U.S. Department of Education

Student Privacy Policy Office

Local Education Agency Website
Student Privacy Transparency Reviews
Final Report

Review Period: September 2018-August 2022

Executive Summary

The Student Privacy Policy Office (SPPO) at the U.S. Department of Education (Department) performed a four-year review of a nationally representative sample of the websites of 1,504 local education agencies (LEAs) to identify whether and how these websites include information about student privacy. In each year of the study, SPPO reviewed a nationally representative sample of 376 LEA websites, focusing on whether the LEAs included key student privacy documents and information about the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA) on the LEA website, as opposed to on individual school, board of education, or other websites. SPPO's review found that:

- 53 percent of LEAs reviewed posted on their websites the LEA's Annual Notification under FERPA;

- 50 percent of LEAs posted on their websites the LEA's policy under the directory information exception under FERPA; and

- 28 percent of LEAs posted on their website the LEA's policy under PPRA.

For these three key privacy documents that are posted on the LEA websites, fewer than twenty percent are listed as primary website content. In more than 54 percent of the cases, the documents are included as part of the student handbook, which may be a Portable Document Format (PDF) or other type of document linked from the LEA webpage.

For the websites reviewed, 9 percent of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information. Moreover, only 5 percent of LEA websites include the contact information for LEA staff responsible for data sharing and student privacy policies if parents have questions about data sharing or student privacy.

Background

This study is derived from Strategic Objective 3.2, Performance Measure 3.2c of the *U.S. Department of Education Strategic Plan for Fiscal Years 2018-2022*. To inform the Department's review of this objective, SPPO and its Privacy Technical Assistance Center (PTAC) studied LEA practices for providing information on data sharing and student privacy on their websites. SPPO is responsible for administering FERPA and PPRA, and for providing guidance and best practices on student privacy to the education community.

SPPO recommends as a transparency best practice that LEAs post their FERPA and PPRA student privacy-related information on their websites so that information is easily available to parents, students, and the community. FERPA does not require that LEAs post their annual FERPA notification on their websites, but the law requires LEAs to provide notification annually to parents of students and eligible students of their rights under FERPA "by any means that are reasonably likely to inform the parents or eligible students of their rights." *See* 34 CFR § 99.7. With the increased utilization of LEA websites for the timely dissemination of information to the school community, SPPO believes that posting an appropriate notification on the LEA website is an effective manner of meeting FERPA's Annual Notification requirement.

Sample Selection

In order to complete the review, a sampling plan was developed to determine which LEAs would be reviewed across four years of data collection (fiscal years 2019, 2020, 2021, and 2022). A single sample of 1,504 LEAs was selected at the outset of the study, and randomly divided into four groups of 376 LEAs that would be reviewed across the four data collection years to create a nationally representative sample for each year. In addition, a replacement sample of 100 LEAs was selected that may be used if any original sample LEAs could not be included at the time of data collection (for example, if the LEA closed, or if the LEA's website is inactive).

In each year of the study, 376 LEA websites, a nationally representative sample, were reviewed to evaluate transparency practices with respect to LEAs' use of student data. The sample was selected to represent school districts of different size and socioeconomic status across different geographic regions. The LEA website review focused on determining whether key privacy-related documents or information were available on the LEA district website as opposed to on the websites of the board of education or individual schools.

The sample was constructed so the final report could break out results by enrollment size. These results are presented below.

The sample was stratified by enrollment size as follows:

Enrollment size	# of LEAs in sample	% sampled	Sample LEAs in each year	% of each year's sample
20 largest LEAs	20	100%	5	1%

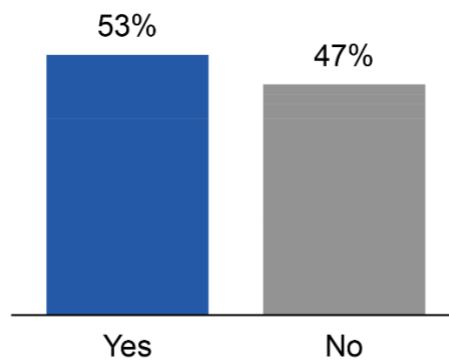|				
10,000 or more (excl 20 largest)	356	40%	89	24%
2,500 to 9,999	376	13%	94	25%
1,000 to 2,499	376	11%	94	25%
1 to 999	376	4%	94	25%
Total	1,504	9%	376	100%

Results

This final report includes data from the full, nationally representative sample. We found that although 54 percent of LEAs reviewed have the FERPA Annual Notification posted on the website, only 9 percent of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information. Moreover, 95 percent of LEA websites do not include contact information for a staff member responsible for data sharing and student privacy.

