

ATTACHMENT S  
PARENTS' BILL OF RIGHTS  
FOR DATA PRIVACY AND SECURITY

To satisfy their responsibilities regarding the provision of education to students in pre-kindergarten through grade twelve, “educational agencies” (as defined below) in the State of New York collect an5 (e)67age5 gee cer-1 (t)-2 ( g)-6 (e)

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student's privacy rights under FERPA. Complete student records are maintained by schools and school districts and not at NYSED, which is the secondary repository of data, and NYSED make amendments to school or school district records. Schools and school districts are in the best position to make corrections to students' education records.

1. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent (including but not limited to disclosure under specified conditions to: (i) school officials within the school or school district with legitimate educational interests; (ii) officials of another school for purposes of enrollment or transfer; (iii) third party contractors providing services to, or performing



A more detailed description of the PPPL is available from the Committee on Open Government of the New York Department of State. Guidance on what you should know about the PPPL can be accessed at <http://www.dos.ny.gov/coog/shldno1.html>. The Committee on Open Government's address is Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Ave cs 0 sc[wC.(( )-3581 ( )-23 [(W)4 (a)4 (s)- Ave cs o(er)-1 tu( 9)-imon (en )]TJ650,sc[wC.1.ht(

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- (a) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (b) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

**1. What kind of student data is *not* subject to the confidentiality and security requirements of Education Law §2-d?**

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, de-identified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d or within the scope of this Parents' Bill of Rights.

**2. What are my rights under Education Law § 2-d as a parent regarding my student's PII?**

Education Law §2-d ensures that, in addition to all of the protections and rights of parents under the federal FERPA law, certain rights will also be provided under the Education Law. These rights include, but are not limited to, the following elements:

- (A) A student's PII cannot be sold or released by the educational agency for any commercial or marketing purposes.
  - PII may be used for purposes of a contract that provides payment to a vendor for providing services to an educational agency as permitted by law.
  - However, sale of PII to a third party solely for commercial purposes or receipt of payment by an educational agency, or disclosure of PII that is not related to a service being provided to the educational agency, is strictly prohibited.

- (B) Parents have the right to inspect and review the complete contents of their child's education record including any student data stored or maintained by an educational agency.

○ This right of inspection is consistent with the requirements of FERPA. In addition to the right of inspection of the educational record, Education Law §2-d provides a specific right for parents to inspect or receive copies of any data in the student's educational record.

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- The policies will also require security measures when providing student data to parents, to ensure that only authorized individuals receive such data. A parent may be asked for information or verifications reasonably necessary to ensure that he or she is in fact the student's parent and is authorized to receive such information pursuant to law.

(C) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

Education Law §2-d also specifically provides certain limitations on the collection of data by educational agencies. Tw [(La.)5 (o)-3 (re)1 iuyooiuyo

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- When appointed, the Chief Privacy Officer of NYSED will also provide a procedure within NYSED whereby parents, students, teachers, superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

**1. Must additional elements be included in the Parents' Bill of Rights.?**

Yes. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents' Bill of Rights each contract an educational agency enters into with a third party contractor shall include the following supplemental information:

(A) the exclusive purposes for which the student data, or teacher or principal data, will be used;

(B) how the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by ~~data~~ . -0.04 Tc 0.004 Tw 3.63 0 Td [leachs30 Tc (ecu)-4 (r)-1 (i)-6 (t



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any party relating to the alleged improper disclosure of student data or teacher or principal APPR data.

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational agency of the breach in the most expedient way possible and without unreasonable delay;

(ii) the educational agency must notify the parent in the most expedient way possible and without unreasonable delay; and (iii) the third party contractor may be subject to certain penalties including, but not limited to, a monetary fine; mandatory training regarding federal and state law governing the confidentiality of student data, or teacher or principal APPR data; and

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# ATTACHMENT

## **Model Notification of Rights under FERPA for Elementary and Secondary Schools**

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

- 0 1. The right to inspect and review the student's education records (b) (1) (2) [104.34.(6)2 1 (b) (1) 480] 2 [(c) 4-

interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: ~~FERPA~~ FER-9 (OP-1 (1A))TJ -0.003 T

such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit

**ATTACHMENT S-1**  
**Attachment To Parents' Bill Of Rights**  
**For Contracts Involving Disclosure of Certain Personally Identifiable**  
**Information**

Education Law §2-d, added by Ch. 56 of the Laws of 2014, requires that a Parents' Bill of Rights be attached to every contract with a third-party contractor (as defined in the law) which involves the disclosure of personally identifiable information (PII) derived from student education records ("Student Data"), or certain teacher/principal information regarding annual professional performance evaluations that is confidential pursuant to Education Law §30212-c ("APPR Data"). Each such Contract must include this completed Attachment to provide specific information about the use of such data by the Contractor.

1. Specify whether this Contract involves disclosure to the Contractor of Student Data, APPR Data, or both. *NYSED program office checks applicable box(es).*

Disclosure of Student Data

Disclosure of APPR Data

2. Describe the exclusive purposes for which the Student Data or APPR Data will be used in the performance of this contract.

~~6 NYSED CONTRACTS DISCLOSED TO  
PDES FOR UNLAWFUL PURPOSES~~

3. Identify any subcontractors or other persons/entities with whom the Contractor will share the Student Data or APPR in the performance of this Contract and describe how the Contractor will ensure that such persons/entities will abide by the data protection and security requirements of the Contract.

Subcontractors or other entities with whom the Contractor will share data:

There is no subcontractor that will share student data in the performance of this contract.

***In the event the Contractor engages a Subcontractor or otherwise shares Student Data or APPR Data with any other entity, Contractor acknowledges and agrees that before any such data is shared with a Contractor or another entity, such party must agree in writing to be bound by the confidentiality and data protection provisions set forth in this Contract including, but not limited to, the "Data Security and Privacy Plan" set forth in Appendix R. Upon termination of the agreement between the Contractor and a Subcontractor or other entity, Contractor acknowledges and agrees that it is responsible for ensuring that all Student Data***

***or APPR Data shared by the Contractor must be returned to Contractor or otherwise destroyed as provided in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.***

4. Specify the expiration date of the Contract and explain what will happen to the Student Data or APPR Data in the Contractor’s possession, or the possession of any person/entity described in response to Paragraph 3, upon the expiration or earlier termination of the Contract.

Contract Expiration Date: June 30, 2025

***NYSED program office checks applicable box.***

Contractor agrees to return the Student Data or APPR Data to the Contractor upon the expiration or earlier termination of the Contract.

Contractor agree to securely destroy the Student Data or APPR Data consistent with the protocols set forth in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

Student Data

APPR Data