

## **Title I Written Complaint and Appeal Procedures**

### **For Title I, Parts A, C and D or Section 100.2(ee) of Commissioner's Regulations Regarding Academic Intervention Services**

As required by Title IX, General Provisions of the Elementary and Secondary Education Act (ESEA), the New York State Education Department (NYSED) has adopted the following procedures for receiving and resolving complaints and for reviewing appeals from decisions of local educational agencies (LEAs). Complaints concerning violations of ESEA Title I, Parts A, C and D, or of the General Education Provisions Act; or of Section 100.2(ee) Academic Intervention Services of the Regulations of the Commissioner are covered by these procedures.

School Districts must disseminate free of charge, adequate information about the State Complaint and Appeal Procedures to parents of students, and appropriate private school officials or representatives. [General Provisions Regulations, 34 CFR Sections 299.10-299.12]

#### **Who may submit a complaint?**

Any public or nonpublic school parent or teacher, other interested person, or agency may file a complaint.

#### **What must a complaint contain?**

All complaints must:

- Be written;
- Be signed by the person or agency representative filing the complaint;
- Specify the requirement of law or regulation being violated and the related issue, problem, and/or the concern;
- Contain information/evidence supporting the complaint; and
- State the nature of the corrective action desired.

### **What must an appeal from a District's response contain?**

An appeal must contain:

- A copy of the original signed complaint
- A copy of the LEA's response to the original complaint or a statement that the LEA failed to respond in 30 business days.

### **Where should a complaint/appeal School District be sent?**

Complaints/appeals regarding the LEA's administration and implementation of its ESEA Title I Grant or Academic Intervention Services for students identified under Commissioner's Regulations Part 100 should be sent first to the School Superintendent of the LEA against whom the complaint is made.

The LEA has a 30 day business period in which to resolve a complaint. Title I complaints should be first sent to the Superintendent of the City School District of New Rochelle. If the District fails to resolve the complaint within 30 business days or fails to resolve the issue to the satisfaction of the complainant, the complaint should be sent to the Title I School and Community Services Office, Room 320 EB, New York State Education Department, 89 Washington Ave, Albany, NY 12234.

### **Where should a complaint/appeal regarding a nonpublic school be sent?**

Complaints/appeals from nonpublic school officials regarding the District's administration and implementation of ESEA Title I Grant should be sent to the New York State Education Department (NYSED). The NYSED has a 60-business day period in which to resolve a nonpublic school complaint.

No later than 30 days following the written response by the NYSED, or in the event the NYSED fails to resolve the complaint within a reasonable period of time, the nonpublic school official may appeal NYSED's decision to the secretary of the U.S. Department of Education. A copy of the appeal must accompany such appeal.

## **Procedures for Filing Complaints/Appeals with the New York State Education Department**

The State Education Department will review complaints when the complaint pertains to:

- The State's administration of the ESEA Title I Basic Grant, Migrant Education, or Neglected or Delinquent Program;
- An appeal from the decision of an LEA regarding an action by the LEA.

Complaints that do not meet any of the above criteria, including complaints concerning the LEA's administration of its Title I Program, will be referred for possible resolution to the LEA against whom the complaint is made.

### **What timelines pertain to the State Education Department's review of complaints/appeals from an LEA action?**

Within 60 business days of the receipt of the complaint/appeal, Department staff will complete an on-site review (if necessary) and/or records examination and will notify all parties of its findings. An extension of the 60-day complaint resolution period is permitted under CFR Part 299.11 (b), for exceptional circumstances.

### **Where shall complaints or appeals to the State Education Department be sent?**

Complaints/appeals regarding Title I for LEAs outside of New York City local school districts/schools should be sent to:

New York State Education Department Title I School & Community Services  
Office Room 320 EB 89 Washington Avenue Albany, NY 12234

### **How long does a public or nonpublic teacher, parent, or agency have to file an appeal from a decision of a LEA?**

An appeal must be requested and postmarked within 20 business days of receipt of the LEA's response to the original complaint.

### **Who shall conduct the review of complaints or appeals?**

The Title I representative in the State Education Department office who is assigned as the program manager for the LEA against which the complaint is made and other Department staff as may be appropriate shall conduct the review of complaints or appeals.

