



COLORADO
Department of Education

December Public Meeting

ESSA and Data Privacy

December 16, 2016

Agenda

- Every Student Succeeds Act's Requirements for Privacy and CDE's Approach
- Public Comment

Every Student Succeeds Act Overview

- In December of 2015, President Obama signed into law the Every Student Succeeds Act (ESSA) which reauthorizes the Elementary and Secondary Education Act (ESEA).
- ESEA required state and local education agencies and other entities receiving federal financial assistance through Title I and other programs to help schools better serve educationally disadvantaged students.
- ESSA has some of the same requirements as its predecessor, the 2001 No Child Left Behind Act (NCLB), concerning student assessment and reporting, among other things.
- ESSA also has different requirements affecting state academic standards, state accountability measures, teacher effectiveness, school improvement, a well-rounded education, and federal education funding.
- You can read the Every Student Succeeds Act [here](#).

ESSA State Plan Overview

- Should a state want to receive a grant discussed in this section, the State Educational Agency (SEA) will need to file a State Plan with the Secretary.
- This plan must be developed with timely and meaningful consultation with a number of stakeholders and must be coordinated with other programs under ESSA.
- The State Plan requirements are intended to eliminate duplication and streamline requirements across programs, reducing burden for states in meeting federal requirements.

CDE's ESSA Plans

- After embarking upon an initial statewide ESSA listening tour in the spring of 2016, CDE shifted its focus to developing a draft of our ESSA state plan.
- This massive project involves the planning of Colorado specific education programs and policies.
- All plans that we are developing are subject to our data privacy laws and will comply with CDE's processes and procedures regarding the protection of student and educator PII.
- While CDE continues to plan and draft our state plan, we will be providing additional information on ESSA at our website [here](#).
- This presentation will highlight the few requirements in ESSA related to data privacy and how CDE either currently complies with these requirements or will be complying as we develop our plans and programs.

Title I Overview

TITLE I - IMPROVING BASIC PROGRAMS OPERATED BY STATE AND LOCAL EDUCATIONAL AGENCIES

- Title I is the largest program supporting elementary and secondary education in the Every Student Succeeds Act (ESSA).
- The dedicated funding seeks to provide all children with the opportunity to receive a fair, equitable, and high-quality education, and to close achievement gaps.
- State education agencies must submit state plans to the U.S. Department of Education that outlines their ability to meet federal requirements to receive Title I funding.
- States can apply for grants to assist with developing and delivering assessments and the auditing of assessments.

ESSA - Assessment

Title I, Part A, Sec. 1111 (b) (2) (B) (iii) now discusses privacy requirements in the Assessment portion of the State Plan. "The assessments... shall... be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information."

Title I, Part A, SEC. 1111 (b) (2) (B) (xi) includes a requirement for the state to report disaggregated results based on a number of demographic subgroups but that the results must not, "reveal personally identifiable information about an individual student."

- CDE's assessments do not currently evaluate or assess students' or their families' beliefs and attitudes, nor will they in the future.
- CDE has processes and procedures in place to reduce the possibility that data within our public reports contain information that can identify a student. These processes are usually called Disclosure Avoidance.
- Due to the requirements of Colorado's Student Data Transparency and Security Act, CDE is updating our policies related to information security and privacy and they will include our Disclosure Avoidance procedures.

State Plans – Accountability System

Title I, Part A, SEC. 1111 (c) (3) (A) (iii) now discusses the privacy requirements in the Statewide Accountability System portion of the State Plan.

“Each State shall describe... with respect to any provisions under this part that require disaggregation of information by each subgroup of students... how the State ensures that such minimum number is sufficient to not reveal any personally identifiable information.”

- The State Plan will include the minimum number of students required for reporting and how that minimum number prevents the disclosure of PII. The Accountability Spoke has been working on this recommendation.
- As mentioned in the prior slide, CDE is updating our Disclosure Avoidance procedures.

State Plan – Report Card

Title I, Part A, SEC. 1111 (g) (2) (N) (iii) now discusses other State Plan provisions and how privacy applies to information posted on the annual State Report Card.

“Each State plan shall contain assurances that... the State educational agency will provide the information... to the public in an easily accessible and user-friendly manner ... that is first anonymized and does not reveal personally identifiable information about an individual student; does not include a number of students in any subgroup of students that is insufficient to yield statistically reliable information or that would reveal personally identifiable information about an individual student; and is consistent with the requirements of... the Family Educational Rights and Privacy Act of 1974.”

