



An Update on FERPA and Student Privacy

**July 30, 2017
National Forum on
Education Statistics**

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Presentation Agenda

- What's up at ED
- What's up in the states
- Guidance
- Ed Tech – concerns + promising developments
- Public reporting
- Data security

Q&A – a chance for me to hear from you.



Reorganization

- Our student privacy operation at ED has grown and we have reorganized to be more efficient and to provide better service.
- New division – SPPAD, Student Privacy Policy and Assistance Division.

You should see no change in the level of support you receive and you can contact the same people you have always contacted.



Transition





Regulatory Reform and Privacy

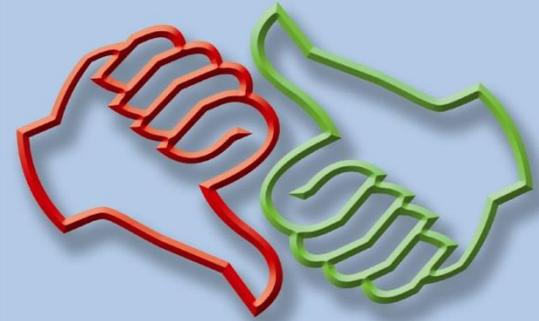
- Executive Order 13777 issued February 24, 2017
- ED formed its own RRTF (Regulatory Reform Task Force) comprised of career and political staff
- 150+ regulations and 1700+ guidance documents
- Recommendations for each regulation:
 - Repeal
 - Modify
 - Keep



Your Input is Needed

- Review the [Progress Report](#) and the [Federal Register Notice](#).
- Provide comments by August 21, 2017, using the process outlined in the notice.

COMPLAINTS
COMMENTS
COMPLIMENTS



Or not!

We welcome comments in any format.



Legislation?

Federal Legislation

- Will 2017 be the year for a new FERPA?

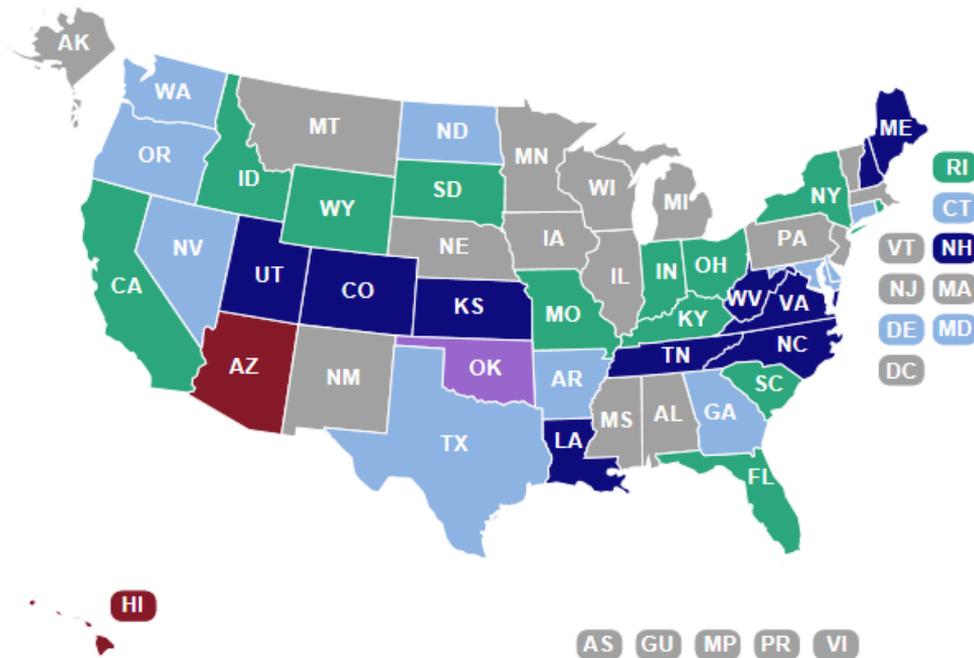
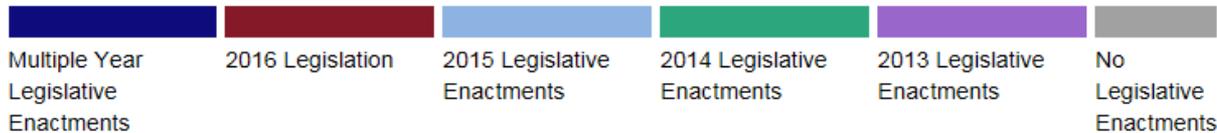
State Legislation

- The states have been where the action is in privacy legislation in the past several years.



