



# U.S. Department of Education Student Privacy Policy Office LEA Website Student Privacy Transparency Reviews Year One Report Summary

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Review Period: January-September 2019

## Background

The U.S. Department of Education's (Department's or ED's) Student Privacy Policy Office (SPPO) and its Privacy Technical Assistance Center (PTAC) are conducting a four-year review of the websites of 1,504 Local Education Agencies (LEAs) to identify whether and how these websites include information on student privacy. The review is part of ED's Strategic Plan Goal 3.2 to improve student privacy and cybersecurity. SPPO is responsible for administering the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA).


As part of improving student privacy, the study will provide an annual snapshot of LEA websites for each year of the study, as well as conduct a final trend analysis. The focus of the study is on LEA best practices and compliance in providing information on federal student privacy law and will determine whether changes occur over the four years of the study based on what is posted on LEA websites.

## Executive Summary

The Student Privacy Policy Office (SPPO) is reviewing over four years a sample of the websites of 1,504 Local Education Agencies (LEAs) to identify whether and how these websites include information on student privacy. In year one of the study, a review of a nationally representative sample of 376 LEA websites focused on whether they included key student privacy documents and information on 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 policy manual, or other websites.

- 60% of LEAs reviewed posted on their websites the LEA's Annual Notice under the Family Educational Rights and Privacy Act (FERPA),
- 54% of LEAs posted on their websites the LEA's policy under the directory information exception under FERPA, and
- 32% of LEAs posted on their website the LEA's policy under the Protection of Pupil Rights Amendment (PPRA).

For these three key privacy documents that are posted on the LEA websites, fewer than 20% are listed as primary website content. In more than 50% of the cases, the documents are included as part of the student handbook which may be a PDF or other type of document navigated to from the LEA webpage.



For the websites reviewed, 13% of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information. Moreover, only 8% of LEA websites include the LEA contact information if parents have questions about data sharing and student privacy.

## Sample Selection

In order to complete the review, a sampling plan was developed to determine the Local Education Agencies (LEAs) to be reviewed across four years of data collection (2019, 2020, 2021, and 2022). A single sample of 1,504 LEAs was selected at the outset of the study, and randomly divided 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 of the original sample LEAs are not feasible to include at the time of data collection (e.g., if LEA status changes from “open” to “closed,” “inactive,” or “future”, or if the LEA’s website is inactive).

In year one of the study, the nationally representative sample of 376 LEA websites was reviewed to evaluate usage of student data privacy transparency best practices. The sample was selected to represent school districts of different sizes and socio-economic status across different geographic regions. The LEA website review focused on identifying key privacy related documents or information on the LEA district website vs on the board or individual school websites.

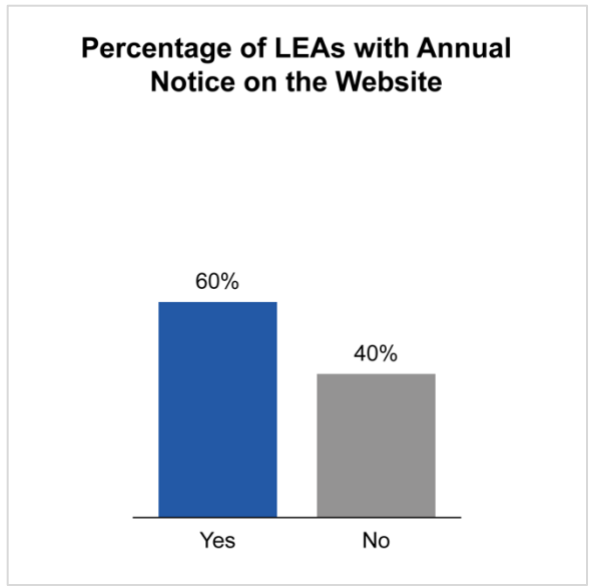
SPPO recommends as a transparency best practice that LEAs post their FERPA and PPRA student-privacy related information on their websites so that information is easily available to parents and the community. FERPA does not require that LEAs post on their websites their annual FERPA notice but specifically requires LEAs to annually provide notice 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.

