

IN CASE YOU MISSED IT: ISBE ISSUES NON-REGULATORY GUIDANCE ON UNIVERSAL MENTAL HEALTH SCREENING AND THE USE OF ARTIFICIAL INTELLIGENCE

This update is intended to highlight recent non-regulatory guidance issued by the Illinois State Board of Education (“ISBE”), including upcoming compliance deadlines and the practical steps to keep school districts and special education cooperatives aligned with evolving State requirements and guidance.

Universal Mental Health Screening in Schools

As you may recall, Section 2-3.203 of the Illinois *School Code* will require school districts to offer annual, opt-in mental health screenings for students in grades 3-12 using a State-provided screening tool starting in the 2027-2028 school year, unless the district applies for and meets criteria for an extension of the implementation deadline. 105 ILCS 5/2-3.203. Section 2-3.203 provides that this requirement will be in effect only for school years in which the State has procured a screening tool that is made available to school districts at no cost. Also, Section 2-3.203 required ISBE to issue model procedures and guidance to implement a universal mental health screening (“UMHS”) schools by September. In August 2026, ISBE issued [non-regulatory guidance](#) regarding the implementation of UMHS (the “UMHS Guidance”). In September 2026, ISBE published a *Frequently Asked Questions* [document](#) to answer common questions from the field (“UMHS FAQ”).

The UMHS Guidance explains that within a school’s MTSS framework, UMHS offers systematic and proactive ways to identify students who may be at risk for emotional or behavioral difficulties. It identifies UMHS as part of a school’s Tier 1 interventions. The UMHS Guidance also raises potential implications under the *Individuals with Disabilities Education Act* (20 U.S.C. § 1400 et seq.) (“IDEA”) and Section 504 of the *Rehabilitation Act of 1973* (“Section 504”). The UMHS Guidance further notes that it is “clearly understood” that school districts need external support to successfully implement UMHS and respond to students’ needs that may be detected by UMHS. ISBE lists resources for schools to assist students and their families in accessing mental health services within the community.

The UMHS Guidance outlines steps for school districts to follow as they plan to implement UMHS, including: (1) establishing a school implementation team (or assigning UMHS to an existing MTSS/student support team); (2) planning communications with staff and parents/guardians; (3) developing/revising policies and procedures for consent, screening administration, recordkeeping, and follow-up process

with ISBE; (4) administering the screening tool annually; (5) conducting follow-up process on identified concerns, including crisis response, MTSS interventions, Child Find obligations, and referrals to community mental health providers; and (6) evaluating the screening process. In addition, the UMHS Guidance includes model procedures that include options for parental consent (discussed in more detail below) and student privacy requirements. The UMHS Guidance includes several appendices for the UMHS implementation process.

As part of planning, important considerations are selecting a screening tool that meets UMHS requirements and determining whether that tool will mandate certain parent/guardian consent and/or confidentiality requirements. Appendix K to the UMHS Guidance includes a summary of frequently used screening tools that school districts might consider if they “choose to not use the state-provided tool,” although ISBE notes that none of the listed tools meets the UMHS requirements. In the UMHS FAQ, ISBE provides additional information, including that ISBE is in the process of procuring a UMHS tool but that schools are not required to use the ISBE-procured tool. ISBE states that school districts may choose any screening tool that meets the criteria outlined in ISBE’s School Readiness Report. ISBE also clarified that SEL screeners do not meet the criteria for a UMHS tool.

The UMHS Guidance explains that, when selecting a UMHS tool, schools should consider whether administering their chosen tool constitutes an exam, evaluation, or other mental health service under the *Illinois Mental Health and Developmental Disabilities Confidentiality Act* (740 ILCS 110/2), which has specific confidentiality requirements. We recommend that school districts also consider whether their chosen tool constitutes a screening, or an evaluation that requires written parent consent, under the *IDEA*. The UMHS Guidance provides that school districts have the choice of obtaining active consent (*i.e.*, prior signed written consent) or passive consent (*i.e.*, notice and opt-out option) from students’ parents/guardians to conduct UMHS. However, on August 26, 2026, the U.S. Department of Education’s Student Privacy Policy Office (“SPPO”) released a “Dear Colleague” [letter](#) stating the SPPO’s position that mental health screenings require explicit, prior written parental consent under the *Family Educational Rights and Privacy Act* (“FERPA”) and the *Protection of Pupil Rights Amendment* (“PPRA”), and their implementing regulations.

The UMHS Guidance has numerous legal and practical implications for school districts. The UMHS Guidance repeatedly suggests that school districts consult with their legal counsel due to the complex legal issues presented by UMHS implementation. Given these issues, we recommend that our school district and special education cooperative clients begin planning for their UMHS screening process well before next school year.

Use of Artificial Intelligence in Schools

On July 9, 2026, ISBE released comprehensive [non-regulatory guidance](#) concerning the use of artificial intelligence (“AI”) in elementary and secondary education (the “AI Guidance”), in response to Public Act 104-039, which amended the Illinois *School Code* to require ISBE to develop statewide guidance on AI. 105 ILCS 5/2-3.18a.

The AI Guidance stresses that artificial intelligence is a tool to support teaching and learning, rather than a replacement for human relationships and classroom educators. The AI Guidance sets forth a series of recommendations for local implementation rather than strict Statewide mandates. School districts are not required to adopt a single Statewide policy regarding AI use; instead, local school boards are empowered to make decisions regarding the use of AI based on community needs. The AI Guidance provides school districts with model templates for District-wide administrative frameworks, acceptable use policies, and informed use policies. The AI Guidance is intended to reinforce the “trust but verify” rule embodied in recent State legislation governing AI use, noting that AI must not be used to independently determine special education eligibility, discipline outcomes, teacher evaluations, or hiring practices without accompanying human review.

Relatedly, the AI Guidance coincides with complementary legislation, Public Act 104-0565, which will amend Section 24A-5 of the Illinois *School Code* to prohibit school administrators from using AI algorithms to generate quantitative or numerical scores for staff evaluations effective July 1, 2027.

If not already in place, the time is now for school districts and special education cooperatives to establish written policies and procedures setting the parameters of acceptable and informed use of AI by administrators, educators, and students, as well as policies regarding the scope of permissible AI use in the hiring and evaluation of staff.

Please do not hesitate to contact any of our attorneys at 630.313.4750 with questions regarding this update or for assistance with developing and implementing policies and procedures on UMHS and AI use.