

10.06 Plan Sponsor Documentation

a. Amendment to Existing Plan Documents

Instructions for Completing Plan Amendment

General & Introductory Paragraphs. In order to receive PHI from a HIPAA covered plan, the Board of Trustees will need to amend the Plan Document to comply with HIPAA's Privacy requirements and certify to the Plan that the appropriate Amendments have been made. The process for amending each plan will usually be described in the document creating the Plan.

Selected Line Instructions

1. If Everett School Employee Benefit Trust sponsors one (1) or more small group health plans in addition to other covered plans, a separate Amendment might be appropriate as an alternative to stating a separate effective date for the small plan Amendment.
- 2.a. & b. Refer to Section 4.03 to determine the extent to which Everett School Employee Benefit Trust's Plan administrative activities should be described. (Note that changes to these provisions should be reflected in the Notice of Privacy Practices.)
- 5.i.(1) Refer to Section 4.03 for a description of persons that may have access to PHI. This description may need to distinguish among various plans if the persons with access to PHI vary by plan.
- 5.i.(3) Coordinate disciplinary measures with those in Section 6.04.

**HIPAA PRIVACY
MASTER GROUP HEALTH PLAN AMENDMENT
FOR GROUP HEALTH PLANS OF
EVERETT SCHOOL EMPLOYEE BENEFIT TRUST**

WHEREAS, the Health Insurance Portability and Accountability Act of 1996, ("HIPAA"), and the regulations issued thereunder at 45 CFR Parts 160 and 164 ("the HIPAA regulations"), impose privacy obligations on group health plans that restrict the use and disclosure of protected health information ("PHI");

WHEREAS, the Board of Trustees sponsors and maintains the following group health plans that are subject to the HIPAA regulations: Preferred Provider Organizations/First Choice Health Network and Flexible Spending Accounts;

WHEREAS, the Plan's Administrator representing the Plan intend to receive PHI from the Plan (including its Business Associates, health insurance issuers, HMOs, and their agents) from time to time;

WHEREAS, the HIPAA regulations require Board of Trustees to amend the Plan to incorporate provisions specified in 45 CFR 164.504(f)(2) prior to the receipt of such PHI; and

WHEREAS, Chairperson of Board of Trustees is authorized on behalf of the Plans offered by Everett Public School Employee Benefit Trust to approve Amendments to the Plan;

NOW, THEREFORE, each respective Plan is hereby amended, as set forth below, to implement appropriate protections required under the HIPAA regulations.

1. **Effective Date.** This Amendment is effective as of April 14, 2003.
2. **Uses and Disclosures of PHI.** The Plan's Administrator may disclose a Plan Participant's PHI to Everett School Employee Benefit Trust and Business Associate(s) for the following Plan administration functions under 45 CFR 164.504(a), to the extent not inconsistent with the HIPAA regulations:
 - Identify the classes of employees with access to PHI and the categories of information they will use;
 - Make reasonable efforts to limit disclosures of and requests for PHI to the Minimum Necessary to accomplish the intended purpose;
 - Maintain procedures governing the storage of PHI; and
 - If feasible, return or destroy PHI received from the Plan, and maintain procedures governing the retention and destruction of PHI not returned or destroyed.
3. **Restriction on Plan Disclosure to Everett School Employee Benefit Trust.** Neither the Plan nor any of its Business Associates, health insurance issuers, or HMOs, will disclose

PHI to the Plan except upon receipt of Everett School Employee Benefit Trust certification that the Plan has been amended to incorporate the agreements of Everett School Employee Benefit Trust under paragraph 4, except as otherwise permitted or required by law.

4. **Privacy Agreements of Everett School Employee Benefit Trust.** As a condition for obtaining PHI from the Plan, its Business Associates, Insurers, and HMOs, the Plan's Administrator agrees it will:
- a. Not use or further disclose such PHI other than as permitted by paragraph 2 of this Amendment, as permitted by 45 CFR 164.508, 45 CFR 164.512, and other sections of the HIPAA regulations, or as required by law;
 - b. Ensure that any of its agents, including a subcontractor, to whom it provides the PHI agree to the same restrictions and conditions that apply to the Plan with respect to such information;
 - c. Not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of Everett School Employee Benefit Trust;
 - d. Report to the Plan any use or disclosure of the PHI that is inconsistent with the uses or disclosures provided for of which the Plan's Administrator becomes aware;
 - e. Make the PHI of a particular Participant available for purposes of the Participant's requests for inspection, copying, and Amendment, and carry out such requests in accordance with HIPAA regulation 45 CFR 164.524 and 164.526;
 - f. Make the PHI of a particular Participant available for purposes of required accounting of disclosures by Everett School Employee Benefit Trust pursuant to the Participant's request for such an accounting in accordance with HIPAA regulation 45 CFR §164.528;
 - g. Make Everett School Employee Benefit Trust's internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance by the Plan with HIPAA;
 - h. If feasible, return or destroy all PHI received from the Plan that the Plan's Administrator still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, Everett School Employee Benefit Trust agrees to limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and