Student Privacy Legislation

Student Data Privacy



2013

1 bill in 1 state

2014

110 bills in 36 states
27 passed in 20 states

2015

188 bills in 47 states
28 passed in 15 states

2016

111 bills in 34 states
12 passed in 9 states

49 States plus D.C. have introduced 410 student privacy bills since 2013.



PTAC Response

- We have been trying to make our resources more focused on districts – and on partnering with SEAs for training.
- Upcoming: Teacher training module



Check out our new website!

<https://studentprivacy.ed.gov/>



- Combines PTAC and FPCO websites
- File a complaint, find guidance, look up old FPCO letters
- Watch one of our new LEA-focused videos
- Has a search feature
- FPCO letters



New(ish) Guidance

[WIOA Data Sharing \(with DOL\)](#)

While this deals with a very specific instance of data sharing, it's useful for anyone who wants to access workforce data.

[Guidance on the Use of Financial Aid Information](#)

Helpful if you want to do any research or evaluation using financial aid data.

[Integrated Data Systems](#)

Explains what FERPA permits – and doesn't allow, as well as best practices.



Guidance – From Our All Time Bestseller List

The following resources continue to be our most downloaded:

[Protecting Student Privacy While Using Online Educational Resources](#)

[Model Terms of Service](#)

[Data Breach Response Checklist](#)



Protecting Privacy – And Also Educating Students

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"Before I write my name on the board, I'll need to know how you're planning to use that data."



Educational Technology in the Classroom

- We continue to answer a large number of questions about ed tech and privacy.
- Consumer privacy provisions are inappropriate in the classroom setting.
- Increasing concern about the commercialization of personal information and behavioral marketing

ED's Guidance:

- “Protecting Student Privacy While Using Online Educational Resources”
- “Model Terms of Service”



What Should Districts Do?

Sorry. But the bottom line is that you have to read the Terms of Service.

People will literally agree to ANYTHING in a TOS: .

<https://gizmodo.com/22-000-people-agree-to-clean-toilets-for-wifi-because-t-1796959482>





Positive Developments

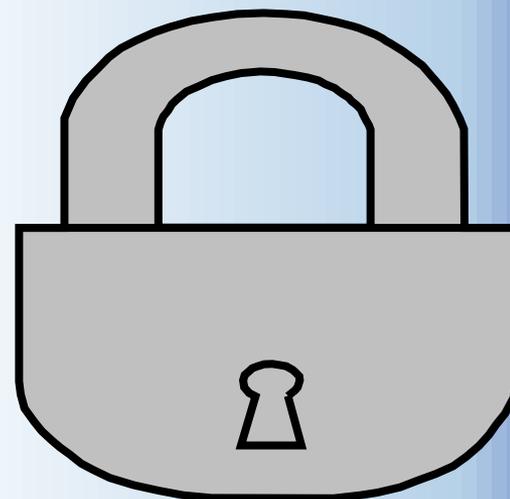
While contract review for apps can seem overwhelming, things are looking up.

- [Student Privacy Pledge](#) for vendors who have pledged to meet certain privacy standards.
- Banding together across districts, and states, e.g., [Massachusetts Student Privacy Alliance](#) and the Student Data Privacy Consortium, “[Access 4 Learning](#)”
- Some vendors are improving their Terms of Service.
- External auditing of apps is available.
- A wealth of good resources from a variety of organizations.
- Guidance seems to be aligning fairly well, especially between FERPA and the California statutes.



