Data Access and Use Policy and Procedures

Illinois State Board of Education

100 North First Street • Springfield, Illinois 62777-0001

www.isbe.net

Table of Contents

Section 1. Overview 3

1.1 Purpose 3

1.2 Policy 3

1.3 General Information 4

1.3.1 *Definitions* 4

1.3.2 Information Maintained 5

1.3.3 Measures to Maintain the Confidentiality of Student Information 5

1.3.4 Allowable Disclosures of Personally Identifiable Student Information 6

1.3.5 Record of Access 6

1.3.6 Destruction of Data 7

Section 2. Requests for Public Records 8

2.1 Reports 8

2.2 Freedom of Information Act (FOIA) 8

2.3 Staff Records 8

Section 3. Requests for Personally Identifiable Information 9

3.1 Purpose 9

3.2 Information for Researchers Seeking Access to Personally Identifiable Student Data 9

3.3 Information for Parents and Eligible Students Seeking Access to Personally Identifiable Student Data 10

Section 1. Overview

1.1 Purpose

The Illinois State Board of Education (ISBE) collects a large amount of valuable data, including personally identifiable data, and takes seriously the responsibility of maintaining this data in a way that is secure and respects the privacy of parents, students, and teachers. When used correctly, analysis of this data serves to inform program evaluation and innovation and, ultimately, to push the learning of students in Illinois forward. This Data Access and Use Policy is intended to serve as a reference tool for those seeking information about the types of data that ISBE maintains, the ways in which ISBE protects that data, and the methods by which it is distributed for public knowledge and research purposes.

1.2 Policy

Pursuant to the federal Family Education Rights and Privacy Act (FERPA) and its implementing regulations, as well as the Illinois School Students Records Act (ISSRA) and its implementing regulations, the Illinois State Board of Education will provide access to education records relating to an individual student to that student's parents or to students qualifying as "eligible students" under FERPA.

See Section 3 for more information.

(20 U.S.C.1232g; 34 C.F.R. 99; 105 ILCS 10/2 *et seq.;* 23 Ill. Adm. Code 375*)*

Education records will be disclosed to persons other than an eligible student or a student's parents only if:

a) The information is not personally identifiable (see Section 2 for more information);
b) ISBE has received consent of the student's parents or of the eligible student; or
c) The disclosure is permitted without prior consent by FERPA (see Section 3 for more information).

(20 U.S.C. 1232g; 34 C.F.R. §99.30 and §99.31).

Pursuant to the P-20 Longitudinal Education Data System Act (P-20 Act), and the Intergovernmental and Data Sharing Agreement entered into as of August 6, 2009 between the Illinois State Board of Education, the Illinois Community College Board (ICCB), and the Illinois Board of Higher Education (IBHE), the Illinois State Board of Education will share individual student data with these entities for the purposes of audit and evaluation of education programs, and to perform studies for, or on behalf of, public elementary and secondary schools and institutions of higher education. This data sharing is done in a manner consistent with FERPA and ISSRA.

(105 ILCS 13/1 *et. seq*;)

Individuals' social security numbers will be collected and maintained only as permitted by the Illinois Identity Protection Act (IPA), the Personal Information Protection Act (PIPA), the Consumer Fraud and Deceptive Practices Act, and the Privacy Act of 1974, as amended.

(5 ILCS 179/1 *et seq.*; 815 ILCS 530/1 *et seq.*; 815 ILCS 505/2RR; 5 U.S.C. 552a)

Information on students with disabilities will be maintained and protected as required by the federal Individuals with Disabilities Education Act and implementing regulations.

(20 U.S.C. 1412(a)(8) and 1417(c); 34 CFR § 300.123 and 34 C.F.R. 300.610-300.627)

Information on eligibility for free and reduced price meals or free milk will be maintained and protected as required by the federal National School Lunch Act and the United States Department of Agriculture's (USDA) implementing regulations and guidance.

(42 U.S.C. 1758; 7 C.F.R. 245.6)

1.3 General Information

1.3.1 *Definitions*

Illinois adheres to the confidentiality requirements of both federal and state laws, including but not limited to the Family Educational Rights and Privacy Act (FERPA), the Individuals with Disabilities Education Act (IDEA), the Protection of Pupil Rights Amendment (PPRA), the National School Lunch Act (NSLA), and the Illinois School Students Records Act (ISSRA).The following definitions are derived from these laws and implementing regulations.

Privacy reflects an individual's freedom from intrusion.

Confidentiality refers to an obligation not to disclose or transmit information to unauthorized parties.

Personally Identifiable Information or individually identifiable information is information that reveals an individual's identity.