## Results

Although 60% of LEAs reviewed have the FERPA Annual Notice posted on the website, only 13% of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information. Moreover, 92% of LEA websites do not include contact information if parents have questions about data sharing and student privacy.

### Topic: Annual Notice

- 60% of LEAs have the FERPA Annual Notice on the website.



- When the FERPA Annual Notice is on the website, 66% of the time it is the ED Model notice or a minor variant of that.
- In 34% of LEAs, the FERPA Annual Notice is customized by the LEA.

| Characteristics of Custom Notice   | Percent Yes |
|--|-------------|
| Does the custom notice include the right to inspect and review their education records?                                      | 94%         |
| Does the custom notice include the right to seek to amend those records?   | 77%         |
| Does the custom notice include the right to consent to disclosure of PII from those records (unless an exception applies)?   | 62%         |
| Does the custom notice include the right to file a complaint with the Department regarding an alleged FERPA violation?       | 60%         |
| Does the custom notice include the procedure for exercising the right to inspect and review education records?               | 57%         |
| Does the custom notice include the procedure for requesting amendment of those records?                                      | 45%         |
| Does the custom notice include the district’s criteria for determining who constitutes a “school official”?                  | 32%         |
| Does the custom notice include the district’s criteria for determining what constitutes a “legitimate educational interest”? | 41%         |

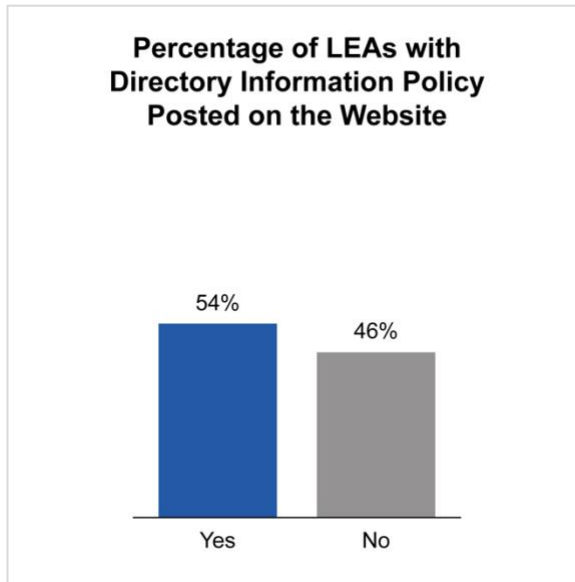
- In only 20% of LEAs, the Annual Notice is posted as primary website content, meaning the content is visible on the LEA main website or available from a dropdown menu without going to a PDF or a separate external website.
- In 56% of LEAs, the notice is included in the student handbook. In most of these cases, the handbook is a pdf that requires the user to search through the document to find the information. In 28% of LEAs, the notice is included in a document other than or in addition to the student handbook.

| <b>Examples of Document Types Displaying LEA Annual Notices Besides Student Handbooks</b> |
|---|
| Annual Notice Regarding Student Records   |
| Annual notification document  |
| Rights and Responsibilities Guide   |
| Annual Parent Notice  |
| Parent's Guide to Student Data Privacy  |
| Annual Notice Regarding Student Records   |
| Annual notification document  |
| Rights and Responsibilities Guide   |

- In 69% of LEAs, there is an indication of when the policy was last updated. However, in many cases, the date of update pertains to the entire student handbook, not the specific policy.

**Topic: Directory Information**

- 54% of LEAs have the Directory Information Policy on the website.



