

# West Virginia Student Data Privacy

## Citizen Concern Form: Instructions

The West Virginia Department of Education (WVDE) takes very seriously its responsibilities to protect students’ sensitive information. If you believe that any student’s education records have been released improperly or in a way that is not consistent with federal, state, or local laws and policies, please report your concerns to the WVDE Office of Legal Services and Accountability (OLSA). The structured form WVDE has developed will allow you to provide the information we need to begin investigating any privacy incidents or breaches that may have occurred at your school or district. This document is intended to help you understand and complete the different sections of the concern form.

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**Questions?** If you have any questions, please contact the WVDE Office of Legal Services and Accountability at **304-558-7881**.

## Completing the Form

You may complete the form as a Word document by typing into the spaces provided for your information and responses. For items with response options that have check boxes, you may click on the check box to select your response(s); another click will unselect the box. Be sure to save the document periodically to your computer so you will not lose information or need to spend time redoing your work.

You may also print and complete a paper version of the form. Please type or print legibly using blue or black ink. Take care to write as neatly as possible; that will allow us to process your concerns more quickly.

## Providing Information

The sections of the form request as much information as you can provide so that we can efficiently and effectively address your concerns.

### Your Information

The first section of the form asks you to provide information about yourself. WVDE staff need this information so that we can follow up with you to gather more information, if needed, and to provide updates about our investigation. In the appropriate places on the form, please provide the following information about yourself:

Please provide a phone number at which you can be reached, preferably during daytime hours (8:00 AM to 5:00 PM). Also, please tell us the best times to reach you at the number(s) you provide. WVDE staff recognize that you may not always be available to discuss concerns during the department's regular working hours; we will do our best to accommodate your schedule.

- Full name (first, middle initial, last)
- Complete address (street address or PO Box, city and state, zip code)
- Primary phone number (home, mobile, or work)
- Alternate phone number
- Best hours to call
- Email address to which WVDE staff can send information, updates, or questions
- Best method of reaching you (phone or email)
- Your role
  - *If applicable, include a brief description of your "Other" role.*

**Please note:** If you are a parent or an eligible student who is submitting a report about an incident involving your child or yourself, please use the "Parent/Guardian and Eligible Student Concern Form." If you are submitting a report about an incident involving another student (or students) who is not your child (or who is a friend or acquaintance of yours), please use the "Citizen Concern Form."

*If you are an educator or school staff member who is submitting a report about a privacy incident, and if you believe you may need protection from retribution or retaliation from administrators or other staff members, please contact your district superintendent or designee pursuant to Policy 4373, Chapter 5, Section 3. WVDE respects your willingness to report incidents that may be uncomfortable or embarrassing to your school or district, and we want to work with you to ensure you are not unfairly targeted for coming forward with your concerns.*

## Information about the School and Students Affected

The second section of the form asks you to provide some basic information about the school and district where the incident occurred and the student(s) whose records were inappropriately disclosed. Please provide full names for the school, district, and administrators in this section. For instance, write “Anywhere High School” rather than “AHS” for the school name. Provide as much detail as you can about the following items:

- Full name of the school at which the incident happened
- Name of the county in which the school is located
- Full names of the principal and superintendent who were the administrators in charge of the school and district at the time
- Number of students affected by the disclosure
- First and last names and grade levels of students whose records were disclosed (if known and if reasonable to report)

If you are unsure of an exact number of students affected, give your best estimate.

If the number of students affected is large, you may leave this item blank.

