



## U.S. Department of Education

### Student Privacy Policy Office

# Local Education Agency Website Student Privacy Transparency Reviews – Combined Two-Year Report Summary

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Review Period: September 2018-April 2020

## Executive Summary

The Student Privacy Policy Office (SPPO) at the U.S. Department of Education (Department) is performing a four-year review of a 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 is reviewing 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. This report includes the first two years of research findings.

Combined two-year findings:

- 54 percent of LEAs reviewed posted on their websites the LEA's Annual Notice under FERPA,
- 52 percent of LEAs posted on their websites the LEA's policy under the Directory Information exception under FERPA, and
- 29 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 fifty 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, 12 percent of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information. Moreover, only 7 percent of LEA websites include the LEA contact information if parents have questions about data sharing and 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) are studying LEA practices for providing information on data sharing and student privacy on their websites. SPPO is responsible for administering FERPA and PPRA, and 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 and the community. FERPA does not require that LEAs post their annual FERPA notice on their websites, but the law specifically requires LEAs to provide notice 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 notice on the LEA website is an effective manner of meeting FERPA's Annual Notice 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 cannot 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.

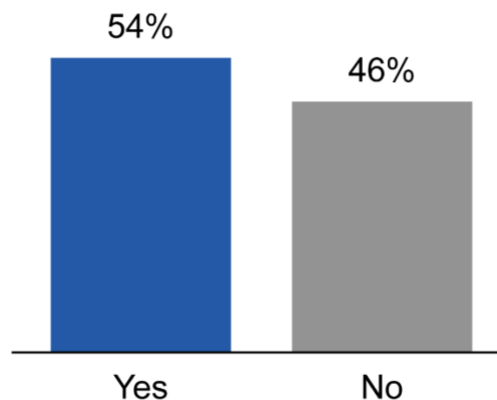
## Results

This report combines data from the samples from years 1 and 2. We found that although 54 percent of LEAs reviewed have the FERPA Annual Notice posted on the website, only 12 percent of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information. Moreover, 93 percent of LEA websites do not include contact information for a staff member dedicated to data sharing and student privacy.

## Topic: Annual Notice

- 54 percent of LEAs have the FERPA Annual Notice on the LEA website.

### Topic: Annual Notice



Does the LEA post its annual notice on the website?

- When the FERPA Annual Notice is on the LEA's website, 70 percent of the time the notice is the Department's model notice or a minor variant of that.
- For 30 percent of LEAs that include the FERPA Annual Notice on the LEA's website, the notice is customized by the LEA.

| Characteristics of Custom Notice                                                                                                                           | Percent LEAs Yes |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Does the custom notice include the right to inspect and review students' education records?                                                                | 95%              |
| Does the custom notice include the right to seek to amend those records?                                                                                   | 79%              |
| Does the custom notice include the right to consent to disclosure of Personally Identifiable Information from those records (unless an exception applies)? | 64%              |
| Does the custom notice include the right to file a complaint with the Department regarding an alleged FERPA violation?                                     | 56%              |
| Does the custom notice include the procedure for exercising the right to inspect and review education records?                                             | 56%              |
| Does the custom notice include the procedure for requesting amendment of those records?                                                                    | 43%              |



|                                                                                                                                                |     |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Does the custom notice include the district’s criteria for determining who constitutes a “school official?”                                    | 29% |
| Does the custom notice include the district’s criteria for determining what constitutes a “legitimate educational interest?”                   | 35% |
| Does the LEA disclose that it routinely releases students’ education records to other schools in which the student seeks or intends to enroll? | 79% |

- For only 18 percent of LEAs, the FERPA 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 an external website not maintained by the LEA.
- For 56 percent of LEAs with the FERPA Annual Notice 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 that have the Annual Notice available, the notice is included in a document other than or in addition to the student handbook.

