

FITNESSGRAM/ACTIVITYGRAM
Family Education Rights and Privacy Act (FERPA) Compliance Statement

FITNESSGRAM use in the public school setting, when operated by appropriate school officials, and when data is stored on school internal resources, is compliant with Family Education Rights and Privacy Act (FERPA, 20 USC 1232g). Health Insurance Portability and Accountability Act (HIPAA, 45 CFR 160.103) specifically excludes identifiable health information in "education records" subject to FERPA. Additionally, the Family Policy Compliance Office of the US Department of Education (which enforces FERPA) has taken the position that "students' medical records and education records under FERPA are not subject to HIPAA and should not be disclosed to HHS under HIPAA." Therefore, *FITNESSGRAM* when used as intended in the public school setting is not subject to HIPAA protections.

FERPA defines an "education record" as "those records, files, documents, and other materials" that

- "contain information directly related to a student;" and
- "are maintained by an educational agency or institution or by a person acting for such agency or institution."

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to school staff with legitimate access (34 CFR § 99.31).