Education Records are records, files, documents, and other materials that contain information directly related to a student and that are maintained by education agencies or institutions, or by individuals acting on behalf of the agencies.

Disclosure includes permitting access to, revealing, releasing, transferring, disseminating, or otherwise communicating all or any part of any individual record orally, in writing, or by electronic or any other

means to any person or entity except the party identified as the party that provided or created the record.

Security refers to technical procedures that ensure only authorized and intended parties have access to data.

Eligible Student means a student who has reached 18 years of age or is attending an institution of postsecondary education.

Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

1.3.2 Information Maintained

ISBE collects and maintains personally identifiable information from education records of Illinois students, including:

a) Personal data which identifies each student. This data may include, but is not limited to, name, student identification number, address, race/ethnicity, gender, date of birth, place of birth, name of parent or lawful custodian;

b) Attendance data;

c) Data regarding student progress, including grade level completed, school attended, academic work completed, and date of graduation;

d) Assessment data; and

e) Data regarding eligibility for special education and special education services provided to the student, eligibility for free and reduced price meals or free milk.

1.3.3 Measures to Maintain the Confidentiality of Student Information

ISBE utilizes various procedures and security measures to ensure the confidentiality of student records collected and maintained by the agency.

These procedures include:

a) Assignment of a unique student identification number to each Illinois student.

b) Security protocols that limit who may have access to data and for what purpose.

c) The adoption of masking rules to ensure that confidentiality is maintained in all public reporting of personally identifiable information from educational records.

d) Instruction for ISBE personnel collecting or using personally identifiable student information regarding procedures adopted in accordance with this policy.

e) The maintenance of a current listing of agency personnel who have access to personally identifiable student information through authentication and internal links.

1.3.4 Allowable Disclosures of Personally Identifiable Student Information

The Family Educational Rights and Privacy Act (FERPA) generally requires written consent of a parent or an eligible student before an agency or institution discloses personally identifiable information. However, there are certain limited conditions in which prior consent is not required to disclose information.

These conditions include, but are not limited to, certain disclosures:

a) To other school officials within the agency or institution or at another institution where the student is enrolled or seeks to enroll.

b) To authorized representatives of: 1) the Comptroller General of the United States; 2) the Attorney General of the United States; 3) the Secretary of the U.S. Department of Education; or 4) State and local educational authorities.

c) To organizations conducting certain types of studies for, or on behalf of, educational agencies or institutions.

d) In connection with a judicial order or subpoena.

e) In connection with a health and safety emergency.

f) Of records or information after the removal of all personally identifiable information and determination that identity is not identifiable (De-identified Information).

For more information on the conditions under which prior consent is not required to disclose information, please see Title 34, §99.31, of the Code of Federal Regulations for the Family Educational Rights and Privacy Act.

1.3.5 Record of Access

The Illinois State Board of Education shall record the names of external parties, which have obtained access to a student's education records maintained by ISBE, the parties' legitimate interests in the information, and the date of the disclosure ("Access Record").

The Access Record may be maintained by the student's name, or if not by the student's name, by the student's class, school, district, or other appropriate grouping.

The Access Record shall be available, only to the parents, the eligible student, the ISBE officials and staff or the student's currently enrolled school/district official or their assistant(s) responsible for the custody of student records and who have a legitimate education interest, and, for purposes of auditing the operation of the system, to the authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or other State education authority representatives, and for purposes of law enforcement, the Attorney General.

Upon request by the student's currently enrolled school/district official or their assistant(s) responsible for the custody of student records, ISBE will provide a copy of the Access Record within a reasonable time not to exceed 30 days.

Disclosure to the following individuals does not have to be maintained in the Access Record: the parent or eligible student; ISBE officials and staff or the student's currently enrolled school/district official or their assistant(s) responsible for the custody of student records and who has a legitimate education interest; contractors, consultants, volunteers or other parties to whom ISBE has properly outsourced institutional services or functions and who are under ISBE's direct control with respect to the use and maintenance of the education records; parties with written consent from the parent or eligible student; parties seeking directory information; and disclosures to comply with a judicial order or lawfully issued subpoena, only when ISBE has made a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of ISBE's compliance.

(See 20 U.S.C. 1232g(b)(4); 34 C.F.R. §99.32).

1.3.6 Destruction of Data

Any entity receiving personally identifiable information for Federal or State program purposes must destroy such information when it is no longer needed for the purpose specified in the request for disclosure. The manner of destruction shall protect the confidentiality of the information, and include the purging of all copies from computer systems. ISBE must receive written confirmation of the method and date of destruction. Entities that fail to destroy information as required shall be prohibited from accessing information from education records for a period of not less than five years.

