education departments**
- "**School officials**" including staff and certain contractors of above in some cases



# What is HIPAA?

## Health Insurance Portability and Accountability Act (HIPAA)

HIPAA protects the privacy and controls disclosure of **protected health information** held by "**covered entities**."

HIPAA defines "covered entity" to include:

- **Health plans**
- **Health care clearinghouses** and
- **Health care providers who transmit health information in electronic form for certain transactions**.

It also applies to '**business associates**' in many cases.

HIPAA is made up of several "Rules" - including the **Privacy Rule, Security Rule**, and the **Enforcement Rule**.

# What is the HIPAA Privacy Rule ?

Sets national standards for the confidentiality of protected health information (PHI) held by covered entities.

When state law offers stronger confidentiality protections than HIPAA, providers must usually follow state law .



# HIPAA Privacy vs Security Rule

## PRIVACY RULE:

Sets national standards for the confidentiality of protected health information (PHI) held by covered entities.

## SECURITY RULE:

Sets standards for the confidentiality of electronic protected health information (ePHI) held by covered entities.

## WHAT YOU NEED TO KNOW:

- The HIPAA Privacy Rule and Security Rule do not apply in exactly the same way or in the same situations.
- A covered entity can be subject to the HIPAA Security Rule even if some or all of its records are not subject to the HIPAA Privacy Rule.
- In a few instances, electronic records subject to FERPA's privacy requirements may also be subject to the HIPAA Security Rule's requirements related to security and storage of electronic health information.

See Appendix C for some information on the Security Rule

# HIPAA Privacy Rule vs FERPA

## How are the laws similar?

- Both laws are designed to protect the confidentiality and control release of specified personally identifiable information
- Both require written consent to release information
- Both include exceptions that allow disclosure without need of a written release in some circumstances
- Both have specific administrative requirements
- Both may apply in a school -health school based or school linked service delivery network

The difference between them is in the details of their application...

# Why does it matter whether we are HIPAA or FERPA?

Among other things, the applicable law helps determine:

- What information is protected
- Who controls release of that information to third parties
- When a written authorization to release information (ROI) is necessary and what that release must include
- When an entity may share or disclose information without a release
- Whether an ROI is necessary to submit a claim for reimbursement to an insurer
- What administrative protections and systems must be in place

The Toolkit offers an overview and reminder of what both HIPAA and FERPA require or allow regarding some of these questions and what happens when you put them together in one network design.

**FERPA and HIPAA Privacy Rule Comparison Chart**

| Common Questions   | FERPA   | HIPAA Privacy Rule  |
|--|---|---|
| Does the law usually require a signed release to disclose protected information? | Yes <sup>42</sup>   | Yes <sup>43</sup>   |
| Who signs the release/authorization?   | "Parent" must sign for a minor student. If student is 18 or older or is attending a postsecondary institution, student signs. FERPA defines "parent" to include a parent, guardian, or person acting in the role of parent. See also local educational agency (LEA) policy for definitions. | "Personal representative" signs in most cases. For more detail, see 45 C.F.R. § 164.502(g)(3) and applicable California law, such as Civ. Code § 56.11.   |
| What information is required to be included in the release?                      | Must specify the records that may be disclosed, the purpose of the disclosure, and the party or class of parties to whom the disclosure may be made. See 34 C.F.R. § 99.30 for more details.  | Must specify the information being disclosed, the purpose of the disclosure, the recipients of the disclosure, and an expiration date. For more detail, see 45 C.F.R. § 164.508. In California, releases also may need to comply with applicable California law, such as Civ. Code § 56.11. |
| Does the law allow disclosures without needing a signed release?                 | Yes, in limited circumstances. <sup>44</sup>  | Yes, in limited circumstances. (See e.g. 45 C.F.R. § 164.502.)  |

*Pgs. 23-25 of the Toolkit*

# Why Does it Matter?

## Example of Common Question in Chart

| Common Questions   | FERPA  | HIPAA Privacy Rule   |
|--|--|--|
| Does the law allow disclosures in order to submit a reimbursement claim that includes information from the protected record to an insurer without a written release? | No, unless the insurer is acting as a "school official" with "legitimate educational interest" in the information as defined by school policy and has a contract with the LEA that subjects the insurer to the confidentiality and disclosure requirements of FERPA. | A written release is not required but may be recommended by legal counsel. |

# Why Does it Matter?

## Example of Common Question in Chart

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# Why Does it Matter?

## Example of Common Question in Chart

| Common Questions  | FERPA  | HIPAA Privacy Rule  |
|---|--|---|
| Does the law allow disclosures of health information to <i>teachers and other school staff</i> for referral or care coordination, without a signed release? | Yes, if the school staff person is in the same educational agency and has a “legitimate educational interest” in the information as defined in school policy. See also “best practice guidance” from the U.S. ED cited in the section above.)<br><br>The information disclosed must be limited to the information that meets that legitimate educational interest. | Yes, if school staff are <i>health care providers</i> and the release is for treatment, referral, and care coordination purposes. <a href="#">45</a> , <a href="#">46</a> |

# Is it possible to have records subject to the HIPAA Privacy Rule and FERPA?

- FERPA and the HIPAA Privacy Rule will never apply to the same record at the same time.
- HIPAA explicitly states that its rules do not apply to individually identifiable health information held in an education record subject to FERPA.
- The HIPAA Privacy Rule applies to PHI created when a covered entity delivers services on a school campus –as long as FERPA does not apply.

