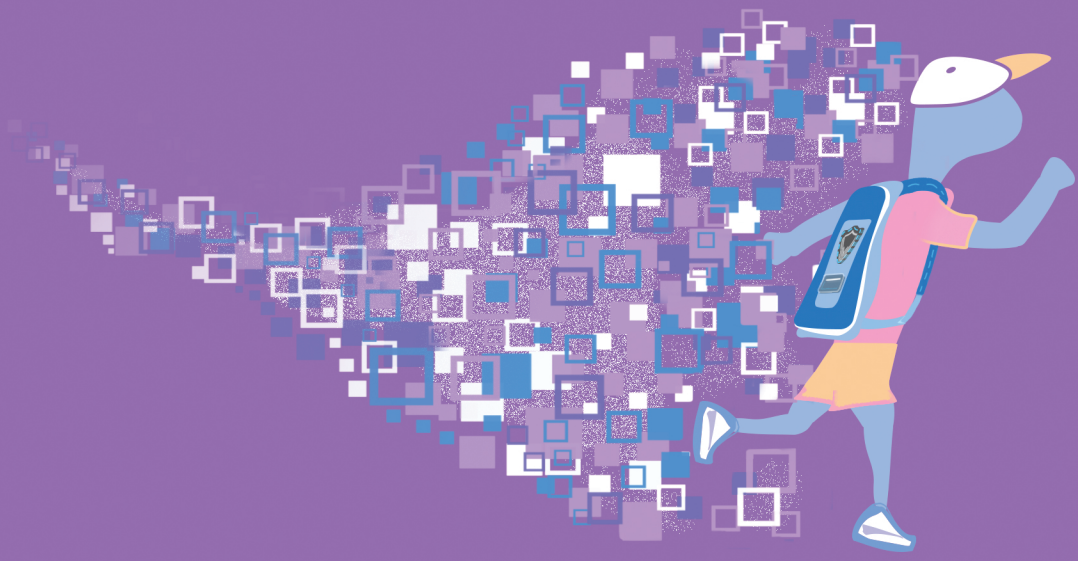


PROTECTING PRIVACY WHILE
SUPPORTING STUDENTS
WHO CHANGE
SCHOOLS

JUNE 2019



**A SERIES OF
PAPERS ON
STUDENT
PRIVACY**

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DEMOCRACY
& TECHNOLOGY



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ABOUT STUDENT PRIVACY

CDT's vision for the *Student Privacy Project* is to create an educated citizenry that is essential to a thriving democracy by protecting student data while supporting its responsible use to improve educational outcomes. To achieve this vision, CDT advocates for and provides solutions-oriented resources for education practitioners and the technology providers who work with them, that center the student and balance the promises and pitfalls of education data and technology with protecting the privacy rights of students and their families.

AUTHORED BY

Elizabeth Laird, CDT Student Privacy Senior Fellow
Hannah Quay-de la Vallee, Senior Technologist

Table of Contents

Executive Summary	4
The Challenges of Student Mobility	4
How Data Portability Can Help Students Who Change Schools	5
What Are the Potential Privacy Harms Around Data Portability?	7
What Is the Legal Landscape Around Data Portability?	9
What Are the Technical Considerations Around Data Portability?	11
Managing Data for Portability	13
Everyone Plays a Role in Protecting Privacy	15
Conclusion	16
Appendix A: Federal Legal Analysis	18
Appendix B: State Legal Analysis	20
Appendix C: Sample Data Transfer Policy	32

Protecting Privacy While Supporting Students Who Change Schools

Executive Summary

Students who change schools frequently tend to have worse academic outcomes than their peers. This can result from not sharing education records with the new school in a timely manner, which can lead to delayed enrollment, ill-informed class placement, discontinued services, or even safety issues. Data portability has the potential to address some of these needs; however, that potential must be considered along with a complex legal landscape (aspects of which are discussed in the appendices of this brief) and the privacy harms that sharing information can create, especially for students who are changing schools the most. These privacy harms can include jeopardizing physical safety, creating social stigmas, and biased decisionmaking.

To mitigate these harms and harness the potential of data portability to help students when they change schools, education practitioners and companies should adopt a data minimization approach that limits data collection, sharing, and access to only what is necessary to improve outcomes for students when they change schools. This includes creating policies that balance the potential positive and negative uses of academic, demographic, health, well-being, special education, and other information, as well as reinforcing a shared responsibility to effectively use that data and protect privacy.

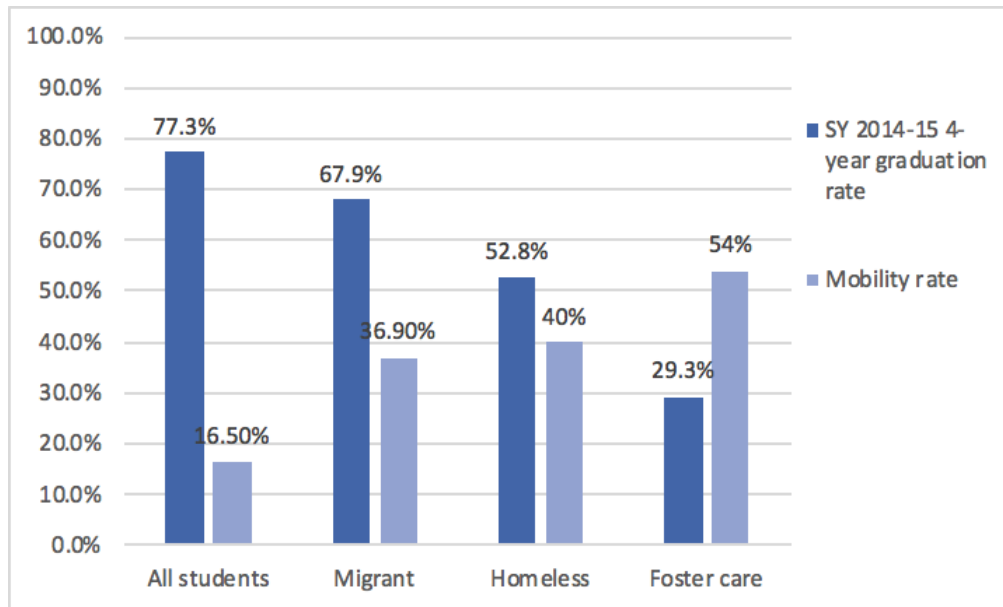
The Challenges of Student Mobility

Changing schools for reasons other than grade progression, especially during the school year, can negatively affect educational achievement. Also referred to as student mobility, students who change schools frequently may experience changes in academic expectations like differences in graduation requirements or course offerings; incomplete or delayed transfer of records that result in delays in enrollment or incorrect course placement; and social and emotional stressors related to establishing new relationships with students and adults. Challenges related to student mobility have been associated with disengagement from school, higher rates of dropping out before graduation, and low educational attainment.¹

