



# ERDC Data Privacy Practices



Updated May 2021

## **ABOUT THE ERDC**

The Education Research and Data Center is located in the Washington Office of Financial Management. ERDC works with partner agencies to conduct powerful analyses of learning that can help inform the decision-making of Washington legislators, parents, and education providers. ERDC's data system is a statewide longitudinal data system that includes de-identified data about people's preschool, educational and workforce experiences

### **ADDRESS**

Education Research and Data Center

106 11th Ave SW, Suite 2200

PO Box 43124

Olympia, WA 98504-3113

### **PHONE**

360-902-0599

### **FAX**

360-725-5174

### **EMAIL**

[erdc@ofm.wa.gov](mailto:erdc@ofm.wa.gov)

## ERDC Data Privacy Practices

The priority of ERDC is to protect the privacy of students, employees and employers. ERDC is established as an authorized representative of the state educational agencies for purposes of researching and analyzing data to support education budgeting and policymaking functions of the Legislature, the Governor, and state educational agencies. The Legislature created ERDC and authorized the longitudinal data system in the same comprehensive bill, evidencing an intention that ERDC would perform research and analysis on data collected through the longitudinal data system. ERDC provides cross-sector, linked data and analysis through its P20W data warehouse. The P-20W system includes education agencies and the Employment Security Department (RCW 43.41.400).

ERDC is also guided by [OCIO Policy 141.10](#) and the [Washington State Agency Privacy Principles](#), to the extent that they are not inconsistent with FERPA and other applicable privacy laws. The purpose of this document is to outline the data privacy practices of ERDC.

The document has six sections:

1. [Lawful, fair, and responsible use](#)
2. [Data minimization](#)
3. [Purpose limitation](#)
4. [Transparency and accountability](#)
5. [Due diligence](#)
6. [Security](#)

## Lawful, fair & responsible use

**ERDC data collection, use, and disclosure is based on legal authority. The ERDC collects, uses, and discloses information responsibly and ethically, avoiding discrimination, deception, or harm.**

### Privacy Laws

Privacy laws govern how education and employment data can be shared. ERDC cannot release or share information about individuals that would constitute an unwarranted invasion of privacy. In compliance with these laws and regulations, ERDC only publishes aggregate information, and never information that can be used to identify individuals. Privacy laws and related guidance continue to evolve, and ERDC is committed to taking steps to update its processes to reflect these changes.

Federal law (specifically, the Federal Educational Rights and Privacy Act of 1974, also known as “FERPA”) safeguards the confidentiality of individual student information. This law requires that educational institutions and state agencies maintain the confidentiality and privacy of personally identifiable information in student records. The U.S. Department of Education has created extensive regulations regarding implementation of FERPA under Title 34, Part 99 of the Code of Federal Regulations.

In some instances, data may also be protected by the Parts B and C of the federal Individuals with Disabilities Education Act, also known as “IDEA”. Federal regulations regarding implementation of IDEA can be found in Title 34, Part 300 and Title 34, Part 303 of the Code of Federal Regulations. IDEA incorporates all the provisions of FERPA and adds eight additional requirements to safeguard privacy.

Workforce-related data are also protected and secured by federal law, such as Section 303 of the Social Security Act, for which the U.S. Department of Labor has promulgated Title 20, Part 603 of the Code of Federal Regulations. Furthermore, the federal Workforce Innovation and Opportunity Act of 2014 prohibits the disclosure information collected under the auspices of the workforce development system that would “constitute a clearly unwarranted invasion of personal privacy.”

### Redisclosure of individual-level data

ERDC coordinates the matching and de-identification of individual-level records in order to protect the confidentiality and privacy of individual students, workers and employers.

When ERDC shares identifiable data it has received from contributors to a third party (including data with indirect identifiers or unredacted aggregate data), this constitutes redisclosure. However, even activities that involve no redisclosure typically involve access to identifiable data by ERDC staff, and needs to be authorized by data contributors through data sharing agreements or pre-authorized critical questions.