*Pg. 15 of The Toolkit*

# How do we know which law applies?

Evaluation of multiple factors including:

- Who is funding the services are being provided
- Who is providing the services
- Who has operational and administrative control over service delivery

While FERPA and the HIPAA Privacy Rule will never apply at the same time, health information can be subject to both laws at various points.

*Pg. 17 of The Toolkit*

# What about additional California Law pertaining to privacy of information about children and youth?



- See pages 18-20 of the Toolkit for more information on California law

# Limits of Section One

- Offers an **overview** , not an in-depth analysis of each law
- References but **does not address all confidentiality laws that must be considered** , for example, does not address other federal laws such as 42 CFR Part 2 (substance use records)
- References but **does not address laws that control electronic record storage** and exchange, such as the HIPAA Security Rule. (See Appendix C for more about HIPAA Security Rule)
- While this Toolkit focuses on two federal laws, it was written with California -specific implementation and context in mind
- Does not address when minors may consent for their own healthcare
- Focuses on behavioral health

# Section Two

## Case Examples

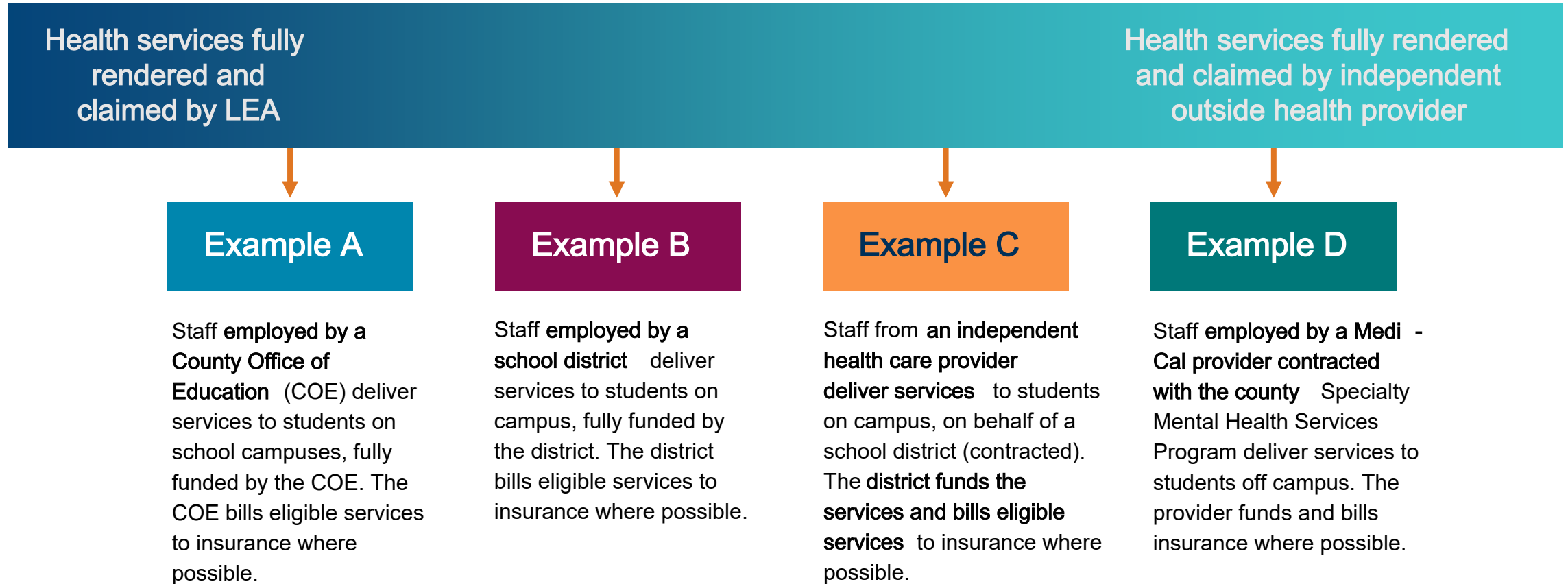


# Case Examples in the Toolkit

- Four hypothetical examples across a spectrum – from health services delivered primarily by local education agencies to services delivered by independent health providers
- These scenarios illustrate how HIPAA and FERPA apply, and how that informs information-sharing, agreements, and releases of information
- Step-by-step walk throughs highlighting which law might apply at key stages of the service journey
- Can be used as a tool to help understand potential HIPAA and FERPA applications in your own ecosystem



