

EngageNY Portal: Data Security and Privacy Fact Sheet (updated November 3, 2013)

This document provides a short summary of the data security and privacy protections in place for the EngageNY Portal. Additional information about the Portal can be found at <http://www.engageny.org/portal>.

What is the EngageNY Portal?

- The EngageNY Portal is an expansion of the current [EngageNY.org](http://www.engageny.org) website that will provide educators, parents, and students with secure access to educational data and access to high quality curriculum and instructional resources.
- Educational data will be available through one of three different data dashboard options offered by NYSED at no cost as part of its Race to the Top (RTTT) grant.

What benefits will the EngageNY Portal offer to educators, students, and families?

- The Portal will provide a common platform for educators, students, and families to review educational data, evaluate its accuracy, and have meaningful conversations around student progress. The Portal will help teachers provide high quality personalized instruction to their students in a more efficient and secure way than is currently available in many districts.
- Currently, students and their families do not have the ability to review a student's complete educational records stored by the State. The EngageNY Portal will provide students and their families with the ability to review this statewide information and ensure its accuracy.
- Other uses of the Portal include (1) early identification of students who may be at risk of not graduating from high school based on indicators that combine academic, attendance, and behavioral data and (2) the ability for students and parents to send high school transcripts to SUNY and CUNY institutions upon application to these higher education programs.

Do schools and districts have to use the EngageNY Portal?

- All New York State district and charter schools that participate in RTTT are expected to participate in the EngageNY Portal. All public school districts, charter schools, and BOCES are welcome to participate. NYSED will provide EngageNY Portal turn-key training services.
- In order to participate, districts are required only to select one of the three no-cost data dashboards and commit to make the EngageNY Portal available to their educators, students, and families by distributing a secure PIN for secure account creation purposes.

- There is no expectation that educators, students, or families will stop using other data tools, or that they will continue to use the EngageNY Portal if they do not find value in the service. At the end of the 2013-14 school year, districts will have the option to continue or change their data dashboard selection for the 2014-15 school year.
- There is no requirement or expectation that districts or charter schools continue to use the EngageNY Portal after RTTT funding ends.
- If a district ends its RTTT participation, the district must close all open RTTT projects and return unexpended RTTT funds. Districts that withdraw from RTTT are no longer required to pick a dashboard or distribute a secure PIN for account creation purposes.
- A school district's data will be included in the statewide data set provided to inBloom, regardless of whether the district continues to participate in RTTT. However, a data dashboard vendor will display those data to local stakeholders only if authorized to do so by a school district.

Do third-party service providers have access to student data?

- Virtually all school districts – in New York State and around the country – contract with third-party providers and/or vendors to provide software services necessary for instructional programs and management operations. This includes educational software services for student enrollment and attendance, school schedules, report cards and transcripts, school lunch and transportation, coordination of special education services, online learning, and emergency parent notification.
- These contracts are required to be in compliance with the Family Educational Rights and Privacy Act (FERPA), and include all necessary State and federal data security and privacy protections. This common school district practice has been in place long before the regulatory updates that were made to FERPA in 2008 and 2011.
- As with most organizations and individuals today, New York State engages third-party providers and vendors to manage the data and technologies that enable important activities that are part of the State's mission.
- With few exceptions, the State does not possess any school district data that was not first provided to the State by school districts by means of a school district relationship with a third party vendor system.

What data security and privacy protections are in place for the EngageNY Portal?

- EngageNY Portal's data security and privacy standards comply with all laws and regulations (including FERPA) and equal or exceed existing policies in place at the State and district level. In addition, all cloud storage must comply with the federal FedRAMP security standards (www.fedramp.gov).
- No third-party vendor will have access to any educational data unless authorized to do so by the State or the district for specific contracted educational purposes. As can be

seen in Section 4.13.18 of the contract language, titled “Confidentiality,” at <http://usny.nysed.gov/rttt/rfp/ds-07/edp-ds-07-t-and-c-revs-final-clean-6-1-12.pdf>, data dashboard vendors and other vendors working on the EngageNY Portal must comply with the most stringent privacy and confidentiality regulations.

- InBloom and all EngageNY Portal vendors are prohibited by contract and by State and federal law from selling student data for any purpose or using student data for anything other than specific educational contract purposes.
- All EngageNY Portal data must be destroyed upon the conclusion of the contract.
- NYSED is contracting with NYSTEC, an independent non-profit organization (see www.nystec.org) to evaluate the EngageNY Portal security plans and provisions.

What is inBloom?

