



NYS ED LAW 2-D DATA PROTECTION & PLANNING

VERSION DATE: OCTOBER 1, 2020 | **ELECTRONIC VERSION:** <https://riconedpss.org/>



NYS REQUIREMENTS FOR DATA SECURITY AND PRIVACY

Education Law 2-d and Part 121 of the Commissioner’s Regulations outline requirements for school districts and BOCES related to the protection of the personally identifiable information (PII) of students, as well as some teacher and principal information. The law and the regulations require schools to undertake a multi-pronged approach to information governance.

PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)



Protect the confidentiality of student PII (as defined in FERPA) and certain teacher and principal PII (confidential APPR data)

PARENTS’ BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY



Develop and post, on the agency’s website, a Parents Bill of Rights with supplemental information about each agreement with a third-party contractor that involves disclosure of PII

DATA SECURITY AND PRIVACY POLICY



Adopt and post a Data Security and Privacy Policy that includes adherence to the NIST Cybersecurity Framework to protect PII

NIST CYBERSECURITY FRAMEWORK



Apply the planning, processes, and categories of information protection defined within the NIST Cybersecurity Framework to district practices

THIRD-PARTY CONTRACTS



Whenever a contractor receives protected PII, ensure that the agreement for using the product or services (or, an addendum to that agreement) includes required language

ANNUAL EMPLOYEE TRAINING



Deliver annual privacy and security awareness training to all employees with access to protected data

UNAUTHORIZED DISCLOSURE COMPLAINT PROCEDURES



Create and publish a complaint process

INCIDENT REPORTING AND NOTIFICATION



Follow reporting and notification procedures when a breach or unauthorized disclosure occurs

DATA PROTECTION OFFICER



Appoint a Data Protection Officer to oversee implementation of Education Law 2-d responsibilities

PERSONALLY IDENTIFIABLE INFORMATION (PII)

Education Law Section 2-d and Part 121 of the Commissioner’s Regulations outline requirements for educational agencies and their third-party contractors to strengthen data privacy and security in order to protect student and annual professional performance review personally identifiable information.

REQUIREMENTS FOR NYS EDUCATIONAL AGENCIES



COMPLIANCE CHECKS

Security and Privacy Plan:

- ✓ Defines Data Governance Structures
- ✓ Includes a Comprehensive Data and Systems Inventory

Ed Law 2-d Deliverables:

- ✓ Demonstrate Compliance with All Ed Law 2-d Requirements (Requirements are Explained on Subsequent Pages)



PROTECTED DATA



PROTECTED STUDENT DATA

The term “student” refers to any person attending or seeking to enroll in an educational agency, and the term “personally identifiable information” (“PII”) uses the definition provided in FERPA. The term PII includes, but is not limited to:

- Student Name
- Parent Names
- Student ID Num
- Student Email
- Student Address
- Student Photos
- Video of Students
- Student Birthdate
- Student Medical Information
- Special Education Information
- Other indirect identifiers
- Information that, alone or in combination, would allow a reasonable person to identify the student



TEACHER AND PRINCIPAL DATA

Personally identifiable information from the records of an educational agency relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of Education Law §3012-c and §3012-d is subject to Education Law 2-d.

ED LAW 2-D AND DIRECTORY INFORMATION



THIRD-PARTY CONTRACTORS

All FERPA “directory information” continues to be PII under Ed Law 2-d. As a result, agencies can not disclose PII that has been designated as directory information to third-party contractors without an Education Law 2-d compliant agreement.



NEWSLETTERS AND SOCIAL MEDIA

If a newsletter is composed and printed in-house or by a BOCES, there is no sharing with a contractor and Ed Law 2-d does not apply. Please note, FERPA would still apply. PII might be allowed in communications based on a “directory information” or “school official” analysis. If a newsletter is printed by an outside vendor, or, composed on and/or distributed over the Internet in such a manner that an outside vendor receives the student data, then Ed Law 2-d applies and a compliant third-party contract is needed.