Requests for data from the ERDC fall into two categories: requests that involve redisclosure of identifiable data, and requests that do not involve redisclosure. Examples of the former might include data requests for individual-level data from state agencies or third party researchers for

program evaluation purposes. Examples of the latter might include requests for aggregate data, or projects that involve data visualizations, dashboards, or key indicators.

***Data requests that involve redisclosure.*** A record-level dataset with many demographic and outcome variables is considered identifiable data, even if there are no direct identifiers, and is thus protected by FERPA and other privacy laws. The same is true of aggregate data with small cell sizes. ERDC cannot redisclose identifiable data to requesters for projects that are not FERPA compliant. To receive identifiable data, requesters should be named as an authorized representative in a data sharing agreement with involved data contributors, or ERDC can submit their request to a panel of involved data contributors, who may then designate the requester as an authorized representative.

***Requests and projects that involve no redisclosure.*** Access to identifiable data by ERDC staff for internal projects, studies, and dashboards, or to fulfill requests for information that do not involve redisclosure of identifiable data can be specifically authorized through data sharing agreements with data contributors, or broadly authorized through well-defined critical questions listed in those same agreements. ERDC staff collaborate with data contributors to develop key critical questions that inform internal ERDC research, and which authorize ERDC staff to access data to respond to requests for information that align with those questions.

## Data Minimization

**ERDC collects, uses, or discloses the minimum amount of information to accomplish the stated purpose for collecting the information.**

### Data Levels

To guide our data minimization process, we have different procedures based on the three levels of data that can be extracted from the data warehouse:

***Highly Restricted-Use Data (Level 1)*** - Data that include information about the identity of individuals and employers is confidential. Level 1 is the term for data that contains individually identifiable information. Level 1 data require specific procedures to protect confidentiality per FERPA regulations and other state and federal requirements. These types of data are rarely shared and shall only be used for unit record matching purposes.

Access to Level 1 data requires a formal request that must be approved by a Data Request Review Board and any other data contributors.

***Restricted-Use Data (Level 2)*** - Data at the unit record level but containing no individually identifiable information. Level 2 data are all information in those files and all information derived from those data including data resulting from merges, matches or other uses of the data. Merging Level 1 data records with Level 2 data records results in a merged file that is Level 1. Merely deleting identity fields from a Level 1 files does not necessarily create a Level 2 file. Disaggregation of Level 2 records, even without explicit identification fields, may result in a record where the identity of the subject could be reasonably inferred.

Access to Level 2 data requires a data sharing agreement with ERDC (data contributors do not have to sign the agreement).

**Public-Use Data (Level 3)** – Data aggregated from Level 2 data that contain no unit record data, is for public use, and acceptable for publication purposes. Access to Level 3 data is unrestricted.

## Purpose limitation

**The aim of ERDC is to make education data available to policy-makers and state organizations that make decisions related to Washington students, while also protecting the data ERDC collects pursuant to state law. Several state laws articulate the reasons for collecting information through the ERDC P20W data warehouse.**

Below is a list of state statutes guiding the data use of the ERDC as of March 2021. This list is not comprehensive:

- RCW 43.41.400 Education data center
- RCW 43.41.410 State support for students at institutions of higher education—Information
- RCW 43.41.420 Undergraduate and graduate educational costs—Reports to regents and trustees
- RCW 28B.77.020 Educational attainment goals and priorities—Short-term strategic action plan—Ten-year roadmap—System reviews—Role of education data center—Responsibility for work of the office—Additional duties
- RCW 28B.77.090 Accountability monitoring and reporting system—Data requirements—Uniform dashboard format for display of data—Use of performance data
- RCW 28B.77.100 Data collection and research— Data-sharing agreements—Education data center as authorized representative for research purposes
- RCW 28A.155.220 High school transition services—Interagency agreements—Education data center to monitor certain outcomes—Annual report by superintendent of public instruction
- RCW 28A.188.070 Specialized courses in science, technology, engineering, and mathematics (STEM)—Grants to high schools—Selection criteria—Data collection by education data center—Reports
- RCW 28A.188.040 STEM education report card—Coordination of data collection and analysis—Reports by education agencies and the employment security department
- RCW 28B.118.090 Transmitting data to the education data center
- RCW 28A.600.280 Dual credit programs—Annual report

