

POLICY	5505 Adopted: June 2, 2020 Student Policies
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SUBJECT: DATA SECURITY AND PRIVACY

The BOCES will comply with and implement the provisions of the Family Educational Rights and Privacy Act (FERPA), Education Law §§ 2-d, 101, 305 and their implementing or related regulations.

In particular, the BOCES will, in complying with and implementing these laws and regulations, take the following actions regarding the personally identifiable information of its students, parents, and staff:

1. The BOCES will not sell such personally identifiable information nor use it or allow it to be used for any marketing or commercial purpose and will minimize the collection, processing, and transmission of such information.
 - a. The BOCES will ensure that it has provisions in its contracts with third party contractors that require that the confidentiality of such personally identifiable information be maintained.
 - b. The BOCES shall not report to NYSED juvenile delinquency, criminal, or medical and health records, or biometric information of its students, except as required by law.
2. The BOCES will publish on its website a parents' bill of rights for data privacy and security which is attached to this policy and that complies with the requirements of 8 NYCRR Part 121.
 - a. This parents' bill of rights will include certain provisions regarding such personally identifiable information that each third party contract must contain, include the purpose that any such personally identifiable information will be used, how subcontractors will abide by all data security and privacy requirements, the duration of the contract, how a parent, student or staff member may challenge the accuracy of any such personally identifiable data that is used, where such personally identifiable information will be stored and the precautions taken to protect such information, and how the information will be encrypted while it is in motion.
 - b. Such provisions will be published on the BOCES' website and may be redacted in accordance with the law and regulations.

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3. Procedures for individuals to file complaints about breaches or unauthorized releases of such personally identifiable information will be established and communicated.
 - a. As part of these procedures, the BOCES will acknowledge receipt of complaints, commence and investigation, and take necessary precautions to protect such personally identifiable information.
 - b. The BOCES will provide the complainant with its findings within 60 days from the receipt of the complaint.
 - c. The BOCES will maintain a record of all such complaints.
4. The BOCES adopts the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity (NIST Cyber Security Framework or NIST CSF) as its standard for data security and privacy.
5. Every use and disclosure of such personally identifiable information by the BOCES shall benefit students and the BOCES. Such personally identifiable information shall not be included in public reports or other documents.
6. A copy of this policy shall be published on the BOCES' website and all notice of the policy will be provided to all BOCES' officers and employees.
7. Each third-party contract entered into by the BOCES shall include the third-party contractor's data security and privacy plan, which shall:
 - a. Outline how the third-party contractor will comply with state, federal, and local data privacy and security laws, regulations, and polices regarding protection of such personally identifiable information.
 - b. Specify the safeguards and practices that the contractor has in place to protect such personally identifiable information.
 - c. Specify how training on the federal and state laws regarding privacy of such personally identifiable information will occur.
 - d. Specify how subcontractors will be managed to ensure such personally identifiable information will be protected.

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- e. Specify how incidents involving breaches or unauthorized disclosures of such personally identifiable information will be identified and managed, and how the BOCES will be notified in the event of such breach or disclosure.
 - f. Specify how data will be returned to the BOCES or deleted or destroyed at the termination or expiration of the contract.
8. The BOCES shall annually provide data security awareness training to their officers and employees with access to such personally identifiable information in accordance with 8 NYCRR Part 121.
 9. The BOCES shall designate a Data Protection Officer to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and 8 NYCRR Part 121, and to serve as the point of contact for data security and privacy of the BOCES.
 10. The BOCES shall ensure that all third-party contractors shall be in compliance with the requirements of 8 NYCRR 121.9.
 11. Breaches and unauthorized releases of such personally identifiable information.
 - a. Third-party contractors shall promptly notify the BOCES of any breach or unauthorized release of such personally identifiable information.
 - b. The BOCES shall report every discovery or report of a breach or unauthorized release of such personally identifiable information to the New York State Chief Privacy Officer within 10 calendar days after such discovery.
 - c. The BOCES shall notify the person whose personally identifiable information (and/or the parent of such person, if they are a student) was compromised by such breach or unauthorized release within 60 calendar days after such discovery.
 - d. Persons who believe that their personally identifiable information, or that of their child, if they are a parent, has been compromised shall so notify the BOCES of such breach or unauthorized release.

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12. Parents and eligible students may inspect and review student educational records by making a written request to the BOCES.
 - a. The BOCES shall verify the identity of the requestor before releasing any information.
 - b. The BOCES shall notify parents annually of their right to inspect and review their child’s educational records. The annual notice required pursuant to FERPA shall be deemed to satisfy this requirement.
 - c. The BOCES shall comply with a request for access to records within 45 calendar days after receipt of a request.

13. Any other requirements of the New York State Education Law, the New York State Regulations, or FERPA or its federal implementing regulations regarding data privacy and security not mentioned in this policy shall be complied with and shall take precedence over any provision in this policy, and all requirements of said laws and regulations shall be complied with in the manner proscribed in said law or regulation, notwithstanding anything contained in this policy to the contrary.

Cross-ref: 5500, Family Educational Rights and Privacy Act
5510, Parents’ Bill of Rights Relating to Student Data

Ref: 20 U.S.C. § 1232g and 34 C.F.R. Part 99
Education Law §§ 2-d, 101, 207 and 305
8 NYCRR Part 121