- 53 percent of LEAs have the FERPA Annual Notification on the LEA website.

Percentage of LEAs with Annual Notice on the Website

53%   47%

Yes   No

- When the FERPA Annual Notification is on the LEA's website, 71 percent of the time the notification is the Department's model notification or a minor variant of that.

- For 29 percent of LEAs that include the FERPA Annual Notification on the LEA's website, the notification is customized by the LEA.

Characteristics of Custom FERPA Annual Notification	Percent LEAs Yes
Does the custom notification include the right to inspect and review students' education records?	95%
Does the custom notification include the right to seek to amend those records?	81%
Does the custom notification include the right to consent to disclosure of personally identifiable information from those records (unless an exception applies)?	66%
Does the custom notification include the right to file a complaint with the Department regarding an alleged FERPA violation?	55%

Does the custom notification include the procedure for exercising the right to inspect and review education records?	52%
Does the custom notification include the procedure for requesting amendment of those records?	39%
Does the custom notification include the district's criteria for determining who constitutes a "school official?"	29%
Does the custom notification include the district's criteria for determining what constitutes a "legitimate educational interest?"	34%
Does the LEA disclose that it routinely releases students' education records to other schools in which the student seeks or intends to enroll?	78%

- For only 19 percent of LEAs, the FERPA Annual Notification is posted as primary website content, meaning the content is visible on the LEA main website or available from a dropdown menu without going to a PDF or an external website not maintained by the LEA.

- For 56 percent of LEAs with the FERPA Annual Notification available, the notification is included in the student handbook. In most of these cases, the handbook is a PDF that requires the user to search through the document to find the information. For 35 percent of LEAs that have the Annual Notification available, the notification is included in a document other than or in addition to the student handbook.

Examples of Document Types Displaying FERPA Annual Notifications Besides Student Handbooks
Annual Notifications
Annual Parent and Student Rights Notification
Student Records Notification
Code of Conduct
Student Data Privacy and Security Policy
FERPA Notifications
Parent Rights Under FERPA
Parents Bill of Rights

- 73 percent of LEAs indicate when the Annual Notification was last updated. However, in many cases, the date of update pertains to the entire student handbook, not the specific privacy policy.
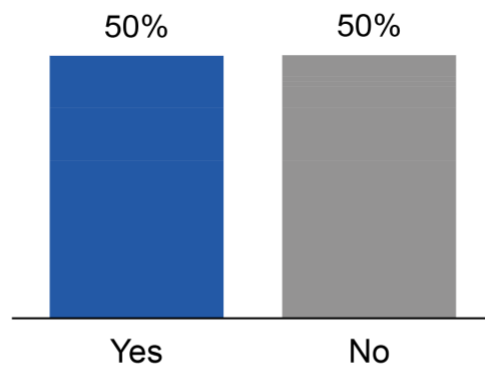
- 50 percent of LEAs have the directory information (DI) policy on the LEA website.

Topic: Directory Information

Does the LEA post its directory information on the website?

- When the LEA DI policy is on the website, 60 percent of the time it is the Department's model notification or a variant of that.

- For 40 percent of LEAs, the DI policy is customized by the LEA.

Characteristics of Customized DI Policy	Percent LEAs Yes
Does the customized policy include the types of personally identifiable information that the district or school has designated as directory information?	86%
Does the customized policy include an explanation of the right of parents and eligible students to request that the information about the student not be disclosed as directory information?	96%
Does the customized policy include a specified period of time within which a parent or eligible student may notify the school or LEA in writing that they do not want any or all of the information disclosed as directory information?	49%

- For 40 percent of LEAs with the DI policy on their website, the DI policy is a limited DI. A limited DI might allow limited disclosure of directory information to third parties for legitimate education purposes, while disallowing the disclosure of this same information to third parties for purposes such as marketing.