- When the Directory Information Policy (DI) is on the website, 50% of the time it is the ED Model notice or a variant of that.
- In 50% of LEAs, the Directory Information Policy is custom.

| Characteristics of Custom DI Policy   | Percent Yes |
|---|-------------|
| Does the custom policy include the types of PII that the district or school has designated as directory information?  | 84%         |
| Does the custom 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?  | 97%         |
| Does the custom 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? | 51%         |

- In 31% of LEA's, the LEA directory information policy is a limited DI policy. A limited directory information policy might allow limited disclosure of directory information to third parties for legitimate educational purposes, while disallowing the disclosure of this same information to third parties for purposes such as marketing.



| Characteristics of DI Policy  | Percent Yes |
|---|-------------|
| Does the LEA DI include Student ID?   | 9%          |
| Does it 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 (e.g., password)? | 89%         |
| Does the LEA DI policy include photo/video likenesses?  | 61%         |
| Does the LEA DI policy have a separate video/photo consent policy (e.g., for social media, newspaper, etc.)?  | 22%         |
| Does the DI notice include disclosure to military recruiters?   | 60%         |
| Is there a separate notice for disclosure to military recruiters?   | 26%         |
| Does the LEA provide a "menu" approach allowing parents to opt in/out of specific disclosures? (Note details in comments.)  | 24%         |

- In only 20% 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 a separate external website.
- In 54% of the LEAs, the notice 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. In 30% of LEAs, the notice is included within or as part of another document.

| Examples of Document Types Displaying LEA Directory Information Policies Besides Student Handbooks |
|--|
| Annual Notice Regarding Student Records  |
| Annual parent notification   |
| Rights and Responsibilities Guide  |
| Annual notices   |

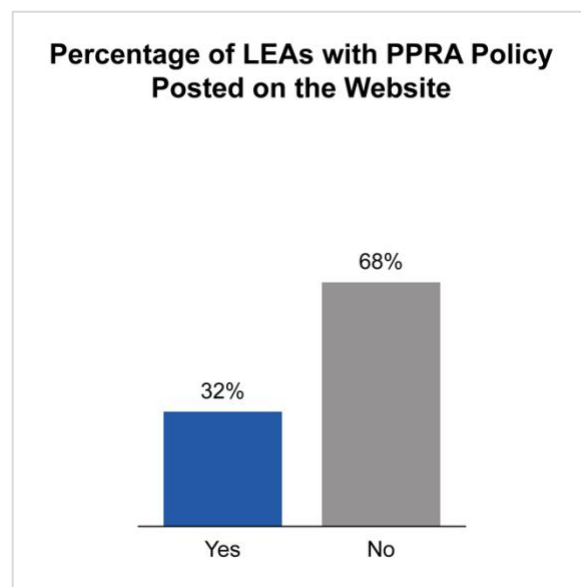


|                                |
|--------------------------------|
| Curriculum Catalog             |
| Student Code of Conduct        |
| Annual required public notices |

- In 72% of LEAs, there is an indication of when the policy was last updated. However, in many cases, the date of update pertains to the entire student handbook, not the specific policy.

Topic: PPRA

- 32% of LEA's have the PPRA Policy on the website.



- When the PPRA Notice is on the website, 80% of the time it is the ED Model notice or a variant of that.
- In 20% of cases the PPRA Notice is custom.

| Characteristics of Custom PPRA Notice  | Percent Yes |
|--|-------------|
| Does the LEA PPRA policy indicate it is provided to parents at least annually? | 68%         |
| Is there an indication when the LEA PPRA policy was last updated?              | 77%         |

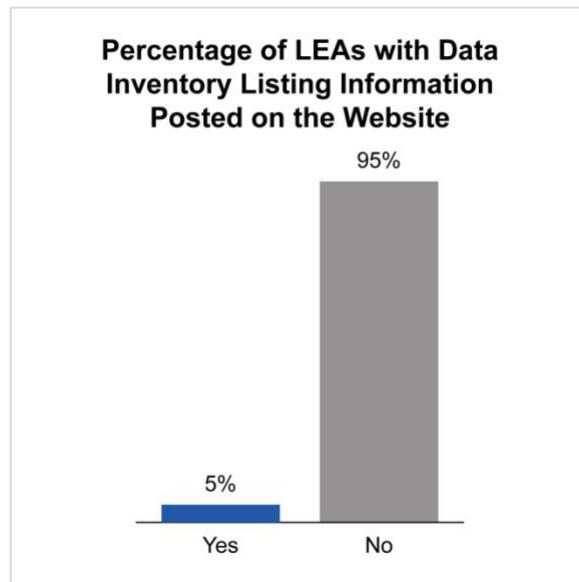
- In only 13% of LEAs, the PPRA policy is posted as primary content, meaning the content is visible on the LEA main website or available from a dropdown menu without going to a PDF or a separate external website.
- In 57% of the LEAs, the notice is included in the student handbook. In most of these cases, the handbook is a pdf that requires the user to search through the document to find the information. In 28% of LEAs, the notice is included within or as part of another document.

