ATTACHMENT S
PARENTS' BILL OF RIGHTS
FOR DATA PRIVACY AND SECURITY

To satisfy their responsibilities regarding the provision of education to students in pre-kindergarten through grade twelve, "educational agencies" (as defined below) in the State of New York collect and maintain certain personally identifiable information from the education records of their students. As part of the Common Core Implementation Reform Act, Education Law §2-d requires that each educational agency in the State of   ReforD4eolw6eTc -0.002 (, E)1 3 (i)-2c -(

A more detailed description of the PPPL is available from the Committee on Open Government of the New York Department of State. Guidance on what you should know about the PPPL can be accessed at http://www.dos.ny.gov/coog/shldno1.html. The Committee on Open Government's address is Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, suite 650, Albany, NY 12231, their email address is coog@dos.ny.gov, and their telephone number is (518) 474-2518.

A. <u>Parents' Rights Under Education Law §2-d relating to Unauthorized Release of Personally Identifiable Information</u>

1. What "educational agencies" are included in the requirements of Education Law §2-d?

- x The New York State Education Department ("NYSED");
- x Each public school district;
- x Each Board of Cooperative Educational Services or BOCES; and
- x All schools that are:
  - o a public elementary or secondary school;
  - o a universal pre-kindergarten program authorized pursuant to Education Law §3602-
  - o an approved provider of preschool special education services;
  - o any other publicly funded pre-kindergarten program;
  - o a school serving children in a special act school district as defined in Education Law 4001; or
  - o certain schools for the education of students with disabilities an approved private school, a state supported school subject to the provisions of Education Law Article 85, or a state operated school subject to Education Law Article 87 or 88.

2. What kind of student data is subject to the confidentiality and security requirements of Education Law §2-d?

The law applies to personally identifiable information contained in student records of an educational agency listed above. The term "student" refers to any person re6 (le)]TJ 0 T (c)1 (t to)-3 (th)-7 (e of Et54 Tw -21.t2(of)-b.m(c) 0 TTw (as a)4 (n)]T1in of an2 (Td [(o)-4 (an)3 (o)10 (vi)-2 (1002 Tc -0r)3 (s0.

(a) Other information that, alone or in combination, linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

(b) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom education record relates.

1. What kind of student data is not subject to the confidentiality and security requirements of Education Law §2-d?

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, deidentified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d or within the scope of this Parents' Bill of Rights.

2. What are my rights under Education Law § 2-d as a parent regarding my student's PII?

Education Law §2-d ensures that, in addition to all of the protections and rights of parents under the federal FERPA law, certain rights will also be provided under the Education Law. These rights include, but are not limited to, the fo,-2 (u)o10 (e)2 (. -10 1 (ong]TJ -0.01 TTc 0.00414w 5.31 0 Td [(i)e10 (l

- o When appointed, the Chief Privacy Officer of NYSED will also provide a procedure within NYSED whereby parents, students, teachers, superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

1. Must additional elements be included in the Parents' Bill of Rights.?

Yes. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents Bill of Rights each contract an educational agency enters into with a third party contractor

Services of a third party contractor covered under Education Law §2-d include, but not limited to, data management or storage services, conducting studies for or on behalf of the educational agency, or audit or evaluation of publicly funded programs.

When an educational agency enters into a contract a third party contractor, under which the third party contractor will receive student data, the contract or agreement must include a data security and privacy plan that outlines how all state, federal, and local data security and privacy contract requirements will be implemented over the life of the contract, consistent with the educational agency policy on data security and privacy.
However, the standards for an educational agency's policy on data security and privacy must be prescribed in Regulations of the Commissioner that have not yet been promulgated. A signed copy of the Parents' Bill of Rights must be included, as well as requirement that any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access.

Each third party contractor that enters into contract or other written agreement with an educational agency under which the third party contractor will receive student data or teacher or principal data shall:

o limit internal access to education records to those individuals that are determined to have legitimate educational Interests

o not use the education records for any other purposes than those explicitly authorized in its contract;

o except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any PII to any other party (i) without the prior written consent of the parent or eligible student; or (ii) unless required by statute or court order and the party provides notice of the disclosure to NYSED, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;

o maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII in its custody; and

o use encryption technology to protect data while in motion or in its custody from unauthorized disclosure.

1. What steps can and must be taken in the event of a breach of confidentiality or security?

Upon receipt of a complaint or other information indicating that a third party contractor may have improperly disclosed student data, or teacher or principal APPR data, NYSED's Privacy Officer or , o egpn 3.35 0o10 (tc -0.00(a84)(c349(()jT 3r9d(o)903(d)e;rc20(00)é8(d-(r(oe)4 (r)3e2(((y)c)JTJ (t8-(o

interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to offt