## Transparency & Accountability

**The ERDC strives for both transparency and accountability. Transparency means being open and transparent about what personal information is collected, for what purposes, and who it is shared with under what circumstances. Accountability means being responsible and answerable for following data privacy laws and principles.**

### Data Available

The data housed at ERDC have specific sharing restrictions. Under privacy laws and current data sharing agreements, ERDC can share only the data listed below (list subject to change):

- State-funded preschool data from Department of Children, Youth, and Families
- Public K-12 from Office of Superintendent of Public Instruction
- Public post-secondary from four-year institutions, community and technical colleges and Washington Student Achievement Council
- Unemployment Insurance wage from Employment Security Department

### Data Collection & Partnerships

ERDC partners are committed to populating the data warehouse with more and better data as it becomes available to load into the data warehouse. Partner data contributors agree to share student and workforce data through ERDC to the extent feasible. The data contributors share data enabling research and evaluations to improve their respective programs through the analysis of student, educator, fiscal and workforce data.

In some cases, collaborative analyses require the sharing of redacted individual-level data with the legislative agencies and P20 System Partner Agencies listed below:

- Education and Fiscal Committees of the Legislature as represented by these legislative agencies per RCW 43.41.400(2)(c)
  - Legislative Evaluation and Accountability Program Committee
  - Washington State Institute for Public Policy
  - Joint Legislative Audit and Review Committee
- P20 System Partner Agencies as defined in RCW 43.41.400(1)
  - Department of Children, Youth and Families
  - Office of Superintendent of Public Instruction
  - State Board for Community and Technical Colleges and the Institutional Research Offices at individual colleges
  - Each Public four-year institution's Institutional Research Office and Council of Presidents
  - Employment Security Department
  - Washington Student Achievement Council
  - Washington Training and Education Coordinating Board
- Entity ERDC pays to complete a project on behalf of ERDC

## FERPA Exceptions

ERDC will share redacted individual-level education data under two FERPA exceptions, the Studies Exception and the Audit or Evaluation Exception.

### *The Studies Exception*

Allows for the disclosure without consent of personally identifiable information (PII) from education records to organizations conducting studies “for, or on behalf of,” educational agencies or institutions. These studies can only be for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction.

Mandatory Elements specified in agreement

- purpose of the study to be conducted,
- scope of the proposed study,
- duration of the study, and
- information to be disclosed.
- require the organization to;
  - use PII from education records only to meet the purpose(s) of the study,
  - limit access to PII to those with legitimate interests,
  - conduct the study in a manner that doesn’t permit the identification of parents or students by anyone other than representatives of the organization with legitimate interests, and
  - destroy all PII when the information is no longer needed for the purposes for which the study was conducted and within a specified time period.

### *The Audit or Evaluation Exception*

Allows for the disclosure of PII without consent to authorized representatives of the FERPA-permitted entities (i.e., Comptroller General of U.S., U.S. Attorney General, U.S. Secretary of Education, or state and local educational authorities). PII must be used to audit or evaluate a Federal- or state-supported education program, or to enforce or comply with Federal legal requirements that relate to those education programs (audit, evaluation, or enforcement or compliance activity).

Mandatory Elements specified in agreement

- designate an authorized representative of a FERPA-permitted entity;
- specify what PII will be disclosed and for what purpose;
  - Note: Under the audit or evaluation exception, the purpose of data sharing can only be to carry out an audit or evaluation of Federal- or State-supported education programs, or to enforce or to comply with Federal legal requirements that relate to those programs.
- describe the activity to make clear that it falls within the audit or evaluation exception;
  - Note: The description must include how the PII from education records will be used.



- require an authorized representative to destroy PII from education records upon completion of the audit or evaluation and specify the time period in which the information must be destroyed; and
- establish policies and procedures, consistent with FERPA and other Federal, state, and local confidentiality and privacy laws, to protect PII from education records from further disclosure and unauthorized use.