Moreover, certain student groups have higher student mobility rates than their peers. For example, Colorado found that migrant students, students experiencing homelessness, and students in foster care changed schools more frequently than their peers. As expected, an inverse relationship exists between mobility and graduation rates, with each of these student groups experiencing higher mobility and lower graduation rates than the general student population students. This is especially pronounced with students in foster care, as they experienced a mobility rate that is over three times greater than that of

¹ Colorado Dept. of Education, Office of Dropout Prevention and Student Re-engagement, *2014-15 State Policy Report Dropout Prevention and Student Engagement* (2016), <http://www.cde.state.co.us/dropoutprevention/2015dropoutpreventionpolicyreport>

their peers and a graduation rate that is almost 50 percentage points less.²



Source: 2014-15 Colorado State Policy Report: Dropout Prevention and Student Engagement

Colorado’s analysis did not address military-connected families, but there is evidence that they also move more frequently than their peers. According to the Military Child Education Coalition, military-connected students, predominantly with parents serving on active duty, move approximately six to nine times from kindergarten to their high school graduation. This is about three times more often than civilian children, and can result in negative academic experiences and achievement.³

As policymakers and practitioners seek to address these inequities, they are looking to data portability, sometimes referred to as a data backpack, as a possible solution to close these gaps.⁴



How Data Portability Can Help Students Who Change Schools

Data portability is a technical term that refers to copying, downloading, exporting, or transferring data. In the case of student mobility, data portability refers to sharing data across schools when students are leaving one school to enroll in another. Data portability can provide a baseline level of information to

² *Id.*

³ The Military Child Education Coalition and Columbia University Center for Public Research and Leadership, *The Challenges of Supporting Highly Mobile, Military-Connected Children in School Transitions: The Current Environment* (2017),

https://www.militarychild.org/upload/files/resources/Military_Student_Transitions_Study_2017.pdf

⁴ John Bailey & Samuel Casey Carter & Carri Schneider & Tom Vander Ark, *Data Backpacks: Portable Records & Learner Profiles* (2015),

<http://digitalllearningnow.com/site/uploads/2012/10/Data-Backpacks-FINAL.pdf>

the right people at the right time, allowing the new school to make critical decisions that influence the educational outcomes of a student, including:

- **Timely enrollment:** Lack of data, like immunization history or birth certificate, can delay enrollment for students. This delay will disproportionately affect students who frequently change schools as they will experience an even greater loss of classroom time.
- **Class placement:** Once a student is enrolled, the next decision is to ensure the student is placed in appropriate but challenging classes. Without information on past coursework, this can prove difficult. But transcripts, a data source often used to inform decisions about class placement, may have inconsistencies in course naming and academic standards, making them an imperfect way of determining class placement.
- **Continuing services:** In addition to continuity in courses, students may have previously received services that should be continued at a student's new school in support of their educational achievement. For example, a student with a disability may have been receiving services and supports through their Individualized Education Program (IEP) that should continue at the new school until a re-evaluation is performed and new IEP is created.
- **Keep students safe:** With an ongoing focus on ensuring students are safe in school, the new school can use information to ensure the safety of the new student. For example, a student might have a severe food allergy that the nurse and food/nutrition staff should be aware of to ensure the physical safety of the student.

Because of the impact these decisions can have on educational outcomes, ensuring that information about a student is shared with their new school is especially important for students who move more frequently than their peers, or do not have the same stability or parental involvement that their peers have.

Highly-Mobile Student Groups

Certain groups of students are more mobile and change schools more frequently, which presents unique challenges to serving them. When considering meeting the needs of students who change schools the most, policymakers and practitioners tend to focus on the following student groups, including in legislation:

- **Foster care:** Students who are placed away from their parents, including but not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes, and for whom the relevant state agency has placement and care responsibility.⁵
- **Military-connected:** Students with a parent who is a member of the armed forces (Army, Navy, Air Force, Marine Corps, or Coast Guard) on active duty or serves on full-time National Guard duty.⁶

⁵ Every Student Succeeds Act of 2015, Pub. L. No. 114-95 § 114 Stat. 1177 (2015-2016).

⁶ *Id.*

- **Experiencing homelessness:** Students who lack a fixed, regular, and adequate nighttime residence, including those who are sharing the housing of others (also known as “doubling up”) due to loss of housing or economic hardship.⁷
- **Migrant:** Students who moved because they are a migratory agricultural worker/fisher, or moved with or joined their parent who is a migratory agricultural worker/fisher, to engage in new temporary or seasonal employment or personal subsistence in agriculture or fishing.⁸

What Are the Potential Privacy Harms Around Data Portability?

While the continuity afforded by data portability is important, the underlying data is sensitive, especially among students who are changing schools the most, so schools should also take care in ensuring the privacy and security of this information. Schools must manage a wide variety of data types when managing portability, and for each of these data types, they have to consider the potential harms that could come to the student from that data. These potential harms fall into a number of categories, which are not limited to data portability but could be exacerbated by it given the lack of consistency in training, support, procedures, and infrastructure across different schools.

The most obvious and universal harm is a data breach, which applies to all types of student data. Large-scale data breaches have the potential to amplify privacy harms and exacerbate loss of privacy and trust. For example, last year, a spreadsheet that was provided by the District of Columbia Public Schools was posted on a public website for six months. This spreadsheet included information on 2,000 students, including their names, dates of birth, housing status, and whether they were eligible for special education services.⁹ This breach resulted in sharing private details about students, like their housing status, publicly.

Other forms of harm are a bit less obvious. When students change schools and data is shared about them, three of the most common privacy harms that require mitigation are:

- *Jeopardizing physical safety*
- *Creating social stigma*
- *Making biased decisions*

Jeopardizing Physical Safety

Students might be changing schools to escape from a domestic abuse environment, potentially even a parent or other family member. As a result, failing to protect a student’s privacy might jeopardize their physical safety if their new location or enrollment in a new school is revealed to a past abuser. Such a

⁷ McKinney-Vento Homeless Assistance Act of 1987, Pub. L. No. 100-77 § 101 Stat. 482, 42 U.S.C. § 11302

⁸ Every Student Succeeds Act of 2015, Pub. L. No. 114-95 § 114 Stat. 1177 (2015-2016).

⁹ Shomari Stone, *Sensitive Personal Information About 2K DC Students Made Public*, NBC Washington, Sep 4, 2018,

<https://www.nbcwashington.com/news/local/Name-Address-Special-Ed-Status-of-2K-DCPS-Students-Made-Public-492452961.html>

revelation may result in imminent danger for the student, and they may need to change schools again, further disrupting their educational progress. Additionally, military-connected students whose parents serve in sensitive roles in the military (e.g. special operations) could be at risk of retaliation from domestic or foreign actors, so keeping this information confidential is also important to keeping students safe.

