

THIRD-PARTY CONTRACTORS & DISTRICT REQUIREMENTS

Data privacy and security obligations related to third-party contractors must be addressed by the district entering into a compliant agreement with vendors to whom they are providing protected Personally Identifiable Information (PII). An agreement that covers the requirements defined by Ed Law 2-d must exist either directly between the school district and the product vendor, or, if the product is part of a service obtained through a BOCES CoSer, an agreement between that BOCES and the product vendor. **A vendor cannot achieve compliance unilaterally.**

COMPLIANCE ASSESSMENT QUESTIONS

1. Is the information contained within the product considered student PII under FERPA, or does it contain personally identifiable components of teacher and principal evaluation data?

Information that, alone or in combination, is linkable to a specific student that would allow a reasonable person in the school community to identify the student. For example, but not limited to:

- Student Name
- Student ID Number
- Student Email Address
- Contact Names
- Student or Contact Addresses
- Student Photos
- Video of Students
- Student Birthdate
- Student Birthplace
- Student Medical Information
- Special Education Information
- Teacher & Principal Evaluation Data

Please be aware this applies to any information that may be entered into or created at any point, by any user, including: students, faculty, administration, integration routines, etc.

2. How is our district procuring the product?

The method of procurement is important. If a district procures a product directly from a vendor, whether it is a paid platform or the district “signs up” for a free service, your district is entering into a contract with the vendor. You should make sure that district contracting procedures are followed and that the agreement with the vendor includes the provisions required by law.

It is important to note, even though a compliant agreement may exist between a BOCES and a vendor, if a district does not obtain the product as part of a service delivered through a BOCES CoSer, the BOCES-negotiated terms do not apply, and the district is responsible for negotiating its own agreement.

3. Does the agreement we have with the vendor address all obligations under Ed Law 2-d?

- Signed Parent’s Bill of Rights
- Exclusive Purposes for Data Use
- Oversight of Subcontractors
- Contract Lifecycle Practices
- Data Correction Practices
- Data Security Protections
- Data Location
- Encryption Practices
- Data Return / Destruction Practices
- Data Security and Privacy Plan
- Unauthorized Release Notification
- NIST Safeguards
- Data Security Policy Compliance
- Limit Internal Vendor Data Access
- Data Security Protections
- Prohibitions on Commercial Use
- Data Confidentiality
- Vendor Staff / Subcontractor Training

CONTRACTORS SAMPLE APPROVAL PROCESS

Education Law 2-d and Part 121 protect the personally identifiable information (PII) of students, and certain teacher and educator evaluation data. Whenever the educational agency discloses PII to a third-party contractor, **agencies must ensure that the written agreement for using the product or services includes required language.** COPPA puts parents in control over what information is collected from children under 13 online. Schools may act as the parent’s agent and can consent to the collection of their child’s information on the parent’s behalf. Terms of Service may require school districts to provide notice and attain parent permission to use tools. **The process below can be used to implement software and online services.**