Characteristics of DI Policy	Percent LEAs Yes
Does the LEA DI policy include Student ID?	12%
Does the LEA DI policy specify that student ID, by itself, cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity (for example, a password)?	89%
Does the LEA DI policy include photo/video likenesses?	63%
Does the LEA DI policy have a separate video and photo consent policy (for example, for use on social media or in a newspaper)?	22%
Does the DI policy include disclosure to military recruiters?	50%
Is there a separate notification for disclosure to military recruiters?	24%
Does the LEA provide a "menu" approach allowing parents to opt in or out of specific disclosures? (Note details in comments.)	18%

- For 19 percent of LEAs, directory information is posted as primary website content, meaning the content is visible on the LEA main website or available from a dropdown menu without going to a PDF or an external website not maintained by the LEA.

- For 54 percent of LEAs with a DI policy available, it is included in the student handbook. In most of these cases, the handbook is a PDF that requires the user to search through the document to find the information. For 40 percent of LEAs with a DI policy available, the notification is included within or as part of another document.

Examples of Document Types Displaying the LEA DI Policy Besides Student Handbooks
Student Directory Information Notification
Student Records Policy
FERPA Notifications
Annual Notifications
Public Notification Policy

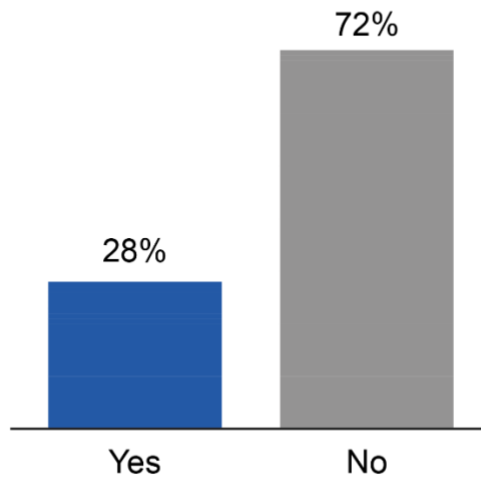| Student Code of Conduct |
| --- |
| Student Data Privacy and Security |

- **73** percent of LEAs indicate when the DI policy was last updated. However, in many cases, the date of update pertains to the entire student handbook, not the specific DI policy.

- 28 percent of LEAs have the PPRA Notification on the LEA website.

Topic: PPRA

Does the LEA post its PPRA policy on its website?

- When the PPRA Notification is on the LEA's website, 84 percent of the time it is the Department's model notification or a variant of that.

- For 16 percent of LEAs, the PPRA Notification is customized by the LEA.

Characteristics of Custom PPRA Notification	Percent LEAs Yes
Does the LEA PPRA Notification indicate it is provided to parents at least annually?	52%
Is there an indication when the LEA PPRA Notification was last updated?	78%

- For 13 percent of the LEAs, the PPRA Notification is posted as primary content, meaning the content is visible on the LEA main website or available from a dropdown menu without going to a PDF or an external website not maintained by the LEA.

- For 62 percent of the LEAs with a PPRA notification available, it is included in the student handbook. In most of these cases, the handbook is a PDF that requires the user to search through the