EXAMPLE: *James has recently been placed in foster care to avoid an abusive home. Unfortunately, when James transfers school, this information about his home life is not conveyed, and his records still list his birth parents' names. James' mother calls the school and confirms that James is in attendance. James' mother arrives at the school and asks to take James out of class to go to a family event. The new school, not knowing that his mother is abusive, releases James into her care. This situation could result in imminent danger and harm to James.*

Creating Social Stigma

Students who change schools the most also need their status protected. The fact that a student is experiencing homelessness, is military-connected, is in foster care, or is migrant is sensitive information that requires protection. Unfortunately, fellow students may judge these students differently and potentially single them out. Something as simple as a teacher asking about a foster student's court case in a location where other students can hear is enough to create a social stigma and subject that student to bullying and harassment.

EXAMPLE: *Mozhde is a student experiencing homelessness and is standing in the hall in her new school. A teacher, having learned that Mozhde is experiencing homelessness, approaches her while she's talking with a group of students and asks her where she's currently living. Since then, Mozhde has been getting questions from other students about where she really lives. Consequently, Mozhde feels alienated and guarded around her peers, making it difficult to make friends and excel in school.*

Making Biased Decisions

Oversharing information, especially without context, can enable decisionmaking that disadvantages or discriminates against an individual student. Therefore, adopting an approach to data minimization (e.g. deleting data once it is no longer needed or limiting the amount of data initially collected) is critical. Sharing sensitive data like disciplinary data without context may actually limit a student's educational opportunities rather than increase them. Students who are moving the most are more susceptible to biased decisionmaking as they do not have relationships with the new school, and might be treated differently than students who are already attending the school with existing context.

EXAMPLE: *Joaquin transfers to a new school, and that new school receives Joaquin's disciplinary record, which includes several reports of classroom disruption. However, what was left out of Joaquin's record was that he acted out in class because he was being bullied by other students as his family had recently received a military transfer, and he was the new student in class. Because they lack this context, the principal and teacher decide to take a strict approach to discipline to get ahead of the problem and teach him that this sort of disruptive behavior is not appropriate in his new school.*

Because of this strict approach, Joaquin’s educational record from the new school will show a higher rate of discipline incidents than some of his peers, despite the fact that he exhibits similar behavior to them. As a military-connected child, it is likely Joaquin will transfer schools again and, with his new discipline-heavy record, this pattern could easily repeat.

The consistent theme across these cases is that context and governance of data (i.e. the overall management of data, including its availability, usability, integrity, quality, and security¹⁰) are critical. Transferring partial information can hinder the new school’s ability to make good choices for incoming students. However, more context means more information, which means more information that can be misused to negatively impact a student. Training and governance about how to handle and use information about incoming students is important to protect those students from harm.

What Is the Legal Landscape Around Data Portability?

In an effort to support data portability, federal and state policymakers have enacted legislation that is intended to support data sharing when students change schools, at times with a focus on the most mobile and vulnerable students. As detailed in Appendix A, there are five primary federal laws that shape state and local action around data portability when students are changing schools:

- *Family Educational Rights and Privacy Act (FERPA)*
- *Individuals with Disabilities Education Act (IDEA)*
- *Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, and At-Risk*
- *McKinney-Vento Homeless Assistance Act*
- *Uninterrupted Scholars Act (USA)*

The most common theme across these federal laws is that they permit the sharing of student information without parental consent when a student seeks to enroll in a new school -- as long as the old school attempts to contact the parent, the parent receives a copy of what was shared, and the parent has the opportunity for a hearing to challenge the content of the record. Moreover, local education agencies (LEAs) must record what information was shared and with whom.

Federal laws typically do not address specific data elements that might compose an education record, with the exception of discipline data. Federal laws explicitly permit the sharing of discipline data when a student changes schools, but do not require it.

Lastly, federal laws may specifically address students who change schools more frequently than their peers, like migrant students, students experiencing homelessness, and students in foster care. These specifications may include a more comprehensive definition of the non-academic data to be included in

¹⁰ National Center for Education Statistics Institute of Education Sciences, *SLDS Issue Brief: Communicating the Value of Data Governance* (2017)
<https://nces.grads360.org/#communities/data-governance/publications/15066>

an education record that is critical to enrolling in a timely manner (e.g. immunizations, birth certificate, health records). A more detailed analysis of federal laws and data portability is available in Appendix A.

In addition to federal laws, state policymakers have also taken action to pass legislation that addresses data portability when students change schools. CDT reviewed select state student privacy laws (see Appendix B for more information on California, Georgia, Illinois, Louisiana, Texas, and Utah) and found that state laws supplement federal legislation in the following ways:

- **Expand FERPA’s data portability requirements:** In particular, state legislation may extend FERPA’s data portability requirements to also include the sharing of information between public and private schools when students change schools.¹¹ Additionally, state laws may impose time limitations for all students (e.g. schools complete records requests within ten days) or specific student groups (e.g. two days for students in foster care)¹² to ensure information is transferred in a timely manner when students change schools.
- **Categorize data:** Because federal laws generally do not prescribe what information should be transferred when students change schools, state legislation may seek to categorize data and assign portability, retention, and deletion requirements by category. Sample frameworks include permanent vs. temporary data or necessary vs. optional data¹³; however, these categorizations are not consistent across states.
- **Add additional requirements for data elements or student groups:** State legislation may be more prescriptive about addressing specific data elements or student groups. For example, if state law requires transfer of specific data elements, discipline information is the most frequently mandated category.¹⁴ Additionally, similar to some of the federal laws, state legislation may specify a comprehensive definition of an education record for certain student groups who change schools more frequently – like students in foster care and military-connected students – including health and immunizations.¹⁵ Lastly, some state legislation defines education records to include sensitive, non-academic data like personality tests, intelligence assessments, social histories, biometric data, and student injury.¹⁶
- **Provide additional limitations:** Although less common, some state laws provide limitations on data portability, including restricting parents’ ability to challenge the content of discipline information if that challenge is made during the school transfer process or more than five days after receiving the education record.¹⁷ Some states require that biometric data cannot be transferred and must be destroyed.¹⁸

Understanding the legal landscape is important to informing data portability efforts, but the lack of specificity in state and federal laws require policymakers and practitioners to set policies about what information is shared and who should have access to it.

¹¹ CA, GA, UT, LA, IL

¹² CA, GA, IL, LA, TX, UT

¹³ CA, IL, UT

¹⁴ GA, IL, LA, UT

¹⁵ CA, GA, LA, TX, UT

¹⁶ GA, IL, UT

¹⁷ GA, IL

¹⁸ IL

What Are the Technical Considerations Around Data Portability?

Porting student data raises technical considerations in addition to legal and policy ones. Schools that want to port student data have to consider two main technical questions: 1) how should they ensure the security of the data they are sending (meaning how can they protect against unauthorized access to, accidental or malicious disclosure of, or tampering with information), and 2) how can they ensure that the data is in a format that the receiving school can use?

To ensure data security, schools should consider best practices for transporting data, as some methods are substantially more secure than others. Methods like secure file transfers, feeds, and data-sharing services can provide a high level of security. It is important to be aware, however, that security and privacy standards may vary across these services, so it is important to vet vendors carefully and follow security best practices if implementing these systems locally. Physical transfer approaches like thumb drives or even paper records can be secure from a technical standpoint, but they present operational security concerns. For instance, how will the drive be erased once the new school has received the information? Who is allowed access to the drive, and how do you ensure that it does not fall into the wrong hands? Insecure methods, like email or fax, are susceptible to interception, and so do not provide enough protection for sensitive student information.