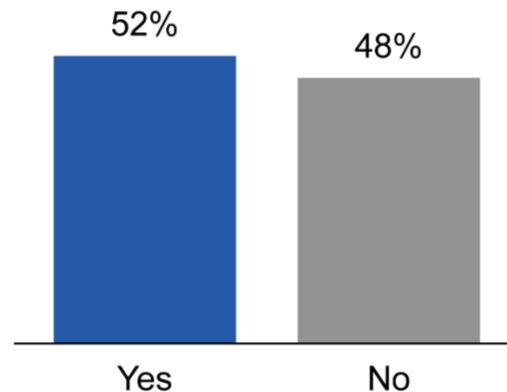
|                                                                                             |
|---------------------------------------------------------------------------------------------|
| <b>Examples of Document Types Displaying FERPA Annual Notices Besides Student Handbooks</b> |
| Annual Notices                                                                              |
| Annual Parent and Student Rights Notification                                               |
| Student Records Notice                                                                      |
| Code of Conduct                                                                             |
| Student Data Privacy and Security Policy                                                    |
| FERPA Notices                                                                               |
| 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 policy.

## Topic: Directory Information

- 52 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, 52 percent of the time it is the Department's model notice or a variant of that.
- For 48 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? | 48%              |

- For 42 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?                                                                                                                                                                                              | 10%              |
| 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)? | 95%              |
| Does the LEA DI policy include photo/video likenesses?                                                                                                                                                                                  | 61%              |
| Does the LEA DI policy have a separate video and photo consent policy (for example, for use on social media or in a newspaper)?                                                                                                         | 18%              |
| Does the DI policy include disclosure to military recruiters?                                                                                                                                                                           | 58%              |
| Is there a separate notice for disclosure to military recruiters?                                                                                                                                                                       | 19%              |
| Does the LEA provide a "menu" approach allowing parents to opt in or out of specific disclosures? (Note details in comments.)                                                                                                           | 23%              |

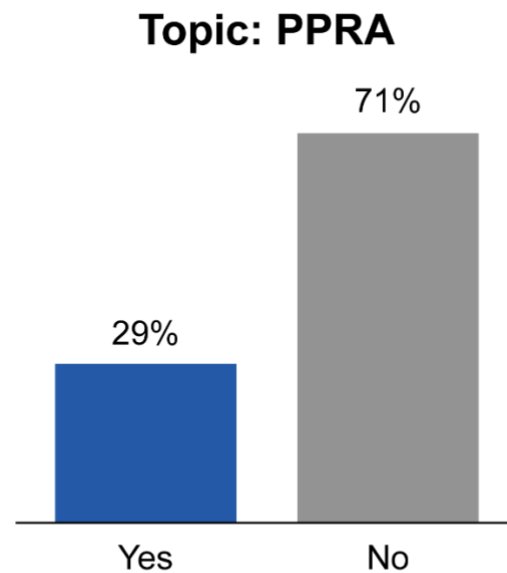
- For 18 percent of LEAs, directory information is posted as primary website content, meaning the content is visible on the LEA main website or available from a dropdown menu without going to a PDF or an external website not maintained by the LEA.
- For 53 percent of LEAs with a DI policy available, 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 38 percent of LEAs with a DI policy available, the notice 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 Notices                                                                     |
| Annual Notices                                                                    |
| Public Notice 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 policy.

## Topic: PPRA

- 29 percent of LEAs have the PPRA Notice on the LEA website.



Does the LEA post its PPRA policy on its website?

- When the PPRA Notice is on the LEA's website, 84 percent of the time it is the Department's model notice or a variant of that.
- For 16 percent of LEAs, the PPRA Notice is customized by the LEA.

| Characteristics of Custom PPRA Notice                                          | Percent LEAs Yes |
|--------------------------------------------------------------------------------|------------------|
| Does the LEA PPRA Notice indicate it is provided to parents at least annually? | 64%              |
| Is there an indication when the LEA PPRA Notice was last updated?              | 78%              |

- For 14 percent of the LEAs, the PPRA Notice 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 60 percent of the LEAs with a PPRA notice 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 29 percent of LEAs with a PPRA notice available, it is included within or as part of another document.



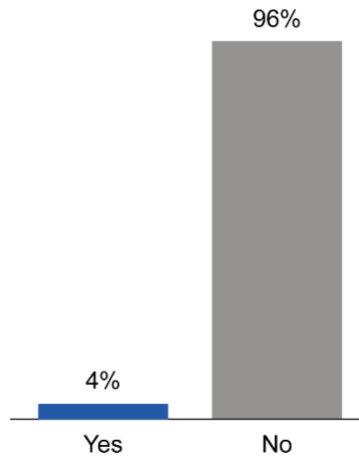
| <b>Examples of Document Types Displaying LEA PPRA Notices Besides Student Handbooks</b> |
|-----------------------------------------------------------------------------------------|
| Parent/Guardian Rights                                                                  |
| Behavioral Code Book                                                                    |
| FERPA Notices                                                                           |
| Annual Notices                                                                          |
| PPRA Notice Document                                                                    |
| Notification of Rights Under the Protection of Pupil Rights Amendment (PPRA)            |
| Student Code of Conduct                                                                 |



## Topic: Data Inventory

- Only 4 percent of the LEAs have a data inventory listing information collected by the LEA from or about its student available on their websites.