(See 20 U.S.C. § 1232g(b)(1)(C)(i), § 1232g (b)(1)(F), § 1232g (b)(1)(K), § 1232g (b)(3), and § 1232g (b)(4)(B); 34 C.F.R. § 99.31(a)(3), § 99.31(a)(6)(ii)(B), and §99.35(b)(2)).

Section 2. Requests for Public Records

2.1 Reports

ISBE's Division of Data Analysis and Progress Reporting publishes a variety of reports each year. These reports are available to the public at the following link: http://www.isbe.net/research/Default.htm

2.2 Freedom of Information Act (FOIA)

Under the Illinois Freedom of Information Act (5 ILCS 140), records in possession of public agencies may be accessed by the public upon written request. Pursuant to 5 ILCS 140, Section 2(c), a public record is any records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed or under the control of any public body. Records that are not subject to release via the FOIA process include confidential and trade secret information.

For more information about the process for submitting a FOIA request, please visit ISBE's website: http://www.isbe.state.il.us/htmls/foia.htm

2.3 Staff Records

Records of school staff, who are employees of a publicly funded agency, are generally "open records" and are governed by the Illinois Freedom of Information Act (FOIA). Under FOIA, some information contained in public records is exempt from disclosure.

These exemptions include, but are not limited to:

a) Private information[1], unless disclosure is required by a State or federal law or a court order.
b) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.[2]
c) Records in the possession of any public body created in the course of administrative enforcement proceedings.

[1] Private information means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. 5 ILCS 140/2 (c–5).

[2] Unwarranted invasion of personal privacy means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in maintaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

d) Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.
e) Information prohibited from being disclosed by the Personnel Records Review Act.
f) Information prohibited from being disclosed by the Illinois School Student Records Act.

(See 5 ILCS 140/7 and 104/7.5).

Section 3. Requests for Personally Identifiable Information

3.1 Purpose

This policy establishes the procedures and protocols for collecting, maintaining, disclosing, and disposing of education records containing personally identifiable information about students.[3] It is intended to be consistent with the disclosure provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, 34 CFR Part 99. Because this section concerns only personally identifiable information contained in students' education records, the information is not required to be disclosed under the Illinois Freedom of Information Act.

3.2 Information for Researchers Seeking Access to Personally Identifiable Student Data

The Illinois State Board of Education may disclose confidential, personally identifiable, information of students to organizations for research and analysis purposes to improve instruction in public schools.

Any such disclosure must meet the following requirements:

a) The conditions of FERPA, 20 U.S.C. § 1232g (b)(1)(F) and 34 CFR §99.31(a)(6), are met.

b) The researcher has met all application requirements detailed in ISBE's Instructions for Researchers Requesting Data.

c) The research project is approved by ISBE's Data Request Review Board (DRRB).

d) The recipient organization has signed the Acknowledgement of Confidentiality Requirements.

e) The recipient organization has entered into a written data sharing agreement with ISBE.

[3] While this policy does not generally apply to educator records (See Section 2.3) it does protect personally identifiable records of educators that were created during their time as a student. For example, some educator certification information collected while that educator was enrolled in a school of education would be covered.

Researchers that are interested in requesting access to data maintained by ISBE should carefully read ISBE's Instructions for Researchers Requesting Data.

3.3 Information for Parents and Eligible Students Seeking Access to Personally Identifiable Student Data

Parents are advised that the records maintained by ISBE are provided by the school district in which their student is/was enrolled and access to their student's record can be obtained under FERPA from the student's school district. In accordance with federal regulations, the Illinois State Board of Education will provide parents access to their child's education records, or an eligible student access to his or her own education records, within 45 days of receiving an official request.

A. ISBE will require a signed and dated written request, which must include the person's name, address, phone number, student's name, student identification number (SID), school name in which their student is enrolled, relationship to the student, items requested for review, and reason for making the request.

B. ISBE will require proof of identity and relationship to the student before access to records is granted.

C. Requests for access to any ISBE secure materials will require a signed security/confidentiality agreement prior to inspection.

D. Any proper request for access to inspect and review any personally identifiable data by the eligible student or the student's parents will be granted without unnecessary delay and no more than 45 days after the request is made and the right to access is established by proof of identity and a signed security/confidentiality agreement, if requesting secure materials.

E. If any record includes data on more than one child, the parents shall be allowed to inspect and review only those records relevant to their child.

F. Parents shall be provided a response to reasonable requests for explanation or interpretation of the data.

G. Parents and students, when applicable, have the right to a due process hearing to challenge the content of their child's record or to ensure that the records are accurate and in no way violate the student's right to privacy.