Another consideration that affects security and privacy when transferring data is where the data is housed. If the old school stores student records locally, they retain control of the transferring process. If, however, they use a third party for data storage, the old school must decide whether to transfer that data to the new school directly or through the third party. In either case, the old school must ensure it has a way to transfer information directly to parents or eligible students. We discuss this further in the box below on *Parents, Portability, and Privacy*.

Existing education data standards initiatives

In addition to determining what data to share, schools have to figure out how to share that information in a way that the new school can understand and make use of it. For instance, a school may want to pass along the information that a student was enrolled in a Gifted and Talented program, so that the new school can determine how to continue that for the student. However, if the old school codes that information on the student's transcript as "GT", or even a numerical code like "13," the new school may not understand what that note on the transcript means, and thus not know to continue the program. Data standards, such as CEDS¹⁹, Ed-Fi²⁰, IMS²¹,

¹⁹ Common Education Data Standards, <https://ceds.ed.gov/> (last visited May 30, 2019).

²⁰ Ed-Fi Alliance, *Ed-Fi Data Standard*, <https://www.ed-fi.org/what-is-ed-fi/ed-fi-data-standard/> (last visited May 30, 2019).

²¹ IMS Global Learning Consortium, *IMS Interoperability Standards*, <https://www.imsglobal.org/specifications.html> (last visited May 30, 2019).

and SIF²², can help schools with this by standardizing content and format. Data standards are sets of rules for describing data so the data can be recognized by any system that adheres to those rules. This enables different schools and systems to receive student information and incorporate it into their own systems without having to adapt the information each time in an ad-hoc way.

In addition to standardizing the form of data, standards can also assist to some extent with data management, such as by specifying that two elements of data, like special education information and disciplinary information, should always be ported together. We discuss data governance more below in Managing Data for Portability.

A final question for the old school to consider is what to do with the former student's data after it has been ported to the new school. Generally, the old school has three options, each of which has some tradeoffs: maintain an active record in the main system, delete the record entirely, or archive the record (move the data from actively used systems to separate storage for long-term retention) outside the main system. Maintaining an active record requires the least administrative effort, since it leaves things as they already are. However, this does use up storage resources and may pose a risk to the student's privacy. Deleting the record requires no storage resources but may pose a risk to students who cannot recover important educational information. Archiving the record retains information that a student may need later and can limit the risk of exposing that data. It may also be cheaper than maintaining an active record, but this depends on the archive method selected, and the number of students whose data is archived. Our previous issue brief on data deletion in education covers these topics in further depth.²³

 **Parents, Portability, and Privacy**

Advocates of data portability will cite the individual as the main beneficiary as it empowers them to move, with their own data, from one platform to another. In the case of education, the individuals who benefit are parents. Equipped with quality data in a form they can use, parents can more effectively engage with a school and advocate for the needs of their children. Additionally, parents have a legal right under FERPA to access their child's education record.

Sharing (or porting) data with parents has the potential to empower them, but not every child is fortunate enough to have a caring adult who can make use of that information. Therefore, the public school system plays an important role in both realizing the benefits of data portability for all students and protecting their privacy. Additionally, schools should consider what information

²² Access 4 Learning Community, *The SIF Specifications*, <https://www.a4l.org/page/SIFSpecifications> (last visited May 30, 2019).


²³ Elizabeth Laird & Hannah Quay-de la Vallee, Ctr. for Democracy and Technology, *Balancing the Scale of Student Data Deletion and Retention in Education* (2019) <https://cdt.org/insight/report-balancing-the-scale-of-student-data-deletion-and-retention-in-education/>

is proactively shared with parents. For example, a student may disclose to a counselor sensitive information like sexual orientation that they might not be comfortable sharing with their parent. However, if the counselor is the sole possessor of these notes and the information is not disclosed to other parties, these records would not be available to parents under FERPA.²⁴





Managing Data for Portability


Schools handle a broad range of data, and each type presents different challenges and risks during the porting process. Although parents have a right to access data contained in an education record (see box on *Parents, Portability, and Privacy*), that does not mean that schools need to share every piece of data when a student changes schools. In some cases, the old school can mitigate these risks by taking a data minimization approach. This means the new school has less data to take in and manage. Of course, minimizing data is not always a viable approach; there are important legal and pedagogic reasons to maintain a lot of student data. In these cases, a key way to limit potential harms to students is through data governance, including clear access control policies, strong data security practices, and effective training for staff. Appendix C details a sample data transfer policy in Texas that provides an example of what some of this data governance may look like.

The table below presents an overview of different categories of student data with illustrative examples. It gives a sense of the variety of data schools manage, and some of the uses and privacy concerns that attend that data. This list and the examples presented for each category are by no means exhaustive. Red, yellow, and green “gauges” in the chart indicate how much risk there is to students if data in that category is mishandled or exposed. However, because each category contains a diversity of data with varying degrees of sensitivity, green and yellow gauges do not indicate that it is completely safe to port that data. Schools should have data governance policies in place for any student-level data, but they are especially critical for high-risk data.

Risk	Data type	Examples of uses	Examples of privacy considerations
	Academic: - Transcript information - Annual assessment scores - Homework assignments	Enrollment: Certain academic information, such as <i>transcript information</i> , is required to enroll in a school. Class placement: Additionally, <i>college readiness assessments</i> and <i>formative assessments</i> are crucial to ensuring that incoming students are placed in the correct class.	Biased decisions: Some information, like <i>teachers’ notes</i> or <i>homework assignments</i> , may have been intended for use in specific contexts at the old school, and thus may not make sense in the new school. This out-of-context information can be misunderstood by teachers and thus lead to biased impressions of the student.

²⁴ US Dept. of Education, Privacy Technical Assistance Center and Student Privacy Policy Office, *What records are exempted from FERPA?*, <https://studentprivacy.ed.gov/faq/what-records-are-exempted-ferpa> (last visited June 25, 2019).