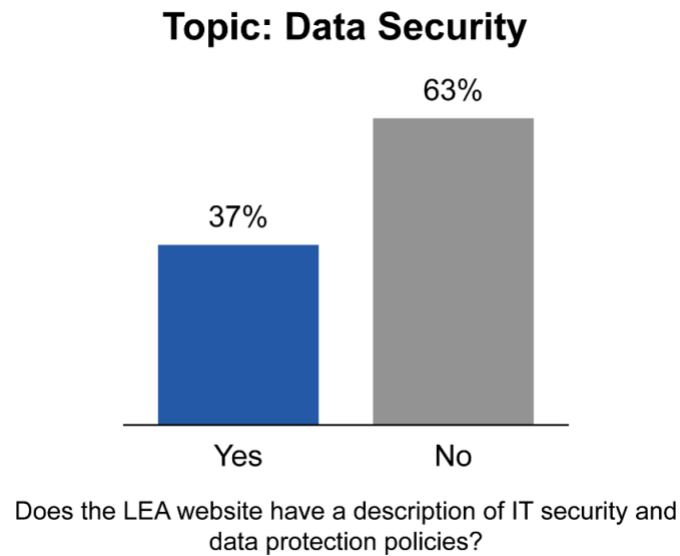
**Topic: Data Inventory Listing  
Information Collected by the LEA from  
or about its Students**



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

## Topic: Data Security

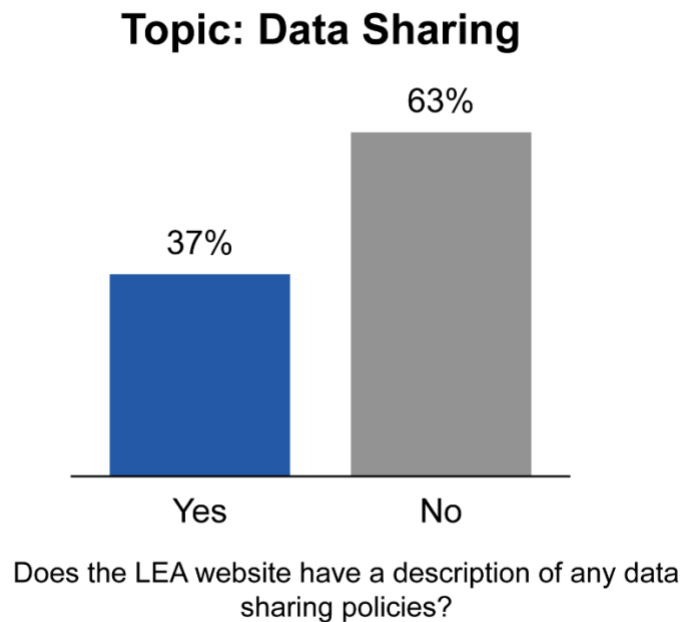
- 37 percent of LEAs have a description of information technology (IT) security and data protection policies on the LEA website.



| Characteristics of Data Security Policies                                                                                                                             | Percent LEAs Yes |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Does the LEA website have a description of policies or procedures specifically for paper records?                                                                     | 4%               |
| Does the LEA website have a description of policies or procedures specifically for digital information?                                                               | 48%              |
| Does the LEA website have a description of policies or procedures specifically for access to student personally identifiable information?                             | 31%              |
| Does the LEA website have a description of policies or procedures specifically for use of student personally identifiable information?                                | 26%              |
| Does the LEA website describe how student records are retained (for example, identifiable, minimized or redacted, de-identified)?                                     | 2%               |
| 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

