As outdoor recreation and education professionals, risk management is paramount. We want our programs to be able to mitigate as many risks as possible so that our employees and participants can enjoy the natural world in a positive and supportive manner. This poster will address several federal mandates as they apply directly to outdoor recreation and education programs, including the Clery Act, Title IX, the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), the Child Abuse and Neglect Reporting Act (CANRA), and the Occupational Safety and Health Administration (OSHA) regulations. We will highlight the risks or implications of being non-compliant, as well as what steps you can take as a professional to better protect your participants, your employees, your organization, and yourself as an individual.

### Health Insurance Portability and Accountability Act (HIPAA)

**Brief history:**

The Health Insurance Portability and Accountability Act (HIPAA) was first introduced in 1996. It protects sensitive personal health information and requires all covered entities to implement strong privacy and security standards. HIPAA was written in part by two key health care reform objectives:

- To inhibit fraud and abuse in the health insurance sector
- To allow employees to keep their health insurance coverage should they change employers

### Occupational Safety and Health Administration (OSHA)

**Brief history:**

OSHA, the Occupational Safety and Health Act was passed by Congress and was the basis for the creation of the Occupational Safety and Health Administration (OSHA). OSHA’s mission is to ensure every American worker has the right to work in a safe and healthy working condition. OSHA is nested within the U.S. Department of Labor.

- **Who is covered and who needs to comply?**
  - OSHA specifically protects most private sector workers and some public or state level workers.
  - Some states and U.S. territories have their own state level plans that have been adopted instead of Federal OSHA.
  - Federal OSHA and state level occupational health and safety programs do not cover young workers (those that are new to the workforce, up to age 19), those who are still minors (under 18), be mindful of child labor laws, workers who speak a primary language other than English, and others.
  - Federal OSHA and state level occupational health and safety programs also cover young workers.
  - All employers who are identified and defined by OSHA regulations must comply with either the Federal regulations or the state level equivalent occupational health and safety program.

- **How to comply:**
  - Examine each “General Industry” regulation to see if it applies to your organization.
  - Identify if any specialized industry regulations apply to your organization.
  - Identify if your state has adopted their own occupational health and safety program.
  - OSHA does not apply to those who are self-employed.

- **Risks of noncompliance:**
  - Fines can occur if violations or breaches happen in direct correlation to noncompliance regardless if it was knowingly or unknowingly done.
  - According to the Health and Human Services department, those from $100 and go up to $1.5 million.
  - Each citation is placed into one of the four categories depending on the quality of the violation: unknowing, reasonable, willful neglect and is not corrected within the required time period.
  - Penalties can occur if violations or breeches happen in direct correlation to noncompliance, regardless if it was knowingly or unknowingly done.

### Americans with Disabilities Act (ADA)

**Brief history:**

Enacted in 1990, and amended in 2008

- **Who is covered and who needs to comply?**
  - Individuals with a disability are defined as those who have a physical or mental impairment that substantially limits one or more major life activities; those who are regulated under the ADA are federal, state, and local government employers and some private employers who receive federal government contracts of $50,000 or more.

- **How to comply:**
  - Follow ADA provisions and allow individuals with disabilities reasonable access to programs. Reasonable modifications can be made as necessary.
  - Contact your local government or the U.S. Department of Labor to learn more about the programs or services available.

- **Risks of noncompliance:**
  - Litigation could also take place if a person’s private health-related information is breeched due to employee mishandling.

### Other Federal Legal Responsibilities

- **Brief history:**


- **Who it protects and who needs to adhere to it?**
  - Individuals with a disability are defined as those who have a physical or mental impairment that substantially limits one or more major life activities; those who are regulated under the ADA are federal, state, and local government employers and some private employers who receive federal government contracts of $50,000 or more.

- **How to comply:**
  - Follow ADA provisions and allow individuals with disabilities reasonable access to programs. Reasonable modifications can be made as necessary.
  - Contact your local government or the U.S. Department of Labor to learn more about the programs or services available.

- **Risks of noncompliance:**
  - Litigation could also take place if a person’s private health-related information is breeched due to employee mishandling.

### Federal Mandate Compliance and How it Applies to Outdoor Recreation and Education Programs

Presented by: Christine Upton, Outdoor Adventures Coordinator & Daniela Corso, Coordinator of Risk Management and Special Projects
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)

**Brief History:**
Enacted in 1990

**Who it protects and who needs to adhere to it?:**
Current and prospective students and employees

**Who it protects and who needs to adhere to it?:**
All institutions of higher education that receive federal funds

**How to comply:**
Ensure that all policies and procedures are in place to comply with the Clery Act's requirements.

**Risks of noncompliance:**
If a school is found to have violated the Clery Act, and does not comply with steps required in order to be in compliance, the Department of Education may withhold payments to the school under any applicable federal program, issue a complaint to compel compliance, or impose civil penalties.

**Considerations for outdoor professionals:**
Ensure that all policies and procedures are in place to comply with the Clery Act's requirements.

**Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1964**

**Brief History:**
Enacted in 1972

**Who it protects and who needs to adhere to it?:**
Current and prospective students and employees

**How to comply:**
Develop and implement policies and procedures that comply with Title IX requirements.

**Risks of noncompliance:**
If a school is found to have violated Title IX, and does not comply with steps required in order to be in compliance, the Department of Education may withhold payments to the school under any applicable federal program, issue a complaint to compel compliance, or impose civil penalties.

**Considerations for outdoor professionals:**
Ensure that all policies and procedures are in place to comply with Title IX requirements.

**Family Educational Rights and Privacy Act (FERPA)**

**Brief History:**
Enacted in 1974

**Who it protects and who needs to adhere to it?:**
Post-secondary schools/programs are considered eligible students.

**How to comply:**
Ensure that all policies and procedures are in place to comply with FERPA requirements.

**Risks of noncompliance:**
If a school is found to have violated FERPA, and does not comply with steps required in order to be in compliance, the Department of Education may withhold payments to the school under any applicable federal program, issue a complaint to compel compliance, or impose civil penalties.

**Considerations for outdoor professionals:**
Ensure that all policies and procedures are in place to comply with FERPA requirements.

**Child Abuse and Neglect Reporting Act (CANRA)**

**Brief History:**
Enacted in 1984

**Who it protects and who needs to adhere to it?:**
Public school employees, child welfare professionals, and other mandated reporters.

**How to comply:**
Ensure that all policies and procedures are in place to comply with CANRA requirements.

**Risks of noncompliance:**
If a school is found to have violated CANRA, and does not comply with steps required in order to be in compliance, the Secretary of the Department of Education may withhold payments to the school under any applicable federal program, issue a complaint to compel compliance, or impose civil penalties.

**Considerations for outdoor professionals:**
Ensure that all policies and procedures are in place to comply with CANRA requirements.

**Federal Mandate Compliance and How It Applies to Outdoor Recreation and Education Programs**

Presented by: Christan Upton, Outdoor Adventures Coordinator & Daniela Cross, Coordinator of Risk Management and Special Projects

All organizations and institutions should research with their attorneys and risk managers on direct applicability of the laws included in this presentation, as well as any applicable state-specific mandates and laws.