# Network Design Continuum



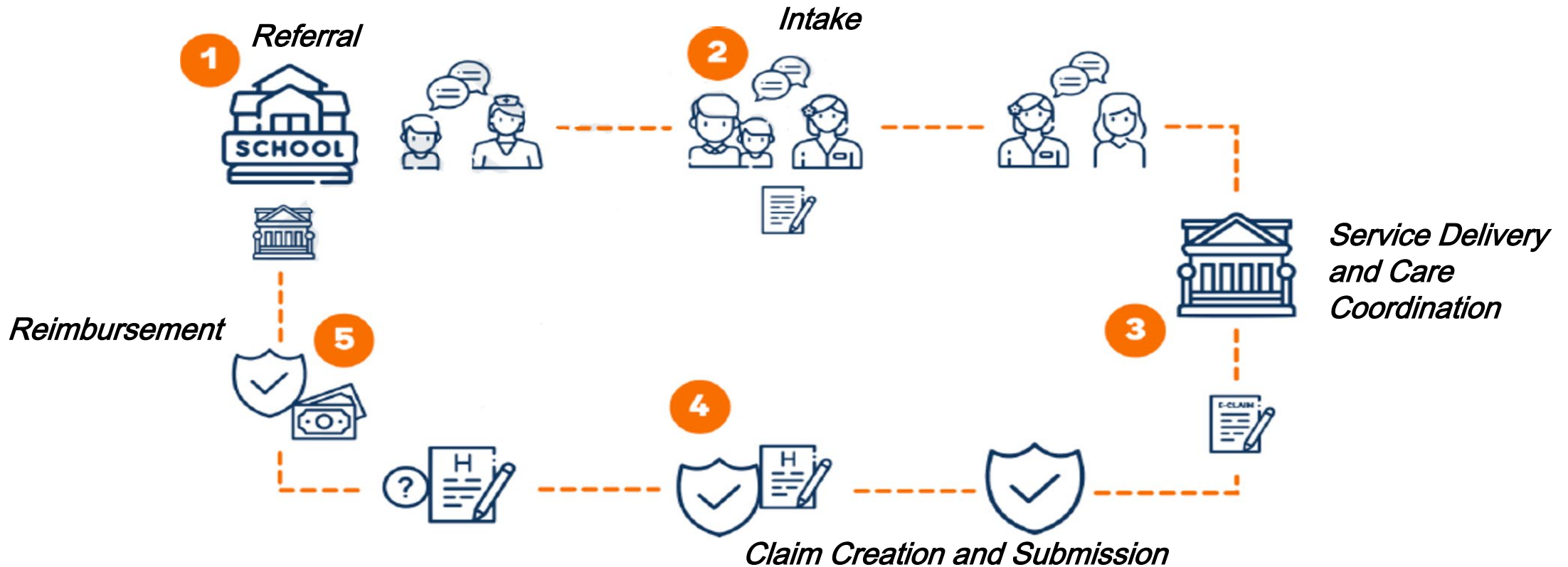
# Network Design and HIPAA and FERPA

The Network Design for service delivery tells us:

- Who provides the services
- Who funds the services
- What services are offered
- Who has operational and administrative control over service delivery

These factors help determine when FERPA, HIPAA, and other confidentiality and disclosure laws apply.

# HIPAA and FERPA through the Service and Reimbursement Journey



# Things to look for in the case studies

## Network Design Details:

- Who provides the services
- Who funds the services
- What services are offered, and
- Who has operational and administrative control over service delivery

## Administration/Control:

- Releases of Information, Agreements (Contracts, MOUs), Guidance, Staff Training

## Information Journey:

- Information sharing cycle from intake to services to insurance claims to reimbursement
- Where do HIPAA Privacy Rule and FERPA apply, and does it change through the journey

*Pg. 63 of The Toolkit*

# Section Three

## Confidentiality & Information Sharing Tools



# Confidentiality and Information -Sharing Tools

- Provides an overview of various tools that may be needed, including:
  - Releases of Information (ROIs)
  - Agreements (Contracts, MOUs)
  - Information Notices
  - Guidance on Information Sharing
  - Staff Training
  - Messaging for Youth and Families
- Provides guiding questions for conversations with legal counsel and sample documents to customize with legal counsel

Specific tools you need and their contents will depend on whether FERPA, HIPAA, or other laws apply.

# Section Four

## Appendices





# Toolkit Appendices

- **Appendix A:** Guiding Principles for the Toolkit
- **Appendix B:** Additional Key Resources
- **Appendix C:** Protection & Storage of Electronic Information
- **Appendix D:** Glossary
- **Appendix E:** Guide for Providers: Communicating with Families about Privacy and Information Sharing in School-Based Mental Health Services
- **Appendix F:** Acknowledgements

# Next Steps



# Next Steps & How to Get Started

1. Download the Toolkit at:

[https://cybhi.chhs.ca.gov/resource/navigating\\_hipaa-and-ferpa/](https://cybhi.chhs.ca.gov/resource/navigating_hipaa-and-ferpa/)



2. Review the HIPAA and FERPA refresher and identify your network design(s)
3. Use the case examples in team trainings or cross-agency meeting

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# Thank You



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