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The School Context: Legal Issues in School Health

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Objectives

To analyze the organizational contexts in which school health programs operate;

To determine how the education system “culture” shapes school health program structure, function, oversight, and authority;

To understand the legal context in which schools operate; and

To discuss how political, social, economic, and health care issues affect school health programs.
The School Contexts

Governance, accountability, and infrastructure
- The “target audience”/locus of accountability

Legal Context
- Federal and State laws and regulations

Community Context
- Shared goals of communities, health care and public health systems;
- Youth development and social morbidities;
- Community needs that shape program priorities;
- Challenges resulting from health needs of students; and
- Challenges that influence ability to focus on long term public health program goals.
Governor
Legislature
State Board of Education
Chief State School Officer
State Education Agency Staff
School Board
Superintendent
Local System Staff
Principal
School Staff
Local Government
School Improvement Council

State
Local District
Local School

10 states
26 states

Bogden, JF. How Schools work and How to Work with Schools (2003)
Local School Board Make-up

- Business or Professional: 44%
- Education: 26%
- Home Maker or Retired: 13%
- Non-Profit organization or Government: 11%
- Other: 6%

Discussion

- Who are the target population/audience for schools?
- What are the implications of locus of oversight and authority?
- How does the local control issues affect program function and operation?
- What role does “politics” play in school health programs?
School Health Infrastructure

- Administrative oversight/locus of oversight
- Funding
- Resources
  - Staffing
  - Education agency
  - Other local and state
  - Federal
- Legal and policy framework
Administrative oversight

- **Variable**
  - School system vs health department
  - Chronic disease vs Maternal and child health

- **Types of services and how much**
  - Local School System—May compete for funding with academic programs

- **Licensure/Certification/Scope of practice of health services staff**
  - State Health Agency—Govern by law

- **Responsiveness to community concerns**
  - State and Local Health Agency and Education Agency, and State legislators as they respond to constituent concerns (medial interventions/sex education)

Based on Lear, JG (2007)
Funding

- **Local**
  - School Boards
  - Governing body
  - **26%**

- **State**
  - Education
    - HIV Education Grants, Coordinated School Health Grants
  - Health
    - Medicaid. Title V, MCH Block Grant, PHS Grants, Mental Health Grants
  - **36%**

- **Federal**
  - Education and Health
  - **8.3%**

- **Private**
  - **9%**

Lear, JG (2007)
Resources:
Staffing

Staffing at the central office, state and local levels in both the health and education agencies
## School Health Staffing

<table>
<thead>
<tr>
<th>Staff/Program</th>
<th>Number</th>
<th>Avg. Unit Cost ($)</th>
<th>Total Cost ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nurses</td>
<td>56,000</td>
<td>40,201</td>
<td>2,251,256,000</td>
</tr>
<tr>
<td>Psychologists</td>
<td>30,000</td>
<td>65,000</td>
<td>1,950,000,000</td>
</tr>
<tr>
<td>Social workers</td>
<td>14,000</td>
<td>43,300</td>
<td>620,200,000</td>
</tr>
<tr>
<td>Counselors</td>
<td>99,000</td>
<td>52,303</td>
<td>5,177,997,000</td>
</tr>
<tr>
<td>School based health centers</td>
<td>1,750</td>
<td>250,000</td>
<td>437,500,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>10,436,953,000</strong></td>
</tr>
</tbody>
</table>

Source: Lear, JG Health at School: A Hidden Health Care System Emerges from the Shadows. Health Affairs 26 (2) 2007: 409-419
Resources:
Other Types

- Training resources
  - Skilled trainers
  - Commitment to ongoing professional development

- Superintendents and health officials at the state and local levels--Different program missions and priorities
  - Chronic disease prevention
  - Maternal and child health
  - Community health
Resources:
Other Types

- Local resources
  - Local health agencies
  - Local school systems/Boards of Education
  - County authorities
- Community groups
  - Local School Health Councils
  - PTA’s
- Legislators (?)
Legal and Policy Themes

- Integration of public health and education
  - Close ties: some mandated others unwritten expectations

- Division of responsibilities
  - Assigning responsibility to either health or education with or without mandated collaboration

- National primacy
  - Many federal laws dictate some health activities but not specifically—local discretion

- State and local innovations
  - Fill-in where Federal laws are silent

Jones. JSH 2008 78 (2)
Select Important Federal Laws

- No Child Left Behind Act of 2001
  - Public Law 107–110

- Health Insurance Portability and Accountability Act (HIPAA)

- Family Education Right to Privacy Act (FERPA)
  - 20 U.S.C. §1232g

- Americans with Disabilities Act of 1990 (US Department of Labor)
  - Public Law 101-336
Select Important Federal Laws

- Section 504, Rehabilitation Act 1973,
  - (29 U.S.C. 791 et seq.)

- Individuals with Disabilities Education Act
  - (20 U.S.C. § 1400 et seq.)