- i. Ensure that there is adequate separation between the Plan and the Plan's Administrator by implementing the terms of subparagraphs 5.i. (1) through (3), below:
- (1) Employees With Access to PHI: Trustees working with appeals and designated employees in Human Resources, Information Systems and Technology and Payroll are the only individuals that may access PHI received from the Plan.
 - (2) Use Limited to Plan Administration: The access to and use of PHI by the individuals described in (1), above, is limited to Plan Administration functions as defined in HIPAA regulation 45 CFR §164.504(a) that are performed by the Plan's Administrator for the Plan.
 - (3) Mechanism for Resolving Noncompliance. If the Plan's Administrator or person(s) responsible for monitoring compliance determines that any person described in (1), above, has violated any of the restrictions of this Amendment, then such individual shall be disciplined in accordance with the policies of Everett School Employee Benefit Trust established for purposes of privacy compliance, up to and including dismissal from employment. The Plan's Administrator shall arrange to maintain records of such violations along with the persons involved, as well as disciplinary and corrective measures taken with respect to each incident.
5. PHI not Subject to this Amendment. Notwithstanding the foregoing, the terms of this Amendment shall not apply to uses or disclosures of Enrollment, Disenrollment, and Summary Health Information made pursuant to 45CFR 164.504 (f)(1)(ii) or (iii); of PHI released pursuant to an Authorization that complies with 45 CFR 164.508; or in other circumstances as permitted by the HIPAA regulations.
6. Definitions. All capitalized terms within this Amendment not otherwise defined by the provisions of this Amendment shall have the meaning given them in the respective Plan or, if no other meaning is provided in the Plan, the term shall have the meaning provided under HIPAA.
7. Copies Effective as Originals. A copy of the signed and dated original of this Amendment shall be as effective as the original, and either an original or such copy shall be appended to the governing instruments of each Plan and shall be deemed to be a part of such governing instruments.

IN WITNESS WHEREOF, this Amendment was executed by the following duly authorized individual on behalf of Everett School Employee Benefit Trust this ____ day of _____, 2003.

Everett School Employee Benefit Trust

By: _____

(print name)

Date: _____

Title: _____

**SAMPLE
PLAN SPONSOR CERTIFICATION OF
HIPAA PRIVACY PLAN AMENDMENTS FOR
EVERETT SCHOOL EMPLOYEE BENEFIT TRUST
[GROUP HEALTH PLAN]**

The undersigned duly authorized representative of the Board of Trustees, Plan Sponsor of the Everett School Employee Benefit Trust (the "Plan"), certifies by this instrument that the Plan was amended, effective [date HIPAA Privacy Amendment was effective for Plan], by adoption of the "HIPAA Privacy Master Group Health Plan Amendment for Group Health Plans of Everett School Employee Benefit Trust" attached to this certificate. The undersigned further certifies that Everett School Employee Benefit Trust agrees to the provisions in such Amendment.

Everett School Employee Benefit Trust

By: _____

(print name)

Date: _____

Title: _____

(Plan Amendment attached)

b. Certification**Instructions for Completing Plan Sponsor Certification**

General. Everett School Employee Benefit Trust may choose to provide a brief certificate (the "Alternative Form") that references Everett School Employee Benefit Trust's detailed HIPAA Privacy Amendment.

Certain vendors will require a complete copy of the HIPAA Privacy Amendment. If so, the "Alternative Form" may be the more appropriate form to use because attached will be a copy of the complete HIPAA Privacy Plan Amendment, as adopted. If Everett School Employee Benefit Trust uses the Alternative Form, it should consider whether any provisions of the Amendment are inappropriate to furnish to the particular vendor.

[Bracketed text] — Each form of certificate contains bracketed text indicating where information should be specific to Everett School Employee Benefit Trust.