	<p>Health:</p> <ul style="list-style-type: none"> - Allergy information - Chronic conditions - Mental health assessments 	<p>Safety: Health information may include <i>allergy information</i> that is important for the new school to know, particularly for young students who may not understand the severity of their condition.</p> <p>Timely enrollment: Many schools require that a student be vaccinated before enrollment. Timely porting of <i>vaccination records</i> can ensure the student is able to enroll in their new school right away.</p>	<p>Social stigma: Health information, including things like <i>mental health assessments, chronic condition information, and sexual health information</i>, is considered some of the most sensitive personal information. Sharing this information too broadly can cause mental and social harm to students.</p>
	<p>Demographic:</p> <ul style="list-style-type: none"> - Race/ethnicity - Familial relationships - Economic disadvantage 	<p>Safety: Children in <i>foster care</i> may be victims of abuse by their family of origin. If the new school knows that, they will know not to release the children to their parents or share address information for those children.</p> <p>Continuing services/class placement: Knowing that an incoming student is an <i>English Language Learner</i> can ensure that child receives the extra support they need and may inform class placement.</p>	<p>Social stigma/safety: For students experiencing homelessness, their <i>housing status and home address</i> can be very sensitive. Disclosure of that status could open them up to bullying by their peers.</p>
	<p>Well-being:</p> <ul style="list-style-type: none"> - Disciplinary records - Early warning indicators - Behavioral threat assessments 	<p>Continuing services: If a new school knows that a student shows <i>early warning indicators</i> of not completing high school, they can provide supplemental services to the student to help them complete their education.</p>	<p>Biased decisions: <i>Disciplinary information</i>, particularly when viewed out of context, may cause a teacher to label a student as a “problem child,” thus coloring their interactions with that student (see the example of Joaquin on page 8).</p>
	<p>Special education:</p> <ul style="list-style-type: none"> - Accommodations - IEP (individualized education program) - 504 plan 	<p>Continuing services: For a new school to provide timely services to a new student with a disability, it is essential that they have access to that student’s <i>IEP and/or 504 plan</i>.</p>	<p>Biased decisions/social stigma: Threat assessment programs that prioritize students with disabilities who have a <i>severe behavior issue</i> may cause faculty and staff to consider a student dangerous simply because they need special education services.</p> <p>Additionally, students who were subjected to a <i>behavioral threat assessment</i> program might be avoided by their peers if those other students</p>

			gain access to that information. This is particularly of concern if the peers do not know what is considered a “risk” and thus assume the student must have done something major or violent to be investigated.
	Other: - Biometric information - Subjective assessments	Class placement: Some additional or auxiliary information can provide context to other parts of a student’s record. For instance, <i>teacher notes</i> may explain that a student received a poor grade because they recently experienced trauma, not because they did not understand the material. This can help place the student in the correct class for their academic level (and help the school develop a plan for supporting the student).	Biased decisions: <i>Subjective assessments</i> (such as <i>personality and intelligence tests</i>) may influence how teachers and staff treat students, which can be damaging to those students (particularly when many such tests lack scientific grounding).

 **Everyone Plays a Role in Protecting Privacy**

Determining who requires access to data will vary by entity, as schools and local/state education agencies are structured differently. However, everyone plays a role in protecting privacy while leveraging the benefits of data portability when students change schools. The following examples demonstrate how stakeholders at all levels of the education system can benefit from access to data when students change schools, as well as take action to protect student privacy. Appendix C outlines various roles in Texas and the information to which they are permitted access.

Stakeholder	Examples of How They Can Use Data	Examples of How They Can Protect Privacy
Parent	Provide necessary data to enroll in a new school and use that information to advocate for the needs of the student, including the right courses and continued access to services like special education.	Secure (e.g. do not email or leave records in a public place) any sensitive student information that has been shared with them like information that is required for enrollment (e.g. birth certificate, immunizations, transcript, residency verification).
Data manager/ chief information officer	Support and analyze data in student information systems, which oftentimes requires that data managers and chief information officers as well as some of their staff have access to all student data.	Limit the number of people who have access to all student data as well as avoid accessing the data themselves unless it is necessary to perform a systemwide function.
Homeless coordinator	Support a new student in accessing services to which they are entitled like free transportation or school uniforms.	Share information to coordinate services for individual students with school staff, other agencies, and community organizations in secure ways, as well as ensure that the appropriate data-sharing agreements are in place.

Stakeholder	Examples of How They Can Use Data	Examples of How They Can Protect Privacy
Teacher	Tailor instruction and other supports to a new student based on their previous academic and social histories.	Avoid discussing sensitive information about individual students where other students or school staff who do not have a legitimate educational interest can hear.
Principal	Remove barriers to enrollment by establishing and evaluating policies and practices (e.g. accepting hand-carried records; complying with the Military Interstate Compact on Educational Opportunity for Military Children ²⁵) that enable the timely enrollment of new students, especially during the school year.	Ensure school staff are trained in best practices in privacy and security to equip them with the skills and knowledge to protect student information.
Counselor	Make informed decisions about course placement that are appropriate and academically challenging for the student.	Take individual notes for counseling sessions during which sensitive information like gender identity or sexual orientation – which might not be appropriate for inclusion as part of a student’s education record – might be discussed.
Registrar	Use information provided to enroll a new student in a timely manner.	Secure information that is provided during the enrollment process and avoid discussions of sensitive information/issues where others might be present (e.g. front office) because, similar to data managers/chief information officers, registrars have access to all data that is provided during the enrollment process but only for the limited purpose of enrolling the student.
Nurse	Communicate with food services regarding serious food allergies to ensure that students are not served food that could be dangerous to them.	Ensure that school staff who do not have a legitimate educational interest do not have access to health information as it could include sensitive information about chronic illnesses or family medical histories that are irrelevant to instructional decisions.

 **Conclusion**

Students who change schools frequently gain the most from effective and efficient data portability, and they have the most to lose if their privacy is not protected, especially vulnerable student groups. By enacting data minimization and governance policies that permit positive uses of data and impede uses that might harm students changing schools, education practitioners and the companies that work with them can realize the benefits of sharing data in a timely manner while mitigating privacy harms. Everyone who plays a role in supporting students when they change schools has a responsibility to effectively use data while keeping it safe.

²⁵ Military Interstate Children’s Compact Commission, <http://www.mic3.net/> (last visited June 25, 2019).

APPENDICES

A 

B 

C 

Appendix A: Federal Legal Analysis

The following federal laws explicitly address data portability and privacy as it relates to students changing schools.

Federal Law	Data Portability and Privacy Considerations
Family Educational Rights and Privacy Act (FERPA)²⁶	<ul style="list-style-type: none"> ● Student data may be shared with a school without parental consent when a student seeks to enroll if (1) a reasonable attempt is made to notify the parent or eligible student, (2) the parents receive a copy of what is shared upon request, and (3) the parent has the opportunity for a hearing to challenge the content of the record. ● Educational agencies must maintain a record of all individuals who have requested or obtained access to a student’s education record. ● Information that the new school collects about the student cannot be shared with the old school as part of the “seeks to enroll” exception. ● Schools may transfer discipline information if the conduct posed a significant safety risk; each state must have a procedure in place that will facilitate the transfer of suspension and expulsion records.
Individuals with Disabilities Education Act (IDEA)²⁷	<ul style="list-style-type: none"> ● Similar requirements to FERPA. ● State may require that local education agencies transfer discipline information so long as they also include the student’s IEP. ● Requires cooperation with federal efforts that support the transfer of health and education records for migratory students with disabilities, including across state lines.
Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, and At-Risk²⁸	<ul style="list-style-type: none"> ● State agencies must coordinate with local education agencies and alternative education programs attended by incarcerated youth to share student assessments and appropriate academic records with the correctional facility.