document to find the information. For 34 percent of LEAs with a PPRA notification available, it is included within or as part of another document.
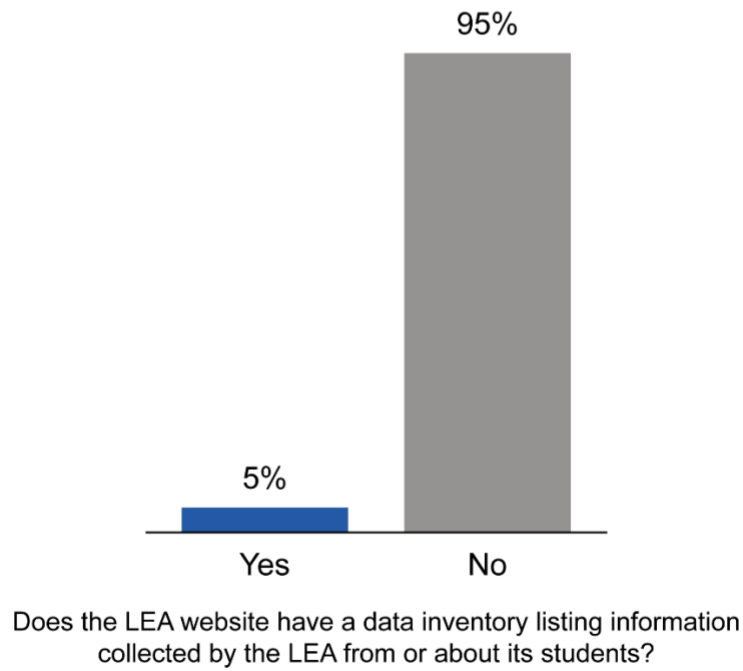
Examples of Document Types Displaying LEA PPRA Notifications Besides Student Handbooks
Parent/Guardian Rights
Behavioral Code Book
FERPA Notifications
Annual Notifications
PPRA Notification Document
Notification of Rights Under the Protection of Pupil Rights Amendment (PPRA)
Student Code of Conduct

- Only 5 percent of the LEAs have a data inventory listing information collected by the LEA from or about its students available on their websites.

Topic: Data Inventory Listing Information Collected by the LEA from or about its Students

95%

5%

Yes   No

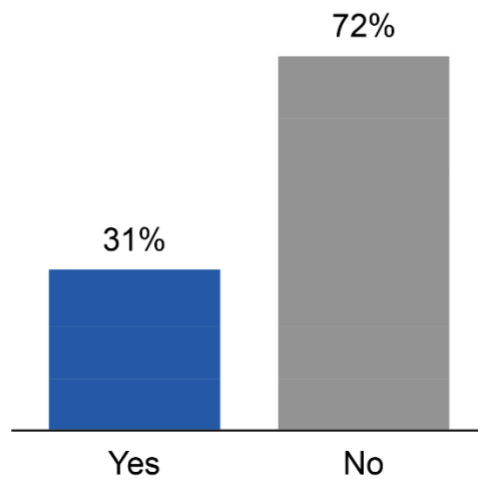Does the LEA website have a data inventory listing information collected by the LEA from or about its students?

- For 63 percent of LEAs that have a data inventory listing, data element use is listed.

- For 60 percent of LEAs that have a data inventory listing, data elements are clearly defined using plain language.

- 31 percent of LEAs have a description of information technology (IT) security and data protection policies on the LEA website.

Percentage of LEAs with Description of IT Security/Data Protection Policies on the Website

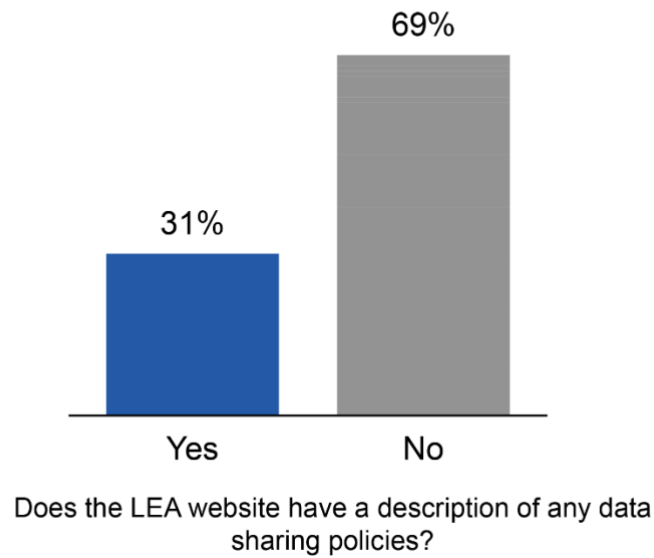| Characteristics of Data Security Policies	Percent LEAs Yes
Does the LEA website have a description of policies or procedures specifically for paper records?	3%
Does the LEA website have a description of policies or procedures specifically for digital information?	45%
Does the LEA website have a description of policies or procedures specifically for access to student personally identifiable information?	26%
Does the LEA website have a description of policies or procedures specifically for use of student personally identifiable information?	21%
Does the LEA website describe how student records are retained (for example, identifiable, minimized or redacted, de-identified)?	1%

