

Data Collection Opt Out Requests

District to State Education Agency

To support Colorado school districts on data collection issues, the Colorado Department of Education (CDE) prepared this guidance for local education agencies when responding to requests that no personally identifiable information (PII) about student(s) be transmitted by a district to CDE's data collection system. For information on reviewing data collected by CDE, go to: http://www.cde.state.co.us/sites/default/files/Parent_LegalGuardianReq_StudentInfo.pdf.

Allowable Data Collection from District to CDE

Districts do not share any student data with CDE other than what is required by federal or state law or required to receive a benefit, such as competitive grant funding. In fact, Colorado's recently passed Student Data Protection, Accessibility, Transparency and Accountability Act of 2014, in § 22-2-309(5)(a), C.R.S., explicitly states this prohibition.

Reason data is collected: This data is collected so the state can monitor the effectiveness of educational programs, diagnose areas of need and inform improvement efforts. Data collections must include data for all affected students to monitor whether the needs of *all* students are being met. CDE maintains on its website an inventory of all data it collects from districts and the reasons for the collections. You can find that list here:

<http://www.cde.state.co.us/cdereval/dataprivacyandsecurity>.

Data Protection: Once collected, this data is carefully protected, as required by the federal Family Education Rights and Privacy Act (FERPA), Colorado state law and the department's own data policies. You can learn more on CDE's security and privacy policy on its District Guidance on Student Information Security and Privacy webpage at

<http://www.cde.state.co.us/cdereval/dataprivacyandsecurity>.

Requests to Omit Student Data

Some parents have requested to omit their children's data from any district submission to the state. However, neither FERPA nor current state law allows a parent to opt out of these federal or state-required data collection processes.

FERPA (Family Education Rights and Privacy Act)

FERPA, 20 U.S.C. § 1232g, is a federal privacy law administered by the U.S. Department of Education. FERPA and its implementing regulations in 34 CFR part 99 protect the privacy of students' educational records and afford parents and eligible students (i.e., students who are 18 years of age or older or attend a postsecondary education institution) certain rights to inspect and review education records, to seek to amend these records and to consent to the disclosure of personally identifiable information from education records. Although the general rule under FERPA is that personally identifiable information from school district education records cannot be disclosed without written consent, FERPA includes several exceptions permitting disclosure of personally identifiable information without consent.

For example, one such exception is for the disclosure of data to authorized representatives of state educational authorities, in connection with an audit or evaluation of federal- or state-supported education programs or for the enforcement of or compliance with federal legal requirements related to those programs. (34 CFR §§ 99.31(a)(3) and 99.35). FERPA therefore allows the district to share data with CDE, without prior written consent, and does not provide a right for parents or students to opt out of those processes.

State Law

Similarly, state law, in §22-1-123, C.R.S., specifically requires school districts to allow parents the right to inspect and amend educational records, in compliance with federal law, and prohibits the disclosure of educational records except as permitted by federal law, but does not provide parents with the right to opt out of CDE's legally-required data collections.