- The McKinney-Vento Homeless Assistance Act
  - (PL100-77)

- McKinney-Vento Homeless Education Assistance Improvements Act of 2001
No Child Left Behind Act of 2001
(Public Law 107–110)

- Accountability for results;
- More choices for parents;
- Greater local control and flexibility;
- Putting Reading First; and
- Safe and Drug Free Schools.
Health Information Privacy Laws

- Health Insurance Portability and Accountability Act (HIPAA)
- Family Education Rights Privacy Act (FERPA)
HIPAA

- HIPAA specifies how the privacy and security of oral, paper, and electronic personally identifiable health information is to be safeguarded by policy, accountability, and physical and electronic protections.

- HIPAA violations may result in substantial fines and possible incarceration.

HIPAA

Provisions (selected)
- Notice of Information Practices
- Right to access information
- Right to request amendment to records
- Disclosure log of who accessed record
- Noncoerced consent required
- Use information for health purposes only
- Policies and procedures for access

Penalties
- Fines ($25,000-$250,000) and/or incarceration
  (5-10 years)

FERPA

- Education records can be shared internally with those who have a legitimate educational interest
- Education records can be forwarded to another school that the child plans to attend or may attend without requiring an authorization to release records

FERPA

Provisions (select)
- Annual notice of rights to parents
- Right to inspect education records
- Right to request amendment to records
- Record access log of who accessed record
- Consent to release information required
- Use information for educational purposes only
- Written criteria for access
- Release only information necessary

Penalties
- Institutional sanctions
- Loss of federal funding

Impact of Privacy Laws on School Health Programs

- Confusion resulting in “over protection”
- Fear
- Barriers to getting needed information from physicians
- Not built on a public health model (sharing for educational purposes only)
- Health Room Logs
- Methods of sharing information (Fax)

Americans with Disabilities Act of 1990
(Public Law 101-336)
US Department of Labor

- Civil rights protections for all students and staff with disabilities;
- Linked with IDEA and Sec 504 of the Rehabilitation act; and
- Deals with broader issues of accessibility.

- No "otherwise qualified handicapped individual" shall be excluded from participation in program or activity receiving federal financial assistance.
- Civil rights law guaranteeing non-discrimination in education for students with special health needs or disabilities.
Individuals with Disabilities Education Act (e.g. Special Education) (20 U.S.C. § 1400 et seq.)

- Individual Education Plans (IEP) and Individual Family Services Plan (IFSP)
- Discipline
- Due Process
- Requirements for special education teachers
- Allows funds to be used for facilities improvements related to educating children with disabilities
- State educational agency as provider of free appropriate public education or direct services
The McKinney-Vento Homeless Assistance Act (PL100-77)

- Provides a definition of homelessness
- Establishes and describes the functions of the Federal Interagency Council on the Homeless
- Authorizes the Emergency Food and Shelter Program
- Authorizes a variety of emergency shelter and transitional housing programs and funding for those programs
- Authorizes several programs to provide health care services to homeless persons, including the Health Care for the Homeless program
- Authorizes Adult Education for the Homeless Program and the Education of Homeless Children and Youth Program and other job training programs
- Amends the Food Stamp program and emergency food programs
Education of Homeless Children and Youth Program

- Designate a homeless liaison in each school district
- Identify and immediately enroll any homeless child or youth (preschool to grade 12), even without academic or medical records
- Continue children or youths in their "school of origin" for the duration of their homelessness
- Inform parents/guardians of the educational rights of their children
- Provide transportation, at the request of the parent, to the school of origin
- Ensure no barriers exist for full educational participation
- Develop partnerships with community agencies to identify and assist with basic services for homeless families, children, and youth
- Ensure homeless students are not segregated or stigmatized
Health Services: Legal issues

- Medication Administration
- Minor Consent and Confidentiality
- Scope of Practice
- Individualization of care/services
- Exclusion
- Occupational Safety and Health Administration Standards
  - Bloodborne pathogens
Discussion

What are the implications of the legal requirements on the structure and function of school health programs?

How do economics and the structure of the health care system affect school health programs?
Community Context

- Community make up
- Community needs
- Local Resources
  - Drives funding
  - Stakeholders
  - Advocates
  - Businesses
  - Champions
- Degree of buy-in
What does a successful CSHP look like?

- Administrators
- Teachers
- Other professional staff
- School boards
- School Health councils
- School Health Coordinator
- Full complement of school staff
School System Challenges

- Modern Realities in the age of accountability
  - Need to be all things to all people (educators and health service providers)
  - No single point of authority at the Federal level

- Health information privacy issues

- Need for teachers to have a new view of their role as educators

- Issues of connectedness and implications for youth development
School System Challenges

- Pressure of workforce development issues
- Impact of research on policies/laws, interventions, and standards
- Funding
- Leadership
- Politics
Discussion

How does the school context impact on the importance of and process/politics of implementing school health programs?

How do the basic principles of public health help set the agenda for school health programs?