Student Data Privacy: Regulations and Relationships

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Director, Suffolk Regional Information Center

March 20, 2019
PROPOSED PART 121
OF THE COMMISSIONER’S REGULATIONS

IMPLEMENTING EDUCATION LAW 2-D
JANUARY 2019
STAKEHOLDER PARTICIPATION
DRAFTING THE REGULATIONS

DATA PRIVACY ADVISORY COUNCIL

TECHNICAL STANDARD WORKGROUP

DRAFTING WORKGROUP

14 PUBLIC FORUMS

WRITTEN COMMENTS

IMPLEMENTATION WORKGROUP
TENTATIVE TIMELINE
ADOPTION OF REGULATIONS AND COMPLIANCE ROADMAP

- **BOARD OF REGENTS PRESENTATION**: Jan 14
- **PUBLIC SUBMITS FEEDBACK**: Jan 30 - Mar 30
- **BOARD OF REGENTS CONSIDERS ADOPTION**: May
- **REGULATIONS EFFECTIVE**: July 1
- **AGENCIES ADOPT DATA SECURITY AND PRIVACY POLICY**: Dec 31

EDUCATIONAL AGENCY READINESS PREPARATION:
- Protection of PII
- Parents Bill of Rights
- Parent Complaint Procedures
- Data Security and Privacy Policy
- NIST Cybersecurity Framework
- Third-Party Contractors
- Annual Employee Training
- Data Protection Officer
- Incident Reporting and Notification
PROTECTION OF PII

BENEFIT ANALYSIS

STUDENT

EDUCATIONAL AGENCY
PARENT COMPLAINT PROCEDURES

**PARENT COMPLAINTS SUBMISSION PROCEDURE**

PROCEDURES TO SUPPORT PARENTS SUBMISSION OF COMPLAINTS OF BREACH AND UNAUTHORIZED RELEASE OF PII

**DISTRICT INVESTIGATION AND NOTIFICATION PROCEDURE**

PROCEDURES TO SUPPORT THE INVESTIGATION OF COMPLAINTS AND THE COMMUNICATION OF FINDINGS WITHIN 30 CALENDAR DAYS

**DISTRICT MAINTENANCE OF RELATED RECORDS**

PROCEDURES TO SUPPORT RECORD RETENTION OF ALL COMPLAINTS AND THEIR DISPOSITION
DATA SECURITY AND PRIVACY POLICY

NIST CSF ALIGNED PRACTICES

DATA GOVERNANCE PROCEDURES

DISCLOSURE AVOIDANCE PROCEDURES

APPLICABLE STATE AND FEDERAL LAWS ADDRESSED

NIST CYBERSECURITY FRAMEWORK ALIGNED PRACTICES

PRACTICES TO ENSURE EVERY USE OF PII BENEFITS STUDENTS AND THE AGENCY

PRACTICES TO PROTECT PII IN PUBLIC REPORTS

POLICIES AND PROCEDURES COMPLIANT WITH FERPA, IDEA, AND OTHER LAWS
NIST CYBERSECURITY FRAMEWORK

- **Identify**
  - Asset Management
  - Identity Management
  - Awareness and Training

- **Protect**
  - Environment
  - Governance
  - Risk Assessment
  - Risk Management
  - Contractors Management

- **Detect**
  - Anomalies and Events
  - Security Monitoring
  - Detection Processes

- **Respond**
  - Response Planning
  - Communications
  - Analysis
  - Mitigation
  - Improvements

- **Recover**
  - Recovery Planning
  - Improvements
  - Communications

5 FUNCTIONS
23 CATEGORIES
108 SUBCATEGORIES
THIRD-PARTY CONTRACTORS

OVERVIEW OF REQUIREMENTS RELATED TO THIRD-PARTY CONTRACTORS

- Data Confidentiality Maintenance
- Supplemental Information
- Exclusive Purposes for Data Use
- Oversight of Subcontractors
- Contract Duration and Data Disposal
- Data Accuracy / Correction Practices
- Security Protections and Data Location
- Encryption Practices Applied
- Data Security and Privacy Plan
- Legal Compliance Description
- Signed Copy of Parents Bill of Rights
- Third-Party Contractor Training
- Compliance with Education Law 2-D
- Statutory and Regulatory Obligations
- NIST CSF Framework Practices Applied
- Limit Access to PII
- Only Use PII as Authorized
- Not Disclose PII to Any Other Party
- Safeguard the PII in Custody
- Encryption Practices Applied
- Prohibitions on Commercial Use
- Oversight of Subcontractor
- Notify Agency of Unauthorized Release
INCIDENT REPORTING AND NOTIFICATION

1. BREACH OR UNAUTHORIZED RELEASE
2. INCIDENT RESPONSE PLAN IMPLEMENTED AND FINDINGS LOGGED
3. REPORTED TO CPO NO MORE THAN 10 DAYS AFTER DISCOVERY
4. AGENCY COMMUNICATES WITH IMPACTED FAMILIES AND STAFF
5. CPO INVESTIGATES DISCLOSURE
6. IF ATTRIBUTABLE TO A CONTRACTOR, PENALTIES MAY BE ISSUED
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<td>ANNUAL EMPLOYEE TRAINING</td>
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