## Information about the Release of Student Records

The third section of the form is where you will provide as much detail as you can about what happened when the student records were disclosed. WVDE staff need as much information as you know and can provide in order to accurately assess and address the nature and scope of the incident and to respond in an efficient and timely manner. WVDE recognizes that you may not have all of the information or know all of the specific details. Please provide as much information as you can about the following:

- Specific types of data (or pieces of records) that were improperly disclosed
- Whether the data are part of official education records
- When the disclosure actually happened
- When the disclosure came to your attention
- How the incident happened
  - *If none of the options listed seem appropriate, please select “Other.” You will have an opportunity later to provide more details.*
- Whether the disclosure was accidental or intentional
- Name, title or role, and any other relevant details about the individual who disclosed the information
- List or description of who may have seen or had access to the data or records
- Other details or additional information that might be helpful to WVDE personnel looking into what happened
- How you found out about the improper disclosure of education records
- Whether you have communicated with a school or district staff member about this incident and, if so, a brief summary of those conversations
- How, if at all, the incident has affected the students whose records were disclosed (or their families)
- A brief description of what the school or district has done to correct the situation

Please give specific dates. If you do not know or cannot remember, give as many facts as you can (such as month and year, semester, and so on).

If you selected “Other” from the list of disclosure types, please use the “other details” section to describe or explain the circumstances.

If you have emails or letters about the situation, please attach copies to your form.

## Review and Referral

WVDE staff within the Office of Legal Services and Accountability will review the information you provide in your claim. Given the seriousness of privacy incidents and the multiple state and federal laws and policies that regulate maintenance of and access to education records, we may need to discuss the information with school or district officials, other staff within the WVDE, or federal officials in order to ensure that our response is comprehensive and authoritative. We want you to be aware that a full response may require that we discuss the specific information you include. WVDE staff will always do our best to protect your confidentiality and will work to ensure that you are not subject to retribution or retaliation of any sort because you have brought your concerns to our attention.

If you agree to allow us to share information about your concerns with other individuals or agencies as necessary and appropriate to resolve the issue, please select the “Yes” box on the form.

If you do not want us to share information about your claim or discuss it with others, please select the “No” box. If you select the “No” option, however, please recognize that we may not be able to fully address or resolve your concerns.

## Your Signature

When you have reviewed the information on the form and are satisfied that it is correct, please sign and date the form. Your signature is your pledge that the information you provide to us is complete and accurate to the best of your knowledge and belief.

## Submitting the Form

When you have finished, please review the information for accuracy and make any changes you feel may be necessary. If you completed the form electronically (using Microsoft Word), please print the document. When you are satisfied that the information is complete and correct, please sign and date the form (see above).

You may submit the form to the WVDE Office of Legal Services and Accountability in one of three ways:

- 1) Scan an electronic copy of your completed, signed form and email it as a PDF attachment to [ZoomWV@help.k12.wv.us](mailto:ZoomWV@help.k12.wv.us). You may include any information in the body of the email that you think might be relevant and helpful. Please use the subject “Data Privacy Concern” for your message; you may also include the school name in the subject line.
- 2) Fax your completed, signed form to **304-558-1613**. On the fax cover sheet, please list the recipient as “OLSA Data Governance” and list the subject (often the “Re” field on a standard fax cover sheet template) as “Data Privacy Concern.” Please be sure to indicate the number of pages we should expect in your fax, including the cover sheet. You may use the “comments” section of the cover sheet to provide any additional information you think might be relevant and helpful.

- 3) Mail your completed, signed form to the following address:

**WVDE Office of Legal Services & Accountability**  
**ATTN: Data Governance/Data Privacy Concern**  
**Building 6, Suite 825**  
**1900 Kanawha Boulevard East**  
**Charleston, WV 25305-0330**

## Questions?

If you have questions or need assistance submitting your concern to WVDE, please call our Office of Legal Services and Accountability: **304-558-7881**.

We will be happy to help you.

## Key Definitions

Before you begin completing the form detailing your concerns about the privacy of students' data, you may find it helpful to familiarize yourself with the following terms, as they are used in governing West Virginia's education data.