**What shall the State Education Department’s response to the complaint contain?**

The Department’s response shall contain:

- The names of persons interviewed;
- The records or other evidence examined;
- Relevant dates/times/locations/events;
- Summary of findings; and
- Nature of corrective action to be taken including applicable timelines.

**How will State Education Department staff monitor the timely and appropriate implementation of the corrective actions called for in the complaint/appeal resolution?**

Failure of the LEA to take corrective action within the time period stipulated in the complaint resolution shall be cause to withhold all, or a portion of, the ESEA Title I allocation to the LEA.

**Does the State Education Department maintain a record of all complaints/appeals?**

Yes. Copies of correspondence, related documents, investigative reports, and summary reports involved in the complaint/appeal resolution will be maintained by the State Education Department for five years. Records will be made available to interested parties in accordance with the provisions of the New York State Freedom of Information Law (Public Officers Law Sections 84-89).

**What shall constitute exceptional circumstances for extending the 60-day limit for State Education Department review of complaints and appeals for relief from an LEA action?**

The State Education Department has determined that exceptional circumstances may include, but need not be limited to, such occurrences as:

- Illness of involved parties;
- Cancellation of scheduled on-site reviews due to unscheduled school closings
- The need for extended review activities beyond those specified in the written notification; and/or
- Any other mutual agreement to changes in review scope or activity.

When exceptional circumstances are identified, the revised date for the completion of the complaint review will be provided in writing to all parties involved in the complaint or appeal. All parties to the complaint have the right to initiate a request for an extension beyond the 60 business day complaint resolution period based on exceptional circumstances. All such requests must be presented to the State Education Department.

## **Procedures for Adjudicating Appeals from the Decision of the State Education Department**

### **May a person/agency dissatisfied with the State Education Department's complaint resolution file an appeal?**

Yes, parties dissatisfied with the State Education Department's complaint resolution may file an appeal directly with the United States Department of Education at :

United States Department of Education Compensatory Education Programs 400  
Maryland Avenue, S.W. Room 3W230, FOB #6 Washington, D.C. 20202-6132

The link to the New York State ESSA-Funded Programs Complaint Procedures is:

<http://www.p12.nysed.gov/accountability/T1/complaintappeals.htm>

# UNAUTHORIZED DISCLOSURE COMPLAINT FORM

Parents, eligible students (students who are at least 18 years of age or attending a postsecondary institution at any age), principals, teachers, and employees of an educational agency may file a complaint about a possible breach or improper disclosure of student data and/or protected teacher or principal data. Review and refine the related sample district form and discuss how best to communicate this process to district stakeholders.

## CONTACT INFORMATION

First Name:

Last Name:

Phone Number:

Email:

Role/Relationship to Student:

District/Building Affiliation:

## POSSIBLE IMPROPER DISCLOSURE OR BREACH INFORMATION

Description of Event(s):

Description of Possible Disclosed Data:

Description of How Reporter Learned of Possible Disclosure:

## FOR DISTRICT USE ONLY

Date Received:

Staff Member Responsible for Investigation:

Findings Communication Date:

Signature to Confirm Investigation Complete:



**This resource is relevant to the UNAUTHORIZED DISCLOSURE COMPLAINT PROCEDURE Part 121 of the Commissioner's Regulations Requirements.**

# Strengthening Student Data Privacy

*Here's what parents need to know.*

## Education Law 2-D Regulations (Part 121)

### Protecting Personally Identifiable Information in New York's Educational Agencies\*

On January 28, 2020, Part 121 of the Commissioner of Education's regulations became effective. These regulations require educational agencies to be diligent when protecting student **Personally Identifiable Information (PII)\*\*** and teacher and principal APPR data by employing industry best practices that align with the NIST Cybersecurity Framework v1.1.



#### Data Collection Transparency and Restrictions

Educational agencies must minimize the disclosure of PII for any purpose by managing contractual relationships to ensure compliance with Part 121.



#### Data Protection Officer

Educational agencies must appoint a Data Protection Officer with appropriate knowledge, training, and experience to oversee data security and privacy.