²⁶ 34 C.F.R. §§ 99.34(a), 99.32(a)(1), 99.35(b) (2019). Retrieved from: <https://www.ecfr.gov/cgi-bin/text-idx?SID=de042efc9f57dc5456ce93fa514f18be&mc=true&node=pt34.1.99&rgn=div5>.

²⁷ 34 C.F.R. §§ 300.229, 300.213 (2019). Retrieved from: <https://www.ecfr.gov/cgi-bin/text-idx?SID=fb47465ca20ffafbbc2644964e2d7cc3&mc=true&node=pt34.2.300&rgn=div5>.

²⁸ Every Student Succeeds Act, 20 U.S.C. § 6434c (2015). Retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2017-title20/pdf/USCODE-2017-title20-chap70-subchapl-partD-subpart1-sec6434.pdf>.

Federal Law	Data Portability and Privacy Considerations
<p>McKinney-Vento Homeless Assistance Act²⁹</p>	<ul style="list-style-type: none"> ● The enrolling school shall immediately contact the previous school to obtain relevant academic and other records. ● Records that are kept by the school like immunization records, health records, academic records, birth certificates, guardianship records, and special education evaluations must be maintained in a way that permits timely transfer of records. ● State education agencies and local education agencies must review and revise policies that may act as barriers to the enrollment of students experiencing homelessness.
<p>Uninterrupted Scholars Act³⁰</p>	<ul style="list-style-type: none"> ● The law creates an exception under FERPA that makes it easier for schools to release a child’s education records to child welfare agencies without prior written consent of parents. <ul style="list-style-type: none"> ○ Recipients of these records may redisclose the records to “an individual or entity engaged in addressing the student’s education needs.” ● The law makes it so that if a court orders the release of education records in a child’s abuse and neglect or dependency case, and a parent of the child is also a party to that case, education agencies do not have to notify that parent of the record release ahead of time. ● FERPA’s recordkeeping requirements still apply.

²⁹ 42 U.S.C. § 11432g (1987). Retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap119-subchapVI-partB-sec11432.pdf>.

³⁰ 20 U.S.C. § 1232g(b)(2)(B) (2019). Retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2017-title20/pdf/USCODE-2017-title20-chap31-subchapIII-part4-sec1232g.pdf>.

Appendix B: State Legal Analysis

The following excerpts from state laws in California, Georgia, Illinois, Louisiana, Texas, and Utah, states that notably had recent and multiple student privacy bills, explicitly address data portability and privacy as it relates to students changing schools.

State	Data Portability and Privacy Considerations
California	<p><i>Expands FERPA’s data portability requirements:</i></p> <ul style="list-style-type: none"> ● Cal. Educ. Code 49068: (b) If a pupil transfers from one public school to another or to a private school, or transfers from a private school to a public school within the state, the pupil’s permanent record or a copy of it shall be transferred by the former public school or private school no later than 10 school days following the date the request is received from the public school or private school where the pupil intends to enroll. ● Cal. Educ. Code 49069.5 (Foster Children): (d) Upon receiving a transfer request from a county placing agency or notification of enrollment from the new local educational agency, the local educational agency receiving the transfer request or notification shall, within two business days, transfer the pupil out of school and deliver the educational information and records of the pupil to the next educational placement. <p><i>Categorizes data:</i></p> <ul style="list-style-type: none"> ● Cal. Code Regs. tit. 5, sec. 438: (a) When a pupil transfers to another school district or to a private school, a copy of the pupil’s Mandatory Permanent Pupil Record shall be transferred upon request from the other district or private school. The original or a copy must also be retained permanently by the sending district. If the transfer is to another California public school, the pupil’s entire Mandatory Interim Pupil Record shall be forwarded. If the transfer is out of state or to a private school, the Mandatory Interim Pupil Record may be forwarded. Permitted pupil records may be forwarded. All pupil records shall be updated prior to such transfer. ● Cal. Code Regs. tit. 5, sec. 432(b): Local school districts shall not compile any other pupil records except mandatory or permitted records as herein defined: <ul style="list-style-type: none"> (1) "Mandatory Permanent Pupil Records" are those records which the schools have been directed to compile by California statute authorization or authorized administrative directive. Each school district shall maintain indefinitely all mandatory permanent pupil records or an exact copy thereof for every pupil who was enrolled in a school program within said district. The mandatory

permanent pupil record or a copy thereof shall be forwarded by the sending district upon request of the public or private school in which the student has enrolled or intends to enroll. Such records shall include the following: (A) Legal name of pupil. (B) Date of birth. (C) Method of verification of birth date. (D) Sex of pupil. (E) Place of birth. (F) Name and address of parent of minor pupil. . . . (G) Entering and leaving date of each school year and for any summer session or other extra session. (H) Subjects taken during each year, half-year, summer session, or quarter. (I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken. (J) Verification of or exemption from required immunizations. (K) Date of high school graduation or equivalent.

(2) "**Mandatory Interim Pupil Records**" are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. Such records include: (A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records. (B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver. (C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge. (D) Language training records. (E) Progress slips and/or notices as required by Education Code Sections 49066 and 49067. (F) Parental restrictions regarding access to directory information or related stipulations. (G) Parent or adult pupil rejoinders to challenged records and to disciplinary action. (H) Parental authorizations or prohibitions of pupil participation in specific programs. (I) Results of standardized tests administered within the preceding three years.

(3) "**Permitted Records**" are those pupil records which districts may maintain for appropriate educational purposes. Such records may include: (A) Objective counselor and/or teacher ratings. (B) Standardized test results older than three years. (C) Routine discipline data. (D) Verified reports of relevant behavioral patterns. (E) All disciplinary notices. (F) Attendance records not covered in the Administrative Code Section 400.

Adds additional requirements for data elements or student groups:

- **Cal. Educ. Code 49069.5 (Foster Children):** (a) The Legislature finds and declares all of the following:

	<p>(1) The mobility of pupils in foster care often disrupts their educational experience.</p> <p>(2) Efficient transfer procedures and transfer of pupil records is a critical factor in the swift placement of foster children in educational settings.</p> <p>(3) Pupils who have had contact with the juvenile justice system are often denied credit or partial credit earned during enrollment in juvenile court schools. Delays in school enrollment and loss of earned credit can result in improper class or school placement, denial of special education services, and school dropout.</p> <p>(e) As part of the transfer process described under subdivisions (c) and (d), the local educational agency shall compile the complete educational record of the pupil, including a determination of seat time, full or partial credits earned, current classes and grades, immunization and other records, and, if applicable, a copy of the pupil’s plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).</p> <p>(f) The local educational agency shall assign the duties listed in this section to a person competent to handle the transfer procedure and who is aware of the specific educational recordkeeping needs of homeless, foster, and other transient children who transfer between schools.</p> <ul style="list-style-type: none"> ● Cal. Educ. Code 56301(b)(2): In accordance with Section 300.213 of Title 34 of the Code of Federal Regulations, the local educational agency shall cooperate in the efforts of the federal Secretary of Education, under Section 6398 of Title 20 of the United States Code, to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among other states, health and educational information regarding those children.
<p>Georgia</p>	<p><i>Expands FERPA’s data portability requirements:</i></p> <ul style="list-style-type: none"> ● Ga. Comp. R. & Regs. r. 160-5-1-.14 (2): After receiving a written request for student records from a public or private school, including schools operated by the Department of Juvenile Justice, the local school system or school from which the records are requested shall deliver a copy of all requested student records within 10 calendar days to the new school system or school to which a student has transferred. <p><i>Adds additional requirements for data elements or student groups:</i></p> <ul style="list-style-type: none"> ● Ga. Code Ann. sec. 20-17-2: The Interstate Compact requires that