You may also find it helpful to review federal and state laws and policies regarding education data. Click on the hyperlinks below to find out more information. *If you have received this document in paper form, the last page includes the URLs for you to type into your browser's address bar.*

[Family Educational Rights and Privacy Act \(FERPA\)](#)

[West Virginia's Student Data Accessibility, Transparency, and Accountability Act \(Student DATA Act\)](#)

[West Virginia Board of Education Policy 4350: Collection, Maintenance and Disclosure of Student Data](#)

### Education Records (also Student Records)

Education records, which may also be called student records, are the official records kept or maintained by a school or school district that directly relate to a student. Education records may include information such as enrollment and attendance records, class grades and grade point average (GPA), course enrollment and completion, disciplinary incidents, honors or awards, special education information (if applicable), achievement test results, and so on. Education records do not include, however, information or notes that an educator keeps for their own personal use that are not accessible to anyone else except a temporary substitute (such as notes a teacher might take to remind themselves about students' interests or unique learning styles). See the [definitions section](#) of FERPA for more a more detailed description of what types of records are and are not considered "education records."

### Student Data

As defined in West Virginia's Student DATA Act, student data are pieces of information that are included in students' education records and that are collected at an individual level and that may be reported at the individual level as well.

### Directory Information

Directory information includes some of the information found within student records; directory information is not generally considered harmful or an invasion of privacy if it is released or disclosed. Directory information may include a student names, addresses, phone numbers, dates and places of birth, major fields of study, participation in officially-recognized activities, height and weight of student athletes, dates of attendance, graduate/non-graduate designations, degrees and awards received, most recent previous schools attended, and photographs. This information can be released for school-related purposes without explicit consent. Each year, every district in West Virginia must publish a list of the types of information considered "directory

Social Security Numbers and state-assigned student identification numbers used in the West Virginia Education Information System (WVEIS) are **never** considered directory information.

information,” and parents (or eligible students) must be given an opportunity to opt out of sharing any or all of that information.

## Personally Identifiable Information (PII)

Personally identifiable information (also called PII), includes data that can be used to directly identify a student. PII includes data such as students’ names, names of parents/guardians or other family members, addresses, Social Security Numbers, WVEIS numbers, and other indirect identifiers like date and place of birth or their mothers’ maiden names. Other information might also be considered PII if a reasonable member of the school community could use it—either alone or in combination with other data—to identify a specific student a moderate degree of confidence.

## Confidential Student Information

Confidential student information, as defined in the West Virginia Student DATA Act, consists of specific information about a student’s history, family, and other matters that is considered highly personal and should not be disclosed; most categories of confidential student information, as defined in state law, should not be included in students’ education records. Information about students that is considered to be confidential includes religious affiliation; personal or family ownership of firearms; medical, psychological, or behavioral diagnoses; criminal history of the student, their parents, their siblings, or other family members; vehicle registration and driver’s license numbers; biometric and genetic information; and consumer credit history and credit score.

## Parent/Guardian

When parents are divorced, separated, or not living together, schools may give access to both parents unless there is a court order, divorce decree, custody agreement, or other legal document **on file** limiting one parent’s access rights.

A parent or guardian is a student’s mother or father or the adult who has the responsibility and legal authority to care for a minor child. Parents/guardians manage and protect a student’s best interests and act as their legal representatives. Parents/guardians must be given reasonable access to review their children’s educational records and request that corrections be made if errors are discovered. Generally, parents/guardians must be asked to give their consent prior to the release of any information about their child.

## Student

A student is a person (in this context, most often a minor child) who has attended a public elementary or secondary school in West Virginia.

## Eligible Student

Schools may still provide parents/guardians with access to the education records of eligible students if the parents/guardians claim the student as a dependent for tax purposes.

An eligible student is any student who has reached 18 years of age (or who is attending a college/university or other postsecondary school regardless of their age) and who is typically legally responsible for his/her own interests. When a student turns 18 years of age, all rights and responsibilities that previously belonged to parents/guardians transfer to the student, including the right to give or withdraw consent for the disclosure of education records.

## Consent

Consent generally means permission or agreement. In the context of student data privacy, consent refers to parents'/guardians' (or eligible students') permission for schools or districts to share specific information from student records with a third party (that is, someone who is not the student and parent/guardian or the school). Typically, schools or districts must get consent from a parent/guardian (or eligible student) to share student-level information that is not classified as directory information.