## Due Diligence

**The ERDC takes reasonable steps and exercises care before and after entering into agreements with state agencies and third parties that include sharing personal information.**

### Data Sharing

A redacted individual-level data set requires a signed data sharing agreement following the Guidance for Reasonable Methods and Written Agreements. Sharing products without OFM or partner agency review, sharing data without permission, using the data for a purpose not outlined in the agreement or otherwise not adhering to the DSA will result in termination of the DSA and affect future data sharing possibilities. If there is not a data-use agreement in place, ERDC will create a data-use agreement with the data requester. Key components of this agreement include data privacy, constraints on data use, data security, and data destruction.

## Security

**ERDC uses appropriate administrative, technical and physical security practices to protect the confidentiality, integrity, availability and control of personal information.**

ERDC maintains a separate data security plan document and reviews it on an annual basis. The data security plan includes the following sections:

- Detailed P20W Business Processes
- P20W Data Intake Flows
- Detailed P20W People Processes
- Detailed P20W Technical Processes
- WA-Tech P20W Technical Processes

## External Resources

**The following is a list of commonly referenced resources that guide the ERDC privacy practices and decisions:**

*FERPA Regulation, 2011:*

<https://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf>

*Integrated Data Systems:*

<https://studentprivacy.ed.gov/resources/integrated-data-systems-and-student-privacy>

*FERPA Guidance for Reasonable Methods and Written Agreements:*

<https://studentprivacy.ed.gov/resources/guidance-reasonable-methods-and-written-agreements>

*SLDS Tech Brief #3: Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting:* <https://studentprivacy.ed.gov/resources/tech-brief-3-statistical-methods-protecting-personally-identifiable-information-aggregate>

*IDEA-FERPA Confidentiality Provisions:* <https://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf>

*Case Study #2: Head Start Program:* <https://studentprivacy.ed.gov/resources/case-study-2-head-start-program>:

*Case Study #3: Enforcement:* <https://studentprivacy.ed.gov/resources/case-study-3-enforcement>

*Case Study #4: PTAC Technical Assistance:* <https://studentprivacy.ed.gov/resources/case-study-4-ptac-technical-assistance>

*Case Study #5: Minimizing Access to PII:* <https://studentprivacy.ed.gov/resources/case-study-5-minimizing-pii-access>

*Joint Guidance on Data Matching to Facilitate WIOA Performance Reporting and Evaluation:* <https://studentprivacy.ed.gov/resources/joint-guidance-data-matching-facilitate-wioa-performance-reporting-and-evaluation>

*Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) And the Health Insurance Portability and Accountability Act of 1996 (HIPAA) To Student Health Records:* <https://studentprivacy.ed.gov/resources/joint-guidance-application-ferpa-and-hipaa-student-health-records>

*Guidance on the Amendments to the Family Educational Rights and Privacy Act by the Uninterrupted Scholars Act:* <https://studentprivacy.ed.gov/resources/uninterrupted-scholars-act-guidance>

*Technical Assistance on Student Privacy for State and Local Educational Agencies When Administering College Admissions Examinations:* <https://studentprivacy.ed.gov/admissions-exams>

*Disclosure Avoidance:* <https://studentprivacy.ed.gov/resources/frequently-asked-questions-disclosure-avoidance>

*Data De-Identification Basic Terms:* <https://studentprivacy.ed.gov/resources/data-de-identification-overview-basic-terms>

*OSPI Suppression Rules for Public Reporting:*

<https://k12.wa.us/sites/default/files/public/StudentInformation/SuppressionRulesforPublicReporting.pdf>

*Technical Assistance on Student Privacy for State and Local Educational Agencies When Administering College Admissions Examinations:* <https://studentprivacy.ed.gov/admissions-exams>

*Uninterrupted Scholars Act Guidance:*

<https://www2.ed.gov/policy/gen/guid/fpco/ferpa/uninterrupted-scholars-act-guidance.pdf>

*PTAC FERPA Exemptions Handout:*

[https://studentprivacy.ed.gov/sites/default/files/resource\\_document/file/FERPA%20Exceptions\\_HAN\\_DOUT\\_horizontal\\_0.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20Exceptions_HAN_DOUT_horizontal_0.pdf)