10.07 Notice of Privacy Practices

Instructions for Privacy Notice

This sample was designed as a joint Privacy Notice for all group health plan self-insured benefits. If appropriate, indicate which components of the plans are covered by this notice (self-funded? insured? which options?). Employers may choose to send multiple notices for different benefits, in which case the notices should be modified accordingly.

Note that if a use or disclosure is prohibited or materially limited by another law — e.g., a more stringent state law — the notice must reflect the more stringent requirements (45 CFR 164.520(b)(1)(ii)).

The notice must describe how the individual may exercise each individual right and should indicate where to submit requests (e.g., Plan Contact, Insurer, Business Associate?).

EVERETT PUBLIC SCHOOLS - PRIVACY NOTICE

This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) imposes numerous requirements on employer health plans concerning the use and disclosure of individual health information. This information, known as protected health information, includes virtually all individually identifiable health information held by the Plan — whether received in writing, in an electronic medium, or as an oral communication. This notice describes the privacy practices of the following plans: Preferred Provider Organizations/First Choice Health Network and Flexible Spending Accounts. The plans covered by this notice may share health information with each other to carry out Treatment, Payment, or Health Care Operations. These plans are collectively referred to as the Plan in this notice, unless specified otherwise.

The Plan's duties with respect to health information about you

The Plan is required by law to maintain the privacy of your health information and to provide you with this notice of the Plan's legal duties and privacy practices with respect to your health information. If you participate in an insured plan option, you will receive a notice directly from the Insurer. It's important to note that these rules apply to the Plan, not Everett School District as an employer — that's the way the HIPAA rules work. Different policies may apply to other Everett School Employee Benefit Trust programs or to data unrelated to the health plan.

How the Plan may use or disclosure your health information

The privacy rules generally allow the use and disclosure of your health information without your permission (known as an authorization) for purposes of health care Treatment, Payment activities, and Health Care Operations. Here are some examples of what that might entail:

- **Treatment** includes providing, coordinating, or managing health care by one (1) or more health care providers or doctors. Treatment can also include coordination or management of care between a provider and a third party, and consultation and referrals between providers. *For example, the Plan may share health information about you with physicians who are treating you.*
- **Payment** includes activities by this Plan, other plans, or providers to obtain premiums, make coverage determinations and provide reimbursement for health care. This can include eligibility determinations, reviewing services for medical necessity or appropriateness, utilization management activities, claims management, and billing; as well as "behind the scenes" plan functions such as risk adjustment, collection, or reinsurance. *For example, the Plan may share information about your coverage or the*

expenses you have incurred with another health plan in order to coordinate payment of benefits.

- **Health care operations** include activities by this Plan (and in limited circumstances other plans or providers) such as wellness and risk assessment programs, quality assessment and improvement activities, customer service, and internal grievance resolution. Health care operations also include vendor evaluations, credentialing, training, accreditation activities, underwriting, premium rating, arranging for medical review and audit activities, and business planning and development. *For example, the Plan may use information about your claims to review the effectiveness of wellness programs.*

The amount of health information used or disclosed will be limited to the “Minimum Necessary” for these purposes, as defined under the HIPAA rules. The Plan may also contact you to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to you.

How the Plan may share your health information with Everett School Employee Benefit Trust

The Plan, or its health insurer or HMO, may disclose your health information without your written authorization to Everett School Employee Benefit Trust for plan administration purposes. Everett School Employee Benefit Trust may need your health information to administer benefits under the Plan. Everett School Employee Benefit Trust agrees not to use or disclose your health information other than as permitted or required by the Plan documents and by law. Trustees working with appeals and designated employees in Human Resources, Information Systems and Technology and Payroll are the only Everett School Employee Benefit Trust employees who will have access to your health information for plan administration functions.

Here’s how additional information may be shared between the Plan and Everett School Employee Benefit Trust, as allowed under the HIPAA rules:

- The Plan, or its Insurer or HMO, may disclose “summary health information” to Everett School Employee Benefit Trust if requested, for purposes of obtaining premium bids to provide coverage under the Plan, or for modifying, amending, or terminating the Plan. Summary health information is information that summarizes participants’ claims information, but from which names and other identifying information have been removed.
- The Plan, or its Insurer or HMO, may disclose to Everett School Employee Benefit Trust information on whether an individual is participating in the Plan, or has enrolled or disenrolled in an insurance option or HMO offered by the Plan.

In addition, you should know that Everett School Employee Benefit Trust cannot and will not use health information obtained from the Plan for any employment-related actions. However,