- inBloom (www.inbloom.org) is a nonprofit organization that New York is partnering with for encrypted data storage and non-proprietary platform services. As with all other EngageNY Portal partners, inBloom does not own New York data, may not sell New York data or use the data for any other purposes, and must destroy the data upon termination of the partnership.
- The data stored via inBloom will have two levels of security protection, including intrusion protection (firewalls) and data encryption for both storage and data access, meaning that data will be unusable (because encrypted) even in the unlikely event that the intrusion protections are breached. No vendor may access or transmit data from these storage services without authorization. In the unlikely event of a data breach, NYSED will manage communication with the affected constituents. Vendors would be responsible for financial penalties.
- Without standard services like those provided by inBloom:
 - School districts pay overhead costs in order to make their data work with third-party data and content tools, resulting in fewer choices and higher costs;
 - Teachers spend more time integrating student data from various sources and less time teaching, and;
 - Data security and privacy protections are not standardized across schools and districts.
- In the future, we hope that New York and other states and districts will have a choice of partners to provide services like those currently only provided by inBloom.

What data will be used as part of the EngageNY Portal?

- The EngageNY Portal will include only data that are relevant to teachers, students, and their families for instruction purposes, including student demographic information; parent contact information (necessary for data security and authorization purposes); student enrollment; educational program participation (whether a student receives

English language learner and/or special education services); dates of absences, dates of suspensions, and course grades (necessary for early warning determinations); and State assessment scores. See <http://usny.nysed.gov/rttt/data/engageny-portal-data-dictionary.pdf> for a description of these data elements.

- For the past ten years, New York has been collecting a larger set of student data for federal compliance and other policy purposes (see <http://www.p12.nysed.gov/irs/sirs/2011-12/2011-12SIRSGuidance/NEWER/2013-14SIRSMannual9-0-20130930.doc>). This larger set of data is **not** included in the EngageNY Portal, other than as described above.
- Similarly, inBloom's data model was designed based on data standards in place across the country, including the Common Education Data Standards (or CEDS, see <https://ceds.ed.gov>). As such, inBloom is capable of storing a larger number of data elements than will be used by New York or most other states.
- School districts may elect to provide additional data to the EngageNY Portal, such as local achievement scores, consistent with their local data security and privacy policies.
- If a district does not participate in RTTT, the statewide data set will still be provided to inBloom for RTTT contract purposes only, but no dashboard will be authorized to display those data to that school district's educators, students, and their families.
- As is typical in contractual relationships with third-party service providers, the party of the agreement may elect to terminate the agreement at any time. New York State may request of inBloom at any time that State-provided data (statewide demographic, enrollment, program service, State assessment data) be deleted. If a district elects to partner with inBloom directly for the purpose of sending additional data beyond what the State provided (e.g., local achievement scores), the district may terminate that agreement at any time and request that the district-provided data be deleted. The request by a district to delete district-provided data will not result in the deletion of State-provided data.
- InBloom and all EngageNY Portal vendors are prohibited by contract and by State and federal law from selling student data for any purpose or using student data for anything other than specific educational contract purposes.

What are the biggest risks to data security?

- Unattended computers, easy-to-guess passwords, common passwords across multiple websites or passwords stored in plain view, unattended printed educational records, student data shared via unencrypted email, and computers connected to the internet without the latest security patches are the most common risks to student data privacy and security today.
- The EngageNY Portal will help standardize data security protocols to ensure that data are viewed only by authorized parties.

Why will the EngageNY Portal include discipline and parent information?

- The EngageNY Portal will include date of suspension and whether or not the suspension was assigned in- or out- of school. No other information related to the incident or the suspension will be included. This basic suspension information is necessary (along with course grades and attendance information) to help identify students who may be at risk of school dropout.
- Since attendance and suspension is typically stored in a local school district's student management system, these data likely have been provided already to a third party vendor as part of the district's local practices.
- No EngageNY Portal student data will be shared with colleges (SUNY or CUNY) under any circumstances unless the student or guardian specifically authorizes this transfer of data as part of the record exchange process.
- Basic parent contact information is necessary for secure account creation and authorization purposes. Additional parent contact information (e.g., phone numbers) is optional and may be provided by school districts from their local system if it would be convenient to school staff to display this information in the data dashboard.
- InBloom and all EngageNY Portal vendors are prohibited by contract and by State and federal law from selling student data for any purpose or using student data for anything other than specific educational contract purposes.

Are parents able to opt out of the EngageNY Portal?

- There is no provision for parents to opt out of student data systems that are consistent with FERPA, such as the EngageNY Portal.
- If parents were to opt their children out of these types of systems, everything from course scheduling to transportation to school lunches to high school transcripts for college applications would be impacted. It would be virtually impossible — or extraordinarily more expensive — to conduct much of the day-to-day data management work of schools.

What happens if a district does not make a selection by the deadline?