#### Parent's Bill of Rights for Data Privacy and Security

Each educational agency must publish a parent's bill of rights on its website and include it in every contract with a third-party contractor that receives PII.



#### Data Security and Privacy Policy

Educational agencies must adopt a Data Security and Privacy Policy by October 1, 2020 and publish it on their website.



#### Data Privacy and Security Standards

NYSED adopted the NIST Cybersecurity Framework as the standard for data privacy and security. All educational agencies must meet this national standard to ensure they are adequately protecting student data.



#### Training for Educational Agency Employees

Employees of educational agencies that handle PII must complete annual training on the laws and requirements necessary to protect PII.



#### Complaints of Breach /Unauthorized Release of PII

Parents and eligible students have a right to file complaints about possible breaches or unauthorized releases of student data. Educational agencies must establish procedures to address these complaints.



#### Third Party Contractors

Third party contractors must submit a Data Security and Privacy Plan for each contract to demonstrate how they will protect PII. NYSED's Chief Privacy Officer may impose penalties on contractors for breaches.



#### Reports and Notifications of Breach and Unauthorized Release

Educational agencies must report breaches to NYSED's Chief Privacy Officer, and notify affected parents and/or eligible students.



#### Access to Records

Parents and eligible students have a right to inspect and review student education records.

## Questions?

Contact NYSED's Chief Privacy Officer at [Privacy@NYSED.gov](mailto:Privacy@NYSED.gov)  
[www.nysed.gov/data-privacy-security](http://www.nysed.gov/data-privacy-security)



**Educational agencies** include public schools (including charter schools), school districts, and BOCES.

\* **Personally Identifiable Information (PII)** is information that can be used to identify an individual whether directly (e.g. student's name; names of parents or family members; address of the student or student's family; personal identifiers like social security numbers) or indirectly when linked with other information (e.g., date of birth and mother's maiden name).

## **Education Law §2-d Parent's Bill of Rights for Data Privacy and Security**

Parents (including legal guardians or persons in parental relationships) and Eligible Students (students 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any Commercial or Marketing purpose. PII, as defined by Education Law § 2-d and the Family Educational Rights and Privacy Act (FERPA), includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR 99.3 for a more complete definition.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to Parents of an Eligible Student.
3. State and Federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, FERPA at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98); and the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 CFR Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including, but not limited to, encryption, firewalls and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available at [www.nysed.gov/data-privacy-security/student-data-inventory](http://www.nysed.gov/data-privacy-security/student-data-inventory) and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. The right to have complaints about possible breaches and unauthorized disclosures of PII addressed. (i) Complaints should be submitted to Diane Hesterhagen, Executive Director. (ii) Complaints may also be submitted to the NYS Education Department by mail to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.



7. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
8. Educational agency workers that handle PII will receive training on applicable state and federal laws, policies, and safeguards associated with industry standards and best practices that protect PII.
9. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

|                |  |           |  |
|----------------|--|-----------|--|
| Vendor         |  | Signature |  |
| Name (Printed) |  | Title     |  |

# Permission Opt-Out Form

Dear Parent/Guardian:

Seton Foundation for Learning schools post useful information to websites, as well as in school and publications, such as newsletters, yearbooks, brochures, school website, and on cable TV. Classroom and school activities and student work are sometimes photographed or recorded by the school or media for news, information, and educational purposes.

## **INSTRUCTIONS FOR THIS FORM:**

Complete and return this form to your child's school main office ONLY if you DO NOT give permission for your student's image, or select directory information to appear in school Publications or school websites, or if you do not give permission to the school to release basic directory information, such as name, participation in school activities, awards.

- DO NOT submit this form if you permit images or basic directory information of your child to be published in school newsletters and school publications.

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## Parent/Guardian Permission Opt-Out Form

I \_\_\_\_\_, parent/guardian of

\_\_\_\_\_, student at

\_\_\_\_\_ School,

\_\_\_\_\_ DO NOT give permission to the Seton Foundation for Learning to release or publish my child's image, directory information, or student work in any collection.

Parent/Guardian Signature Required: \_\_\_\_\_ Date \_\_\_\_\_