

# Washington State Environmental Public Health Tracking Network (WEPHTN) Development

## **FERPA and Student Health Data ~ Lessons Learned**

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# Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99)

- Protects the privacy of student education records (analogous to HIPAA ~ consent required),
- “Education record” is all encompassing,
- Records may be shared between educational institutions when there is a “compelling need”,
- No public health exclusion (unlike HIPAA),
- Records may be released in the event of a health or safety “emergency.”

# Washington State & Individual Privacy

- Agencies held to the same health information disclosure standards as private health care providers,
- PHI privacy laws (FERPA, HIPAA) are liberally construed and exceptions narrowly construed to safeguard individual privacy.

(RCW 42.17 & 70.02)

# WEPHTN - Student Health and Environmental Quality Tracking Initiative

The goal is to...

Develop epidemiologic surveillance in select public schools with regard to environmental exposures and disease outcomes.

# Epidemiologic Surveillance ~

“is the ongoing systematic collection, analysis and interpretation of health data essential to the planning, implementation, and evaluation of public health practice ...”

(CDC, 1968)

## Public Health Practice:

- Monitoring the incidence or prevalence of disease or behavior that places people at risk,
- Identifying changes in patterns by person, place, and time,
- Utilization of data to affect policy and practices, to protect and improve public health.

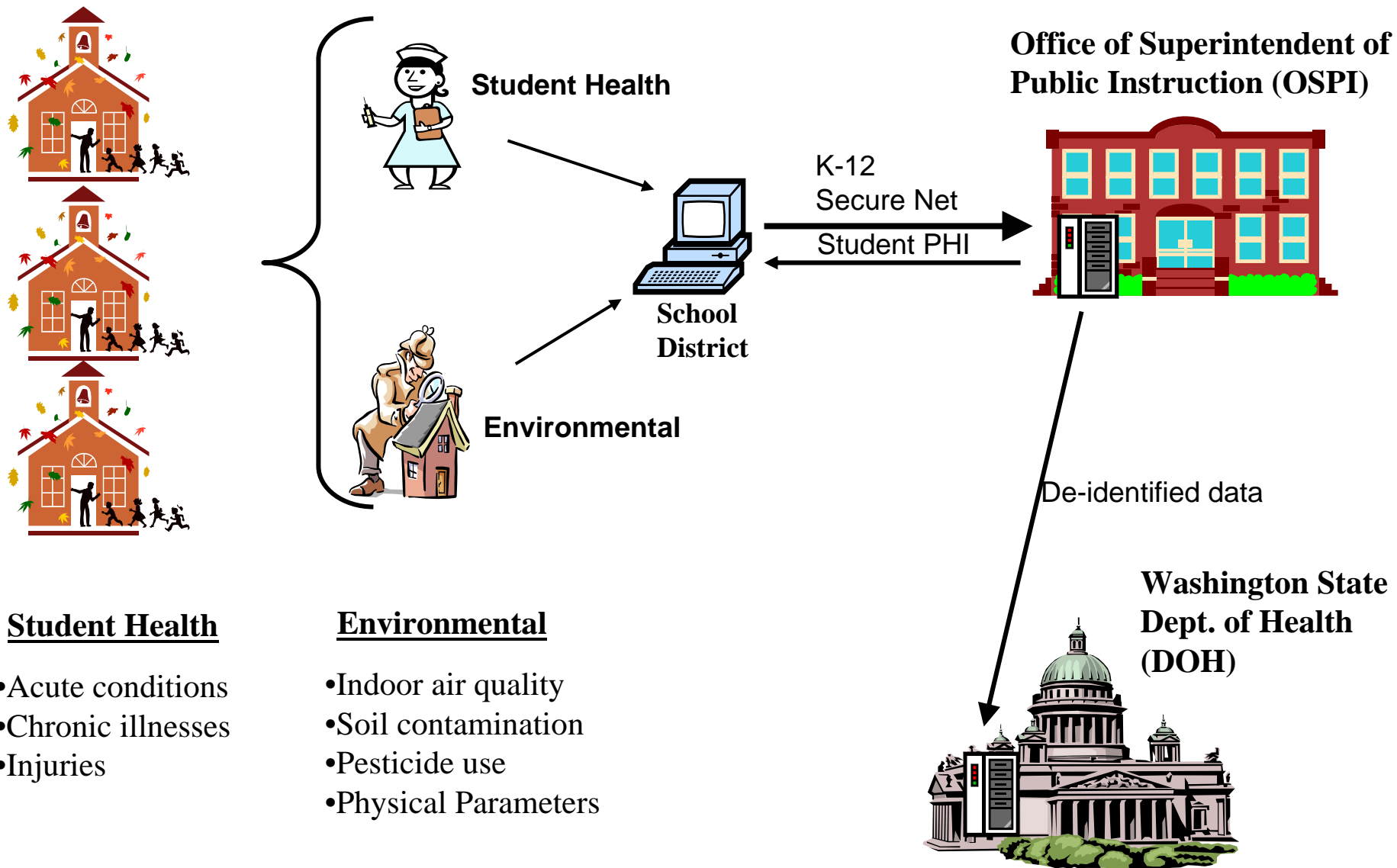
# Three Student Surveillance System Scenarios ~

