

This presentation is not intended to be legal advice. Consult with your legal staff before acting on any analysis of laws and regulations.



**COLORADO**  
Department of Education

# Data Privacy Overview

Jill Stacey, Data Privacy Analyst

Information Management Services

# What laws apply?

- Family Educational Rights and Privacy Act (FERPA)
  - Applies to any educational entity that receives federal funds - including postsecondary institutions
  - Covers students in elementary, secondary and postsecondary schools
- Colorado's Student Data Transparency and Security Act
  - Applies to Colorado elementary and secondary School Districts, Charter Schools, or BOCES that operates one or more public schools (defined as Local Education Providers or LEPs).
- Legal Obligations:
  - Both the secondary and postsecondary institution need to comply with all requirements of FERPA
  - CDE and the LEPs need to comply with all the applicable requirements of Colorado's Student Data Act

# FERPA Obligations for Concurrent Enrollment

- Transfer Requirements
  - Per FERPA, student records can be shared between a high school and a postsecondary institution without requiring written consent ➤ **for purposes of enrollment**
  - Since the postsecondary institution can share records with the secondary institution, parents can access the student postsecondary records without student consent only if the student is under 18
  - For legal adults, the student must consent to their records being shared with their parents
- FERPA Rights:
  - FERPA gives Eligible Students and parents the right to access and correct records
  - While the student has FERPA rights as they enter into a postsecondary institution, the parents still retain their FERPA rights if the student is a minor and is still attending a secondary program

# Colorado's Student Data Act

- The Colorado Student Data Transparency and Security Act only applies to secondary institutions
- LEPs do not need any particular contracts to share data with the postsecondary institution\* (although some contract terms related to privacy and security are advisable)
- CDE is required to have a contract with any third-party that receives PII (excepting LEPs) so any transfers of PII between CDE and the postsecondary institution must be covered by a contract
- LEPs and CDE must comply with all the requirements of this law, including transparency, protection of PII, and creation of privacy policies

\* The LEP may need to have a contract with the postsecondary institution if they are providing a School Service as defined by the law

# Best Practices

- Even if the law does not specify a particular privacy or security requirement, all parties should:
  - Protect the PII in their hands
  - Share it only with individuals who have a need to know
  - Provide transparency to parents and students
- Use secure methods to transfer PII - like encrypted email or password protected documents
- Store data securely on encrypted drives and limit the storing of PII on mobile devices or portable media
- Destroy PII when no longer required or needed
- Comply with all applicable district or postsecondary policies and procedures

# Questions?

CDE Privacy and Security Guidance:

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

Contact:

Jill Stacey - 303-653-4494 - [Stacey\\_j@cde.state.co.us](mailto:Stacey_j@cde.state.co.us)