	<p>"[i]n the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish the parent a complete set of unofficial educational records containing uniform information . . . Upon receipt of the unofficial education records by the school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible." Additionally, the Compact requires that "simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official records to the school in the receiving state within 10 days . . ."</p> <ul style="list-style-type: none"> ● Ga. Code Ann. sec. 20-17-2: Georgia enacted the Interstate Compact on Educational Opportunity for Military Children, the purpose of which is "to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by: facilitating the timely enrollment of children of military families and ensuring they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district..." Education records under the Interstate Compact include "official records, files, and data directly related to a student and maintained by the school or [LEA], including but not limited to records encompassing all the material kept in the student's cumulative folder" such as general identifying data, attendance records, and records of academic work, records of achievement and test results, health data, disciplinary status, and IEPs. ● Ga. Code Ann. sec. 20-2-670: A student must provide a copy of disciplinary records to his or her new school or must authorize the disclosure of such records. The authorization document should also disclose whether the child has ever been adjudicated guilty of the commission of a class A designated felony act or class B designated felony act, and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed. The student or parent must also disclose whether the student is currently serving a suspension or expulsion from another school, the reason for such discipline, and the term of such discipline. ● Ga. Code Ann. sec. 20-2-133: This section applies to children in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services, children in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities, children in a
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	<p>facility or placement paid for by the Department of Juvenile Justice, the Department of Human Services, or the Department of Behavioral Health and Developmental Disabilities, or children placed in a psychiatric residential treatment facility.</p> <p>When the placing agency notifies the LEA that the child may become eligible for enrollment in the educational programs of the LEA, such LEA shall request the transfer of the educational records and IEPs and all education related evaluations, assessments, social histories, and observations of the children from the appropriate LEA no later than 10 days after receiving notification. The custodian of the records has the obligation to transfer these records. Also, upon the request of the LEA responsible for educating the child, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall furnish to the local unit of administration all medical and educational records in the possession of those departments pertaining to such child, except where consent of a parent or legal guardian is required.</p> <p><i>Provides additional limitations:</i></p> <ul style="list-style-type: none"> ● Ga. Code Ann. sec. 20-2-670: The parent shall be notified of the transfer of records and shall, upon written request made within ten days of such notice, be entitled to receive a copy of such records. Within 5 days of the receipt of the copy of such records, the parent may make a written request for and shall be entitled to a hearing before the principal of the school or a designee for the purpose of changing the content of the records.
<p>Illinois</p>	<p><i>Expand FERPA's data portability requirements:</i></p> <ul style="list-style-type: none"> ● 105 Ill. Comp. Stat. 5/2-3.13a: All Illinois' public schools and all of Illinois' private or nonpublic schools are required, whenever any such school has a student who is transferring to any other public school located in Illinois or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades. ● 105 ILCS 10/8.1: Within 10 days after receiving a request from the Department of Children and Family Services, the school district last attended by the student shall send the student's school student record to the receiving school district. ● 23 Ill. Adm. Code 375.75: The school district or private school holding the records shall transfer a "certified copy of student's record" (for public schools this is the student's permanent and temporary record; for private and nonpublic schools, it is the

	<p>individual student information maintained by the schools for all of their students.)</p> <ul style="list-style-type: none"> ● 325 ILCS 55/5(c): Within 14 days after enrolling a transfer student, the elementary or secondary school shall request directly from the student's previous school a certified copy of his record. Any elementary or secondary school requested to forward a copy of a transferring student's record to the new school shall comply within 10 days of receipt of such request unless the record has been flagged as that of a missing child. <p>Categorizes data:</p> <ul style="list-style-type: none"> ● 105 ILCS 10/2: "School Student Record" means any writing or other recorded information concerning a student and by which a student may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. The following shall not be deemed school student records under this Act: writings or other recorded information maintained by an employee of a school or other person at the direction of a school for his or her exclusive use; provided that all such writings and other recorded information are destroyed not later than the student's graduation or permanent withdrawal from the school; and provided further that no such records or recorded information may be released or disclosed to any person except a person designated by the school as a substitute unless they are first incorporated in a school student record and made subject to all of the provisions of this Act. School student records shall not include information maintained by law enforcement professionals working in the school. <p>"Student Permanent Record" means the minimum personal information necessary to a school in the education of the student and contained in a school student record. Such information may include the student's name, birth date, address, grades and grade level, parents' names and addresses, attendance records, and such other entries as the State Board may require or authorize.</p> <p>"Student Temporary Record" means all information contained in a school student record but not contained in the student permanent record. Such information may include family background information, intelligence test scores, aptitude test scores, psychological and personality test results, teacher evaluations, and other information of clear relevance to the education of the student, all subject to regulations of the State Board. The information shall include information provided under Section 8.6 of the Abused and Neglected Child Reporting Act [325 ILCS 5/1 et seq.]. In addition, the student temporary record shall include information regarding serious disciplinary infractions that resulted</p>
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in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another.

Adds additional requirements for data elements or student groups:

- **105 ILCS 5/2-3.13a(b):** There is a one-page standard form that Illinois school districts are required to provide to any student who is moving out of the school district and that contains the information about whether or not the student is "in good standing" and whether or not the student's **medical records** are up-to-date and complete. Good standing means that the student is not being **disciplined by a suspension or expulsion**, but can attend classes.
- **105 ILCS 5/2-3.13a(a):** If a student is transferring from a public school (regardless of in which state it is located), from which the student has been **suspended or expelled** for knowingly possessing on school property a weapon as defined in the Gun Free Schools Act, for knowingly possessing, selling, or delivering on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not ended at the time the student attempts to transfer to another public school, **any school records required to be transferred shall include the date and duration of the period of suspension or expulsion.**
- **105 Ill. Comp. Stat. 10/2:** The School Student Record that is transferred when a student changes school includes the **Student Temporary Record** which shall include information regarding **serious disciplinary infractions** that resulted in expulsion, suspension, or the imposition of punishment or sanction. Serious disciplinary infractions means infractions involving drugs, weapons, or bodily harm to another.