1. Centralized surveillance (School districts report PHI to DOH),
2. Two step centralized surveillance (School districts report PHI to state educational authority (OSPI) de-identified data provided to DOH),
3. Decentralized surveillance (School districts independently collect and evaluate data, provide data summaries to state agencies).

DOH – Washington State Dept. of Health

OSPI – Office of Superintendent of Public Instruction

# Two Step Centralized Surveillance



# Two Step Centralized Surveillance

## Pros:

- Builds upon current OSPI/district relationships,
- Secure data exchange network currently developed,
- Ability to de-identify data and aggregate as necessary prior to DOH access,
- Allows for retention of demographic data,
- Promotes standardization between districts,
- Supports centralized applications development.



# Two Step Centralized Surveillance

## Cons:

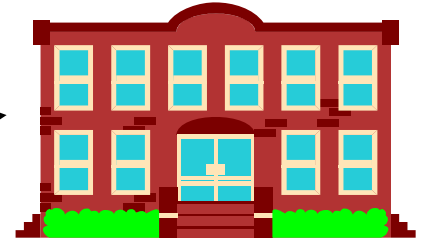
- Reduces scope of DOH surveillance activities,
- Limits ability for public health follow-up,
- Prevents validation with other surveillance systems,
- Require parental active consent (time, resources, burden on schools, likely low response, sample bias)

# Decentralized Surveillance



School District

Office of Superintendent of Public Instruction (OSPI)



De-identified/aggregated data summaries by school district



Washington State Dept. of Health (DOH)

## Student Health

- Asthma - focused
- Acute conditions
- Chronic illnesses
- Injuries

## Environmental

- Indoor air quality – focused
- Soil contamination
- Pesticide use
- Physical Parameters

# Decentralized Surveillance

## Pros:

- PHI gathered at district level,
- Local data monitoring and intervention,
- Few regulatory hurdles, no consent required,
- District enthusiasm.

## Cons:

- Reduced consistency,
- Increased burden on already burdened system,
- Lack of state-wide perspective.

# De-identified Data...



- Restricts implementation of public health practice, including surveillance activities,
- Prevents identification of case duplication (within and between school districts),
- Limits ability for public health follow-up,
- Prevents validation with other surveillance systems (e.g., notifiable conditions and birth defects).

# Observations ~



## General:

- FERPA restrictions supersede HIPAA once a health record becomes part of an educational record, and
- Lack of a public health exception in FERPA prevents disclosure of student PHI for public health purposes.

# Observations ~



In Washington State:

- Implied consent is not a legitimate form of consent,
- Disclosure of student PHI to OSPI is restricted due to lack of compelling educational need,
- FERPA restricts conveyance of “authorized representative” status, and
- Disclosure of student PHI for use in routine public health practice, does not constitute an “emergency” need.

# Summary ~

- Interpretation and/or implementation of FERPA appears to be inconsistent across states.
- Greater integration of public health practice in the school environment complements and supports existing student health services.
- FERPA restricts the centralized performance of public health practice in the school environment.
- Despite FERPA restrictions, we are making great strides in the development and implementation of electronic data systems within our EPHTN school district pilot sites.
- Full integration of public health practice in schools will require an exceptions clause in FERPA.

# Collaboration:

- Office of Superintendent of Public Instruction (OSPI)
- Numerous school districts
- Educational Service Districts (ESDs)
- School Nurse Corps of Washington
- American Lung Assoc. of Washington
- Local Health Jurisdictions





**Thank you**

**PUBLIC HEALTH**  
**ALWAYS WORKING FOR A SAFER AND**  
**HEALTHIER WASHINGTON**

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