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have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

(g) 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.

**3. 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.

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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, including, but not limited to:

- (A) A mandate that, except as otherwise specifically authorized by law, NYSED shall only collect PII relating to an educational purpose;
- (B) NYSED may only require districts to submit PII, including data on disability status and student suspensions, where such release is required by law or otherwise authorized under FERPA and/or the New York State Personal Privacy Law; and
- (C) Except as required by law or in the case of educational enrollment data, school districts shall not report to NYSED student data regarding juvenile delinquency records, criminal records, medical and health records or student biometric information.
- (D) Parents may access the NYSED Student Data Elements List, a complete list of all student data elements collected by NYSED, at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>, or may obtain a copy of this list by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234; and
- (E) Parents have the right to file complaints with an educational agency about possible breaches of student data by that educational agency's third party contractors or their employees, officers, or assignees, or with NYSED. Complaints to NYSED should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany NY 12234, email to [CPO@nysed.gov](mailto:CPO@nysed.gov). The complaint process is under development and will be established through regulations to be proposed by NYSED's Chief Privacy Officer, who has not yet been appointed.
  - o Specifically, the Commissioner of Education, after consultation with the Chief Privacy Officer, will promulgate regulations establishing procedures for the submission of complaints from parents, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal APPR data by a third party contractor or its officers, employees or assignees.
  - o 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









## 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:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend a record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. 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.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational 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 requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by §99.37 of the regulations, with its annual notification of rights under FERPA.]

[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulFER

- programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)
- x In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
  - x To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))
  - x To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
  - x To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
  - x To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
  - x To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
  - x To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
  - x Information the school has designated as "directory information" under §99.37. (§99.31(a)(11))

Attachment to Parents' Bill Of Rights  
Regarding Disclosure of Certain Personally Identifiable  
Information

Attachment  
For Contracts Involving

added by Ch. 56 of the Laws of 2014 requires that a Parents' Bill of Rights Education Law 82-d  
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 of Student Data); or certain teacher/principal information regarding annual professional perform  
ance evaluations that is confidential pursuant to Education Law 8302(12-c) ("APPR Data"). Each such Contr  
act must include this completed Attachment to provide speci  
information about the use of such data by the contractor.

Specify whether this contract involves disclosure to the contractor of Student Data  
both.

Disclosure of Student Data

Disclosure of APPR Data

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

Students (ages 14-21) per year and collect demographic data such as Vendor will identify the  
services (Pre-ETS services) received; and any other elements deemed employment transiti

Attachment R

By 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 other person/entity described in response to Paragraph 4 upon the expiration or earlier termination of the Contract.

Contract expiration date: 9/30/25

Contractor agrees to retain the Student Data or APPR Data in NYSED consistent with the protocols set forth in Paragraph 4 of the Data Security and Privacy Plan set forth in Attachment R.

Contractor agrees 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 Attachment R.

Whether the Contractor will be collecting any data from or pertaining to students derived from the student's education record, or pertaining to teachers or principals' annual professional performance evaluation, or any other data, and if so, the Contractor will ensure that the principal may challenge the accuracy of the Student Data or APPR data that is collected. *ISSE program office checks appropriate boxes.*

5. State where

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Student Data

APPR Data

to the accuracy of any of the Student Data or APPR Data shared pursuant to this Contract should be addressed to the school, educational agency or entity which produced, generated or otherwise created such data.

Any challenges

6. Describe where the Student Data or APPR Data will be stored (in a manner that does not jeopardize the security of the data) and the security protections taken to ensure that the data will be protected, including whether such data will be encrypted.

DOE stores on internal servers. DOE data centers are state-of-the-art provisioning and de-provisioning technology to ensure that only authorized personnel have access to the data. All unauthorized access or download is subject to our defined Security Incident Response Process (SIRP). This includes notification of DOE executives and appropriate notification of the FBI, where necessary and in compliance with applicable laws and regulations.

Response Process (SIRP). This includes notification of DOE executives and appropriate notification of