There are some exceptions that allow schools or districts to share information without consent in specific circumstances. For instance, educators or others with a legitimate educational interest may be given access to student records in order to fulfill their job responsibilities. Records may be provided to a new school (including a postsecondary school) in which a student is enrolling. Information about a student may be disclosed to appropriate officials in the event of a health or safety emergency involving the student. School or district officials may also disclose student data in response to a lawfully-issued subpoena. See [FERPA Subpart D](#), sections 30 and 31 for more information about consent requirements and exceptions.

## Disclosure

Disclosure, in this context, refers to releasing, sharing, or giving access to information contained in students' education records. Disclosure may take many forms, including verbal, written, or electronic. It is important to note that disclosure here refers only to school or district officials' or representatives' release of student records. WVDE, school districts, and schools do not control and have no authority over what parents/guardians or students disclose about their own child (or themselves).

## Authorized and Unauthorized

In this context, authorized refers to individuals or entities who are permitted to have access to students' education records. Authorized individuals or parties might include administrators, teachers, and other school staff with a legitimate educational interest who need access to the data in order to do their jobs; contractors or consultants who are working on behalf of a school, district, or the WVDE to perform essential functions or conduct approved research studies; parents/guardians or eligible students wishing to inspect their child's (or their own) student records; or others who have consent.

Unauthorized parties are those who do not have consent or in other ways should not be permitted to view or access individual students' education records. Unauthorized individuals might include other students or parents in the school or community; researchers who do not have consent or who have not received approval to conduct a study; journalists or bloggers; or other school or district personnel who have neither consent nor a legitimate educational interest in the data.



## List of Resources

This page includes a list of the URLs for the resources referenced in this document. Type these URLs into your browser exactly as they appear, with no spaces. If a URL is two lines long, ignore the line breaks and type it as if it were all on one line together.

### FERPA (General Information)

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

### FERPA (Legislation, from the Code of Federal Regulations)

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=08cab32fc333ba61af49336747758bdc&n=pt34.1.99&r=PART&ty=HTML>

### FERPA Definitions

[http://www.ecfr.gov/cgi-bin/text-idx?SID=08cab32fc333ba61af49336747758bdc&node=se34.1.99\\_13&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=08cab32fc333ba61af49336747758bdc&node=se34.1.99_13&rgn=div8)

### FERPA Subpart D (Disclosing PII)

<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=08cab32fc333ba61af49336747758bdc&n=sp34.1.99.d&r=SUBPART&ty=HTML>

### FERPA Consent for Disclosure Requirements (Subpart D, Section 30)

[http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=08cab32fc333ba61af49336747758bdc&n=sp34.1.99.d&r=SUBPART&ty=HTML#se34.1.99\\_130](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=08cab32fc333ba61af49336747758bdc&n=sp34.1.99.d&r=SUBPART&ty=HTML#se34.1.99_130)

### FERPA Consent for Disclosure Exceptions (Subpart D)

[http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=08cab32fc333ba61af49336747758bdc&n=sp34.1.99.d&r=SUBPART&ty=HTML#se34.1.99\\_131](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=08cab32fc333ba61af49336747758bdc&n=sp34.1.99.d&r=SUBPART&ty=HTML#se34.1.99_131)

### West Virginia's Student DATA Act

[http://www.legis.state.wv.us/Bill\\_Status/bills\\_text.cfm?billdoc=hb4316%20SUB%20ENR.htm&yr=2014&sesstype=RS&i=4316](http://www.legis.state.wv.us/Bill_Status/bills_text.cfm?billdoc=hb4316%20SUB%20ENR.htm&yr=2014&sesstype=RS&i=4316)

### WVBE Policy 4350: Collection, Maintenance and Disclosure of Student Data

<http://wvde.state.wv.us/policies/>

*The page available at this link includes all WVBE policies, listed in numeric order. Please scroll down the page to find Policy 4350.*