| <b>Examples of Document Types Displaying LEA PPRA Notices Besides Student Handbooks</b> |
|---|
| Annual Notice Regarding Protection of Student Rights                                    |
| Student Family Privacy Rights   |
| Code of Conduct   |
| Parent Notifications  |
| Data Governance Policy and Procedure  |
| Included in a FERPA resources for parents document.                                     |

### Topic: Data Inventory

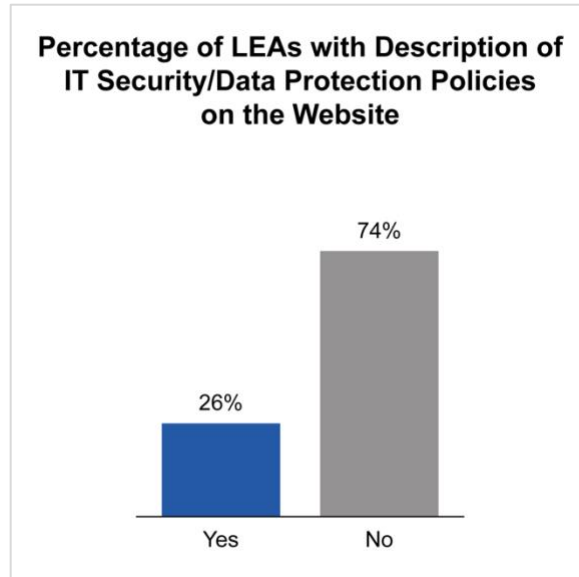
- Only 5% of the LEAs have a data inventory listing available on their websites. When there is a data inventory listing, in 33% of LEAs, data element usage is defined. In 39% of LEAs having a data inventory listing, data elements are clearly defined using plain and simple language.





#### Topic: Data Security

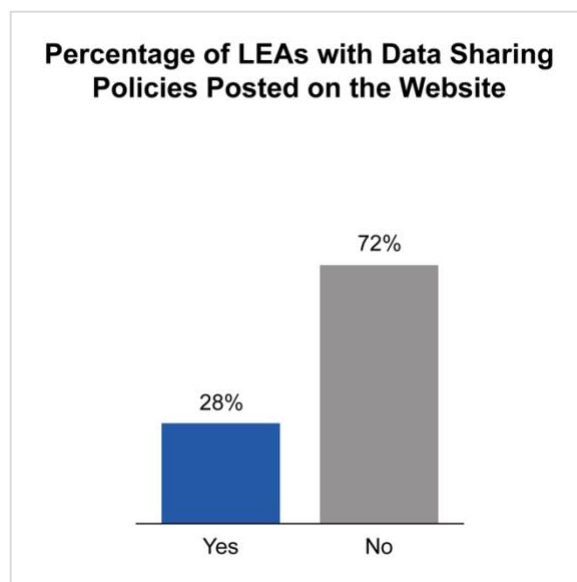
- 26% of LEAs have a description of IT security and data protection policies on the website.



| Characteristics of Data Security Policies   | Percent Yes |
|---|-------------|
| Does the LEA website have a description of policy or procedures specifically for paper records?                                     | 5%          |
| Does the LEA website have a description of policy or procedures specifically for digital information?                               | 37%         |
| Does the LEA website have a description of policy or procedures specifically access to student PII?                                 | 24%         |
| Does the LEA website have a description of policy or procedures specifically use of student PII?                                    | 20%         |
| Does the LEA website describe how student records are retained (identifiable, minimized/redacted, de-identified)?                   | 2%          |
| Does the LEA website have policies describing how the LEA de-identified student PII before published or disclosed to third parties? | 1%          |