Data Security

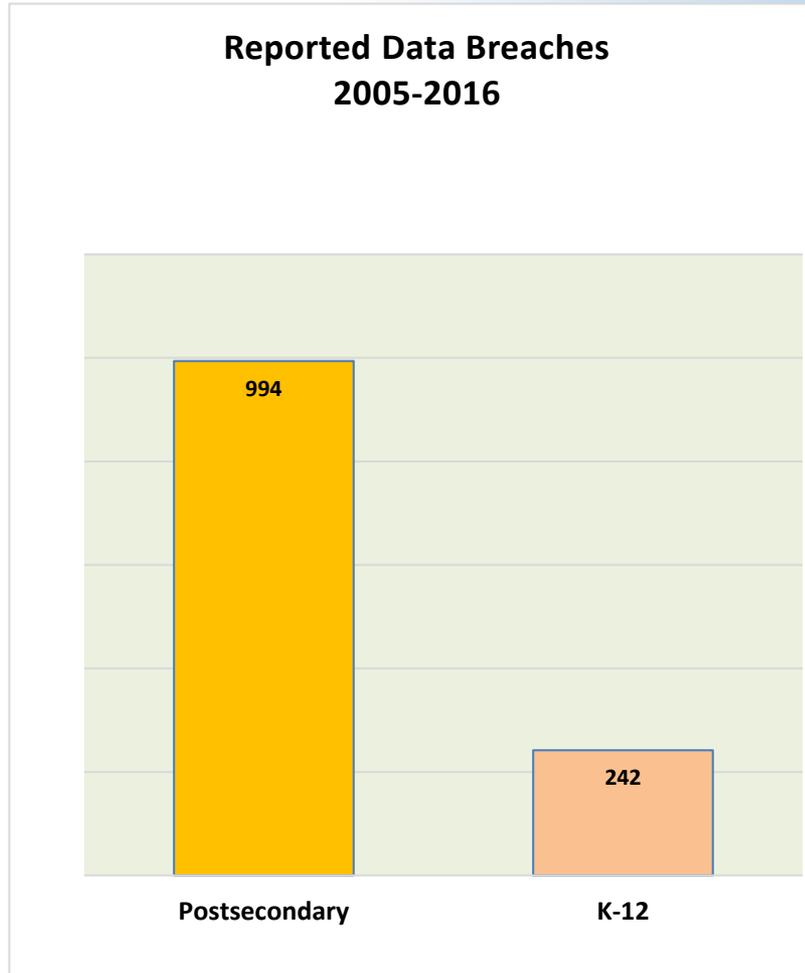
- Good data on breaches in the education sector is not available.
- By any measure, data security is a huge problem for many schools, districts, and states.
- Consider the effect on your state's data program were your SLDS to experience a major data breach.





Speaking of bad data

Anybody see a problem here?





Data Security in Higher Education

- ED/FSA is increasingly interested in data security in higher education for two reasons:
 - Title IV participating institutions connect with ED systems; and
 - Title IV participating institutions receive financial aid data from ED.
- New feature: Auditing
- FSA 2016 [Dear Colleague Letter](#)
- Graham Leach Bliley standards
- Moving to [NIST 800-171](#) standards?



Expect to be audited

ED's Office of the Inspector General (OIG) has audited the data security of the SLDS in three states: Virginia, Oregon, and Indiana. **You should expect this trend to continue.**

States have been criticized for:

- Not meeting their own state's information security standards.
- Not having comprehensive system security plans and policies in place (or the existing plans don't reflect reality).
- Not performing annual risk assessments as part of a formal risk management program.



Prepare **BEFORE** you are audited

- Prepare key staff – make sure everyone is aware of the audit and prepares for it.
- Review grant agreements, information security standards, and best practices to determine what you are required or expected to do.
 - **Self correct what you can fix before the audit.**
 - **Create a documented process and plan to address fixes that take longer – and then track progress.**
- Be ready to provide evidence of compliance (logs, configurations, meeting minutes, policies)
- Communicate! Assign a liaison to coordinate with the auditors.



Public Reporting

- ESSA established new reporting requirements and expanded the number of subgroup categories to be reported.
- Increased disaggregation can increase re-identification risk in public reporting.
- NCES has (as required by ESSA) published a report on n size and public reporting. [N Size Report](#)



PTAC at STATS - DC

Tuesday, August 1st, 3:30 – 4:20 “They Said What? PTAC Teacher Focus Groups Training Needs Identified” (Eric Gray and Baron Rodriguez)

Tuesday August 1st, 4:30 – 5:20 “PTAC: Updates on Recent Guidance” (Ross Lemke)

Wednesday, August 2nd, 9:00-10:00, “Balancing Privacy and Transparency: Disclosure Avoidance for Public Reporting” (Ben Ferraro, Julia Bloom-Weltman)



Final Topic – Feedback

Let me hear from you.

- What challenges are you facing?
- Is our guidance helpful?
- How should we prioritize our work?
- What topic is on YOUR mind?