

Summary of Guidance on HIPAA and FERPA-Compliant Live Video Visit Practices

Early Intervention Technical Assistance and Monitoring

Identification and Selection of HIPAA and FERPA-Compliant LVV Platforms:

- ✓ EI service providers and Child and Family Connections offices are responsible for identifying and selecting LVV platforms that comply with both HIPAA and FERPA regulations.
- ✓ The selection process should involve evaluating platforms based on their security features, privacy policies, encryption methods, data storage practices, and any other relevant factors.
- ✓ The chosen LVV platforms should provide appropriate safeguards to protect the confidentiality and integrity of individual health and educational information.
- ✓ Under no circumstance should the choice of platform be public-facing products such as TikTok, Facebook Live, Twitch, or a public chat room. These are not acceptable forms of remote communication for LVV because they are designed to be open to the public or allow wide or indiscriminate access to communication.

Updating Internal Written Procedures and Notice of Privacy Practices (NPP) Document:

- ✓ EI Service providers must update **both** their internal written procedures regarding Protected Health Information (PHI) and their Notice of Privacy Practices (NPP) documents to reflect the use of HIPAA and FERPA-compliant telehealth platforms.
- ✓ The NPP document should be revised to inform individuals about
 1. Use of telehealth platforms,
 2. Measures taken to protect their privacy and confidentiality,
 3. Their rights regarding their health and educational information.

Documentation and Compliance:

- ✓ Service providers and Child and Family Connections offices must maintain documentation of their transition to HIPAA and FERPA-compliant telehealth platforms.
- ✓ Documentation should include evidence of platform selection and any necessary agreements or contracts with telehealth platform providers.
- ✓ Compliance with this procedure update will be periodically assessed by the EI Monitoring Program.
- ✓ Documentation of services provided via LVV must include the platform used to serve as evidence of adherence to this HIPAA and FERPA-compliant platforms procedure.

Note to Interpreters:

The service provider is the covered entity that is required to have a complaint platform as the host – not the interpreter. Also, if the CFC is hosting a meeting, they are the required party to ensure a compliant platform is being used (not the participants). If the interpreter is the only virtual participant, they are then the covered entity and should meet the obligations.

EI Monitoring will offer linkage (see links below for additional information) for providers during the current review period (monitoring of services provided 7/1/22-6/30/23) to ensure subsequent reviews have these documents updated. The detailed content of the documents is not evaluated for legal reasons.

Non-public facing platforms:

<https://www.hhs.gov/hipaa/for-professionals/faq/3024/what-is-a-non-public-facing-remote-communication-product/index.html>

Helpful links:

<https://ectacenter.org/topics/disaster/ti-hipaa.asp#ferpa>
<https://telehealthtechnology.org/toolkit/clinicians-guide-to-video-platforms/>
<https://cdn.cchpca.org/files/2018-09/HIPAA%20and%20Telehealth.pdf>

New resources for further information:

[NOSORH-Telehealth-Vendor-Fact-Sheet-FINAL.pdf](#)

[Understanding the Confidentiality Requirements Applicable to IDEA Early Childhood Programs - Frequently Asked Questions \(FAQs\) \(PDF\) HIPAA and Telehealth.indd \(cchpca.org\)](#)