- As mentioned in the prior slides, our state plan will include information related not only to Disclosure Avoidance but also how those procedures comply with the Family Educational Rights and Privacy Act of 1974 (also known as FERPA) and with Colorado’s Student Data Transparency and Security law.

General Privacy Requirements

Title I, Part A, SEC. 1111 (i) (2) (N) (iii) now discusses the general privacy requirements for all of Section 1111.

“Information collected or disseminated under this section... shall be collected and disseminated in a manner that protects the privacy of individuals consistent with ... the ‘Family Educational Rights and Privacy Act of 1974’) and this Act.”

“Disaggregation under this section shall not be required if such disaggregation will reveal personally identifiable information about any student, teacher, principal, or other school leader.”

- CDE complies with FERPA (and other more strict state laws) in the collection and dissemination of information.
- Reports that are disaggregated as required under ESSA will be reviewed and redacted according to our Disclosure Avoidance practices as we do with all our reports.

Grants for Report Cards

Title I, Part B, SEC. 1201 (a) (2) (M) (i) now discusses grants for state assessments and related activities. Specifically, the funds can be used for:

“Designing the report cards and reports... in an easily accessible, user friendly manner that cross-tabulates student information by any category the State determines appropriate, as long as such cross-tabulation does not reveal personally identifiable information about an individual student.”

- CDE currently provides reports and report cards without revealing personally identifiable information about a student, and will continue to do so.
- CDE will evaluate our needs and determine if we want to apply for a grant to assist with any changes we may make.

Innovative Assessments

Title I, Part B, SEC. 1204 (e) (2) (B) (x) (II) now discusses privacy in relation to any application for an Innovative Assessment and Accountability Demonstration Authority.

“Such application shall include... a description of how the State educational agency will... report data from the innovative assessment system annually to the Secretary, including... the performance of all participating students... except that such data shall not reveal any personally identifiable information.”

- State law requires Colorado to apply for the Innovative Assessment Demonstration Authority as soon as practicable.
- Data from these assessments must meet the same data privacy requirements of all state assessments under ESSA.

Title II Overview

TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, AND OTHER SCHOOL LEADERS

- The purpose of this title is to provide grants to State educational agencies and subgrants to local educational agencies to improve the quality and effectiveness of teachers, principals, and other school leaders; increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and provide low-income and minority students greater access to effective teachers, principals, and other school leaders.
- The purpose of Title II, Part A focuses on increasing student achievement through improving the quality and effectiveness of teachers and principals.

Training for Teachers

Title II, Part A, SEC. 2101 (c) (4) (B) (xx) now discusses the privacy training activities that can take place under a Formula Grant to the states.

“The State educational agency for a State that receives an allotment under subsection (b) may use funds...[for] Supporting and developing efforts to train teachers on the appropriate use of student data to ensure that individual student privacy is protected as required by section 444 of the General Education Provisions Act (commonly known as the ‘Family Educational Rights and Privacy Act of 1974’) (20 U.S.C. 1232g) and in accordance with State student privacy laws and local educational agency student privacy and technology use policies.

- CDE is working to develop training for LEAs in data privacy and security, which will include training directed at teachers.
- CDE is working to determine which grants and other funding options are available and whether we will seek that funding.

Title IV Overview

TITLE IV—21ST CENTURY SCHOOLS

- The purpose of this title is to provide all students with access to a well-rounded education; improve school conditions for student learning; and improve the use of technology in order to improve the academic achievement and digital literacy of all students.
- Digital literacy, among other things, includes understanding the ethical use of data, rules around protecting data, and best practices around data use techniques. These elements will be included in 21st century curriculum.
- A charter school program will support the establishment of new charter schools and expansion of high quality charter schools; assists charter schools with funding; disseminating best practices, evaluating charter schools and strengthening charter school authorizing practices.

Data Security Training

Title IV, Part A, SEC. 4104 (b) (3) (C) (iv) now discusses the ability for an SEA to use funding for supporting LEAs access to learning experiences related to data security.

“Each State that receives an allotment under section 4103 shall use the funds available under subsection (a)(3) for activities and programs designed to meet the purposes of this subpart, which may include...“(3) supporting local educational agencies in providing programs and activities that... “(C) increase access to personalized, rigorous learning experiences supported by technology by... (iv) disseminating promising practices related to technology instruction, data security, and the acquisition and implementation of technology tools and applications.”

- CDE is working to develop training for LEAs in data privacy and security.
- CDE is working to determine which grants and other funding options are available and whether we will seek that funding.