### Topic: Data Sharing

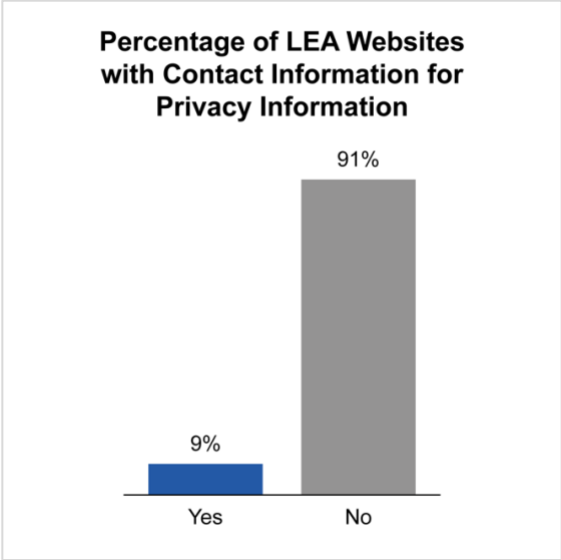
- 28% of LEAs have a description of data sharing policies posted on their websites.



| Characteristics of Data Sharing Policies  | Percent Yes |
|---|-------------|
| Does the LEA website indicate if student PII is shared with third parties?                        | 19%         |
| Does the LEA website indicate if PII shared with external researchers?                            | 5%          |
| If yes, are written agreements with researchers available?  | 19%         |
| If yes, are study results available?  | 12%         |
| If yes, are any resulting changes to curriculum, policies, or programs listed?                    | 0%          |
| Does the LEA website indicate if PII shared with ed tech companies?                               | 5%          |
| Does the LEA website indicate the purpose for sharing PII with ed tech companies?                 | 75%         |
| Does the LEA website have contracts or written agreements disclosing students' PII posted online? | 47%         |
| Does the LEA website have a list of approved online services or "apps" used in classroom?         | 20%         |
| Does the LEA website describe a policy or process for vetting/approving apps?                     | 21%         |
| Does the LEA website list any differentiation between required and optional apps?                 | 3%          |
| Are links to non-contracted apps' terms of service posted?  | 26%         |

### Topic: Communications

- 9% of LEA websites include contact information for someone specifically if parents have questions about data sharing and student privacy.



- 13% of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information.
- 84% of LEA websites have a search tool.

| <b>Search Tool Term</b> | <b>Results Include Privacy-Related Information</b> |
|-------------------------|--|
| FERPA                   | 42%  |
| Annual Notification     | 26%  |
| Student Privacy         | 43%  |
| Directory Information   | 31%  |
| PPRA                    | 18%  |
| Technology              | 15%  |
| Applications            | 6%   |
| Apps                    | 9%   |
| Privacy                 | 43%  |
| Confidentiality         | 27%  |
| Disclosure              | 32%  |
| Security                | 18%  |

- 3% of LEA websites include a glossary of privacy related terms.
- 66% of LEA websites have language translations.

| Language Translation   | Percent of LEAs   |
|--|---|
| All privacy related documents available in language translations | 31%   |
| Key privacy related documents available in language translations | 42%   |
| Example documents included                                       | Annual Notice, Directory Information Policy, PPRA, Privacy FAQs, Student Handbook, Entire website is available in language translations,  |
| Example languages available                                      | Spanish, Korean, Russian, Vietnamese, Arabic, Chinese, French, Tagalog, Italian, German, Hindi, Japanese<br><br>(in many cases, the sites use google translate which provides translations in many languages) |

### Plans for Years 2-4 Samples

Each of the Years 2 through 4 samples will be subject to the same procedures and sampling tool to collect data, analyze, and share with LEAs examined. Each year will produce a high-level summary of the findings from that year. After each review, SPPO staff and contractors will provide outreach to the selected LEA.

One hundred percent of these reviews will be completed by the end of the fifth year of the study, by September 30, 2022. After completion of all reviews, SPPO will produce a final report summarizing the findings and making general recommendations for all LEAs.