Does the LEA website have policies describing how the LEA de-identifies student personally identifiable information before publishing or disclosing to third parties?	1%

Topic: Data Sharing

- 31 percent of LEAs have a description of data sharing policies posted on their LEA websites.

Topic: Data Sharing

Does the LEA website have a description of any data sharing policies?

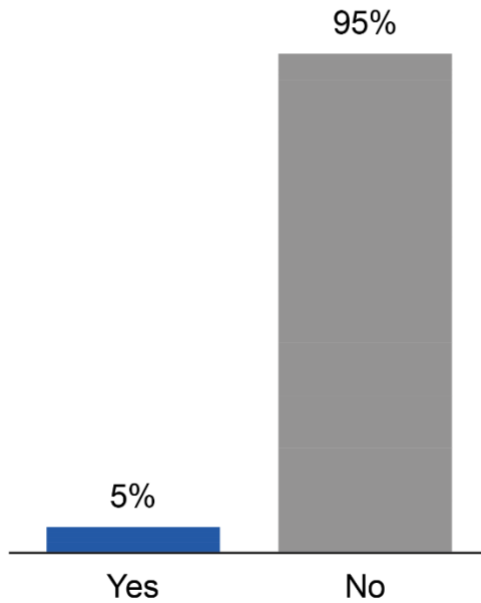| Characteristics of Data Sharing Policies	Percent LEAs Yes
Does the LEA website indicate whether student personally identifiable information is shared with third parties?	24%
Does the LEA website indicate whether personally identifiable information is shared with external researchers?	2%
If yes, are written agreements with researchers available?	14%
If yes, are study results available?	14%
If yes, are any resulting changes to curriculum, policies, or programs listed?	0%
Does the LEA website indicate whether personally identifiable information is shared with education technology companies?	5%

Does the LEA website indicate the purpose for sharing personally identifiable information with education technology companies?	70%
Does the LEA website have posted online contracts or written agreements with companies or organizations to whom the LEA discloses students' personally identifiable information?	56%
Does the LEA website have a list of approved online services or apps used in classrooms?	22%
Does the LEA website describe a policy or process for vetting or approving apps?	13%
Does the LEA website list any differentiation between required and optional apps?	2%
Are links to non-contracted apps' terms of service posted?	24%

- 5 percent of LEA websites include contact information for a staff member dedicated to data sharing and student privacy.

Topic: Communications

- 9 percent of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information.

- 86 percent of LEA websites have a general search tool.

Search Tool Term	Results Include Privacy-Related Information
FERPA	43%
Annual Notification	21%
Student Privacy	45%
Directory Information	27%
PPRA	16%
Technology	13%
Applications	4%

Apps	8%
Privacy	45%
Confidentiality	25%
Disclosure	32%
Security	17%

- 4 percent of LEA websites include a glossary of privacy-related terms.

- 69 percent of LEA websites have language translations, meaning the website can be viewed in a language other than English.