Charter Schools

Title IV, Part C, SEC. 4303 (f) (2) (G) (v) now discusses applications for grants to support high-quality charter schools. The application must include assurances to ensure that the charter schools receiving funds must provide the public with information including, “annual performance and enrollment data for each of the subgroups of students... except that such disaggregation of performance and enrollment data shall not be required in a case in which the number of students in a group is insufficient to yield statically reliable information or the results would reveal personally identifiable information about an individual student.”

- CDE is working to develop training and guidance for LEAs.
- That guidance will include methods for Disclosure Avoidance (as discussed earlier in the presentation) that charter schools can use in their public reporting.

Title VIII Overview

TITLE VIII—GENERAL PROVISIONS

- The purpose of this title is to provide definitions of terms, outline the use of administrative funding, and detail waivers, among other regulations. As with NCLB, a state may request a waiver from the Secretary of Education for specific statutory or regulatory provisions under the ESSA.

Findings of Congress

Title VIII, SEC. 8037 now includes Sec 8545 which states:

“The Congress finds as follows:

- Students’ personally identifiable information is important to protect.
- Students’ information should not be shared with individuals other than school officials in charge of educating those students without clear notice to parents.
- With the use of more technology, and more research about student learning, the responsibility to protect students’ personally identifiable information is more important than ever.
- Regulations allowing more access to students’ personal information could allow that information to be shared or sold by individuals who do not have the best interest of the students in mind.
- The Secretary has the responsibility to ensure every entity that receives funding under this Act holds any personally identifiable information in strict confidence.”

- CDE agrees with these findings and is continuing to put in place policies and practices to support the privacy and security of student PII.

What are the privacy requirements?

Title VIII, SEC. 8040 now includes Sec 8548 which states:

“The Secretary shall require an assurance that each grantee receiving funds under this Act understands the importance of privacy protections for students and is aware of the responsibilities of the grantee under section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the ‘Family Education Rights and Privacy Act of 1974’).”

- CDE has a number of processes and procedures to comply with FERPA and can provide assurances to the U.S. Department of Education to support that.

Title IX Overview

TITLE IX—EDUCATION FOR THE HOMELESS AND OTHER LAWS

- The purpose of this title is to provide resources and opportunities for homeless children and their families.
- In addition, Title IX also requires reporting on Department of Education actions, drop outs, subgroup sample sizes, and digital learning resources.
- It also requires a study on the Title I funding formula. Finally, it authorizes the Preschool Development Grant program to improve early childhood learning opportunities.
- CDE will continue to follow existing data privacy laws and policies while incorporating additional data required by ESSA.

What are the privacy requirements?

Title IX, Part A, SEC. 9102 (g) (2) (G) discusses grants for state and local activities and how the State plan must include compliance requirements for LEAs regarding homeless students.

“Information about a homeless child’s or youth’s living situation shall be treated as a student education record, and shall not be deemed to be directory information, under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).”

- Colorado’s Student Data Transparency and Security Act defines Personally Identifiable Information as anything that could, alone or in combination, identify a individual student. Therefore, information about homelessness is considered PII and must be protected accordingly.
- CDE’s state plan will include information about our compliance requirements in terms of PII, including student information regarding homelessness.

What are the privacy requirements?

- Title IX, Part B, SEC. 9208 discusses a report from the Director of the Institute of Education Sciences that discusses best practices in terms of reporting but does not recommend any specific minimum number of students for each of the subgroups of students.
 - “Not later than 90 days after the date of enactment of this Act, the Director of the Institute of Education Sciences shall publish a report on... best practices for determining valid, reliable, and statistically significant minimum numbers of students for each of the subgroups of students and how such minimum number that is determined will not reveal personally identifiable information about students.”
 - “The Director of the Institute of Education Sciences shall not recommend any specific minimum number of students for each of the subgroups of students.”
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- CDE is revising our Disclosure Avoidance procedures which will include CDE’s minimum number of students needed to avoid disclosing personally identifiable information.
 - When this report is released, CDE will review to determine if any improvements need to be added based on this guidance.



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Public Comment

Public Comments

- CDE will now be taking public comments from attendees.
- Answers to questions will not be provided during the meeting. We will compile answers to everyone's questions and post them on our Privacy and Security website along with a copy of this presentation at:
<http://www.cde.state.co.us/dataprivacyandsecurity/questionsandanswers>.
- We will have to limit the Public Comment period to end the meeting at 4pm. If you know of others that have the same comment, please coordinate with them to allow for others to present their comments.
- Due to the time limit, please be respectful of others and limit your comments to 3 minutes.
- If you have additional questions or don't have an opportunity to comment, please send your questions and concerns to dataprivacy@cde.state.co.us.