- Following the October 31 deadline, we will provide a courtesy email and/or phone call to districts that did not select a dashboard to inquire whether they intended to make a selection but had remaining questions or technical difficulties. Non-selectors may still select a dashboard until November 15 via a manual process.
- Following the close of the 2013-14 school year dashboard selection period, the total count of dashboard licenses for non-selecting districts will be assigned evenly across the three data dashboard vendors. These non-selector licenses will be held in reserve in the event that the non-selecting district decides during the 2013-14 school year to

authorize and use the dashboard. Only the school district can authorize a data dashboard vendor to re-disclose local data to local educators, students, and their families.

- If a district after November 15 decides to use a dashboard during the 2013-14 school year, the district would need to use the dashboard tool randomly assigned to them. Districts will have another chance to select the same or different dashboard toward the end of the 2013-14 school year for use during the 2014-15 school year.

What are the federal and State data reporting requirements?

Federal America COMPETES Act (20 USC §9871)

Applicants to Race to the Top (RTTT) were required to demonstrate that they have in place the 12 America COMPETES Act elements (see below). America COMPETES also applies if the State received a competitive grant under §9871 to establish or improve a statewide P-16 education data system.

Required elements for a P-16 data system:

- (1) unique statewide student identifier
- (2) student-level enrollment, demographic, and program participation information;
- (3) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P-16 education programs;
- (4) the capacity to communicate with higher education data systems;
- (5) a State data audit system assessing data quality, validity, and reliability

Required elements for a P-12 data system:

- (6) yearly test records of individual students with respect to federally required assessments;
- (7) information on students not tested by grade and subject;
- (8) a teacher identifier system with the ability to match teachers to students;
- (9) student-level transcript information, including information on courses completed and grades earned;
- (10) student-level college readiness scores

Required elements for a post-secondary data system:

- (11) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and
- (12) other information determined necessary to address alignment and adequate preparation for success in post-secondary education

Federal Elementary and Secondary Education Act (ESEA)

20 USC §6311(b) – Requires states to develop academic standards, assessments, and an accountability system that is based on those standards and assessments (includes requirements around Adequate Yearly Progress (AYP), measurable objectives, participation rate – all of which are dependent on the collection of student data)

20 USC §6311(b)(3)(C)(xii) requires that State assessments shall "produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand."

20 USC §6311(b)(10)(A) says that each State's plan has to describe how it will ensure that the results of State assessments "will be promptly provided to [LEAs], schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year..."

20 USC §6311(h)(1)(A) – States must prepare and disseminate annual report cards.

20 USC §6311(h)(1)(C) – State report cards **must** include the following: aggregated information on student achievement at each proficiency level on State assessments (disaggregated by category, except where doing so would reveal personally identifiable information (PII) about an individual student); information comparing actual achievement levels of each group of student and the state's Annual Measurable Objectives (AMOs) for each such group of students; the percentage of students not tested (disaggregated); the most recent two-year trend in student achievement in each subject area, and for each grade level, for which assessments are required under ESEA; aggregate information on any other indicators used by the state to determine AYP; graduation rates; information on the performance of LEAs regarding making AYP; and information on teachers' professional qualifications.

20 USC §6311(h)(1)(D) – State report cards **may** include additional information that the state believes will best provide parents, students, and other members of the public with information regarding the progress of each of the state's public elementary and secondary schools. Such information may include: school attendance rates; average class size in each grade; academic achievement and gains in English proficiency of English language learner (ELL) students; the incidence of school violence, drug abuse, alcohol abuse, student suspensions and expulsions; the extent and type of parental involvement in schools; the percentage of students completing Advance Placement (AP) courses and the rate of passing of AP tests; and a clear and concise description of the state's accountability system.

State Law

Education Law §215 states: "The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, any institution in the university and any school or institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe. For refusal or continued neglect on the part of any institution in the university to make any report required, or for violation of any law or any rule of the university, the regents may suspend the charter or any of the rights and privileges of such institution."

Education Law §305(40) – This section provides, among other things, as follows: "The board of regents shall explore the development of a prekindergarten through postsecondary (P-16)

data system that tracks student performance from prekindergarten through attendance at public colleges in this state and links students to teachers or instructors.”

Commissioner's Regulation §100.2(bb) - "Each school district shall submit the following data at a time and in a format prescribed by the commissioner: student enrollment, by grade, gender, and race/ethnicity for each school; number of students identified as limited English proficient for each school; number of students identified as eligible for free- and reduced-price lunches for each school; professional qualifications of each teacher for each school; classes taught by each teacher for each school; violent and disruptive incidents for each school; student attendance for each school; student out-of-school suspensions for each school; data on technological and media resources for each school; data required by the commissioner to calculate expenditures per pupil on regular education; data required by commissioner to calculate expenditures per pupil on special education; number of students in special education by placement, including both private and public school placements; and such further data as may be required by the commissioner."