Language Translation	Percent LEAs Yes
All privacy related documents available in language translations	19%
Key privacy related documents available in language translations (Annual Notification, Directory Information Policy, PPRA Notification)	34%
Example documents included	FERPA Annual Notification, Directory Information Policy, PPRA Notification, privacy frequently asked questions, student handbook, Parent Bill of Rights, or entire website is available in language translations
Example languages available	Spanish, Korean, Russian, Vietnamese, Arabic, Chinese, French, Tagalog, Italian, German, Hindi, Japanese, Somali, Portuguese, Creole

(In many cases, the sites use Google Translate, which provides translations in many languages) |

Key Questions by Stratified Enrollment Category

Question	Category 1: Student Enrollment 1 - 999	Category 2: Student Enrollment 1,000 - 2,499	Category 3: Student Enrollment 2,500 to 9,999	Category 4: Student Enrollment 10,000 or more (excluding 20 largest districts)	Category 5: Student Enrollment 10,000 or more, 20 largest districts only
	N=376	N=376	N=376	N=356	N=20
Does the LEA post its FERPA annual notification on the website?	48%	40%	51%	74%	80%
Does the LEA post its directory information policy on the website?	42%	37%	48%	74%	75%
Does the LEA post its PPRA policy on its website?	21%	19%	26%	47%	45%
Are all privacy-related documents available in language translations?	6%	11%	16%	35%	37%
Are key privacy-related documents available in language translations? (Note specifically if annual notification and DI policy are included, and what languages, in the comments.)	11%	20%	32%	57%	58%

Of the LEA websites that were reviewed, a greater percentage of larger districts versus smaller ones had information on student privacy policies on their websites.

Conclusion

Given the ubiquitous nature of websites for LEAs – only a small handful of LEAs were replaced in the sample due to lack of a website – and their usefulness for transmitting information to communities, SPPO believes posting notifications on the LEA website is an effective manner of meeting FERPA's Annual Notification requirement, as well as a best practice for ensuring the information is available to a wide variety of stakeholders.

This project, supporting Strategic Objective 3.2, Performance Measure 3.2c of the *U.S. Department of Education Strategic Plan for Fiscal Years 2018-2022*, provides some evidence that local education agencies (LEAs) may be underutilizing their websites for communicating information on student privacy policies to their communities. Further, in many cases when the information is available on an LEA website, the information is found only within the district's student handbook in a difficult-to-navigate PDF format. The student handbook may not be the first place an inquiring parent or student may look, and the format may render it more difficult for a parent or student to find the information they need.

As a best practice, SPPO recommends that LEAs consider the following steps to increase the transparency of information about student privacy:

1. Include on LEA websites key student privacy documents and information about FERPA and PPRA, in addition to including them on individual school, board of education, or other websites.

2. Add "student privacy information" or an equivalent section to website navigation menus. By including all student privacy resources in one clearly identified place, users will know exactly where to find content on student privacy. Further, information should be presented as primary website content that requires few clicks to navigate to the desired information. By placing the information on the webpage, rather than in an electronic version of the student handbook, screen readers and website translators will be able to make the information more accessible to a variety of audiences.

3. Verify that key privacy terms in the website's search tool take the user to relevant privacy information. Develop search capabilities by use case for those seeking student privacy information, and consider use case examples, such as:

   a. I want to learn about my FERPA or PPRA rights

   b. I want to know what information is released as directory information

   c. I want to opt out of directory information

   Consider including slang and misspellings in your search engine indexing, as well as any non-English languages common in your community.

4. Regularly check your website to ensure the content remains current, and provide an indication of when the content was last updated. LEA websites are a general source of information for your community on a variety of topics from sports schedules to snow days to permission slips. Update policies as they change, ensure links aren't broken, and remove outdated information.

Additional Resources

- *FERPA Model Notification of Rights for Elementary & Secondary Schools,* https://studentprivacy.ed.gov/node/490

- *Model Notification for Directory Information,* https://studentprivacy.ed.gov/node/428

- *Model Notification for Directory Information En Espanol,* https://studentprivacy.ed.gov/node/489

- *PPRA Model General Notification of Rights,* https://studentprivacy.ed.gov/node/491

- *Transparency Best Practices,* https://studentprivacy.ed.gov/resources/transparency-best-practices

About the Student Privacy Policy Office

The U.S. Department of Education's Student Privacy Policy Office (SPPO) is responsible for the administration and enforcement of federal laws relating to the privacy of students' education records, and for the provision of technical assistance on student privacy issues for the broader education community. For more information about the office or to access student privacy guidance and best practices, please visit SPPO's webpage at https://studentprivacy.ed.gov/.