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



| Characteristics of Data Sharing Policies                                                                                       | Percent LEAs Yes |
|--------------------------------------------------------------------------------------------------------------------------------|------------------|
| Does the LEA website indicate whether student personally identifiable information is shared with third parties?                | 27%              |
| Does the LEA website indicate whether personally identifiable information is shared with external researchers?                 | 3%               |
| If yes, are written agreements with researchers available?                                                                     | 13%              |
| If yes, are study results available?                                                                                           | 9%               |
| If yes, are any resulting changes to curriculum, policies, or programs listed?                                                 | 0%               |
| Does the LEA website indicate if personally identifiable information is shared with education technology companies?            | 4%               |
| Does the LEA website indicate the purpose for sharing personally identifiable information with education technology companies? | 74%              |

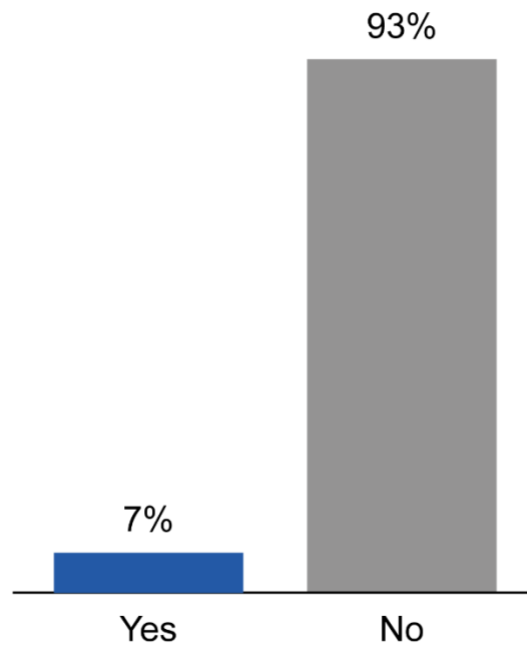


|                                                                                                                                                                                  |     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Does the LEA website have posted online contracts or written agreements with companies or organizations to whom the LEA discloses students' personally identifiable information? | 49% |
| 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?                                                                                                 | 14% |
| Does the LEA website list any differentiation between required and optional apps?                                                                                                | 3%  |
| Are links to non-contracted apps' terms of service posted?                                                                                                                       | 23% |

### Topic: Communications

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

### Topic: Communications



- 12 percent of LEA websites have navigation menus that include a section indicating where to find data practices and student privacy information.
- 85 percent of LEA websites have a general search tool.

| Search Tool Term      | Results Include Privacy-Related Information |
|-----------------------|---------------------------------------------|
| FERPA                 | 43%                                         |
| Annual Notification   | 23%                                         |
| Student Privacy       | 45%                                         |
| Directory Information | 29%                                         |
| PPRA                  | 17%                                         |
| Technology            | 15%                                         |

|                 |     |
|-----------------|-----|
| Applications    | 4%  |
| Apps            | 10% |
| Privacy         | 47% |
| Confidentiality | 29% |
| Disclosure      | 31% |
| Security        | 20% |

- 3 percent of LEA websites include a glossary of privacy-related terms.
- 66 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                                                               | 23%                                                                                                                                                                                                                                        |
| Key privacy related documents available in language translations<br>(Annual Notice, Directory Information Policy, PPRA Notice) | 37%                                                                                                                                                                                                                                        |
| Example documents included                                                                                                     | Annual Notice, Directory Information Policy, PPRA Notice, 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<br><br>(In many cases, the sites use Google Translate, which provides translations in many languages) |



### Plans for Years 3 and 4 Samples

Samples from Years 3 and 4 will be subject to the same procedures and sampling tool to collect data, analyze the data, and share the results with the LEAs that are examined. Each year, SPPO will produce a high-level summary of the findings from that year. After each review, SPPO staff and contractors will provide outreach to the LEAs in that year's sample.

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.



## Additional Resources

- *FERPA Model Notification of Rights for Elementary & Secondary Schools*, <https://studentprivacy.ed.gov/node/490>
- *Model Notice for Directory Information*, <https://studentprivacy.ed.gov/node/428>
- *Model Notice for Directory Information En Espanol*, <https://studentprivacy.ed.gov/node/489>
- *PPRA Model General Notice of Rights*, <https://studentprivacy.ed.gov/node/491>
- *Transparency Best Practices*, <https://studentprivacy.ed.gov/resources/transparency-best-practices>
- *U.S. Department of Education Strategic Plan for Fiscal Years 2018-2022*, <https://www2.ed.gov/about/reports/strat/plan2018-22/strategic-plan.pdf>

## 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/>.