Provides additional limitations:

- **105 ILCS 10/7:** Parents have the right to challenge the accuracy, relevance or propriety of any entry in the school records, exclusive of academic grades of their child, and references to expulsions or out-of-school suspensions, **if the challenge is made at the time the student's school student records are forwarded to another school to which the student is transferring.**
- **Ill. Admin Code tit. 23, sec. 375.70:** The records of a student shall be transferred by the official records custodian of a school to another school in which the student has enrolled or intends to enroll upon the request of the official records custodian of the other school or the student, **provided that the parent receives**

	<p>prior written notice of the nature and substance of the information to be transferred and opportunity to inspect, copy, and challenge the information to be released. The records may be transferred only if the parents make no objection within 10 calendar days of receiving notice. However, biometric information shall not be transferred to another school district and shall be destroyed.</p>
<p>Louisiana</p>	<p><i>Expands FERPA’s data portability requirements:</i></p> <ul style="list-style-type: none"> ● La. R.S. § 17:112: The principal of a public elementary or secondary school shall provide for the transfer of the education records of any current or former student at his school upon written request of any authorized person on behalf of a public or nonpublic elementary or secondary school, whether within or outside the state of Louisiana, where such student has become enrolled or is seeking enrollment. ● La. R.S. § 17:112: Once requested, education records must be transferred by mail or otherwise not later than 10 business days from the date of receipt of the written request. <p><i>Adds additional requirements for data elements or student groups:</i></p> <ul style="list-style-type: none"> ● LAC 28:CXV.709: The principal shall provide for the transfer of the education records, including special education records, of any current or former student upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school within or outside of Louisiana, where the student has become enrolled or is seeking enrollment. The transfer must occur no later than 10 business days from the date of the receipt of the written request. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled. ● LAC 28:XI.3611: An OJJ (Office of Juvenile Justice) shall request cumulative records for students upon entry to an OJJ school. OJJ shall send cumulative records to receiving LEAs within 2 business days from when a request for records was received. If there is a delay, then OJJ must notify the receiving LEA and provide a date by which the records will be transmitted. ● LAC 28:XLIII.229: An LEA shall include in the records of a student with a disability the state required forms listing suspensions or expulsions in the current or previous school year and transmit the forms to the same extent that the disciplinary information is included in and transmitted with the student records of non-disabled students. If a student transfers from one school to another, the transmission of any of the student's records shall include both the student's current IEP and any statement of current or previous disciplinary action that has been taken against the

	<p>student.</p> <ul style="list-style-type: none"> ● La. R.S. § 17:112: "If a student has been suspended or expelled, or both, the transferred records shall include the dates of any suspension or expulsion and the reasons for which the student was suspended or expelled. ● La. R.S. § 17:1915: Louisiana has ratified the Interstate Compact on Educational Opportunity for Military Children, the purpose of which is "to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by: facilitating the timely enrollment of children of military families and ensuring they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district . . ." Education records under the Interstate Compact include "official records, files, and data directly related to a student and maintained by the school or [LEA], including but not limited to records encompassing all the material kept in the student's cumulative folder" such as general identifying data, attendance records, and records of academic work, records of achievement and test results, health data, disciplinary status, and IEPs. ● La. R.S. § 17:1915: The Interstate Compact requires that "[i]n the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish the parent a complete set of unofficial educational records containing uniform information . . . Upon receipt of the unofficial education records by the school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible." Additionally, the Compact requires that "simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official records to the school in the receiving state within 10 days."
<p>Texas</p>	<p><i>Expands FERPA's data portability requirements:</i></p> <ul style="list-style-type: none"> ● 19 TAC § 89.1050(j)(3): The school district in which the student was previously enrolled must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the 10th working day after the date a request for the information is received by the previous school district.

	<p>Adds additional requirements for data elements or student groups:</p> <ul style="list-style-type: none"> ● 40 TAC § 19.1934: Nursing facilities that accept a school age child must make sure that the child is enrolled in a Texas Education Agency-approved educational program. The facilities must notify the LEA within 3 days of the admittance of the student, and provide the LEA with whatever information or records regarding the child are available within 14 working days of the child's admission to the facility. Examples include but are not limited to: birth certificate or other proof of child's identity; social history; medical history and medical records, including current immunization records; and the student's educational history (at last previous educational placement to facilitate the LEA's efforts to obtain educational records from the previous LEA). ● Tex. Fam. Code § 266.008: The department shall develop an education passport for each foster child. The passport must contain educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other educational information the department determines is important. The department shall maintain the passport for as long as the child remains in foster care. The passport will be available to any person authorized by law to make educational decisions for the foster child, any person authorized to consent to medical care of the foster child, and a provider of medical care to the foster child if access to educational information is necessary to the provision of medical care and allowed by law. ● 19 TAC § 89.1220(I): The student's permanent record shall contain documentation of all actions impacting the English learner, including identification of the student as an English learner, designation of the student's level of proficiency, the recommendation of program placement, parental approval of placement, dates of entry into program, assessment information, additional instructional interventions provided to address the specific language needs of the student, date of exit from the programs, and the home language survey. This documentation shall be forwarded in the same manner as other student records to another school district in which the student enrolls.
Utah	<p>Expands FERPA's data portability requirements:</p> <ul style="list-style-type: none"> ● Utah Admin. Code r. 277-602-6(6): A private school that receives a scholarship payment shall provide complete student records in a timely manner to another private school or a public school that requests student records if a parent transfers a student. ● Utah Code Ann. Sec. 53G-6-604: It is mandatory that a school

request a certified copy of a transfer student's record directly from the transfer student's previous school **within 14 days** after enrolling the transfer student. The transfer student's previous school must comply **within 30 school days** of the request.

Categorizes data:

- **Utah Code Ann. 53E-9-301:** Utah categorizes student data into two types: (1) **Necessary student data**, and (2) **optional student data**. **Necessary student data** includes name, date of birth, sex, parent contact information, contact information, a student id number, assessment results, courses taken and completed (and other transcript infor), course grades, grade level and expected graduation date, attendance and mobility, drop-out data, immunization records, race, ethnicity, tribal affiliation, remediation efforts, student injury information, disciplinary record, English Language Learner status, and special education evaluation data. **Optional student data** includes (1) information that is related to an IEP or needed to provide special needs services and is not "necessary student data;" (2) biometric information; and (3) information that is not "necessary student data" but that is required for a student to participate in a federal or other program.

Adds additional requirements for data elements or student groups:

- **Utah Code Ann. 53E-9-306:** An education entity may create and maintain a **disciplinary record** for a student. However, Utah requires each school district or charter school to include a notation of a student's **suspension or expulsion** to be attached to the individual student's transcript, **Utah Code Ann. 53G-8-208**. Thus, this information would be transferred with the rest of the student's records if that student changes school.
- **Utah Code Ann. 53E-3-905: The Interstate Compact** requires that "[i]n the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish the parent a complete set of unofficial educational records containing uniform information . . . Upon receipt of the unofficial education records by the school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible." Additionally, the Compact requires that "simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official records to the school in the

	<p>receiving state within 10 days . . ."</p> <ul style="list-style-type: none">● Utah Code Ann. 53E-3-902: Utah ratified the Interstate Compact on Educational Opportunity for Military Children, the purpose of which is "to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by: facilitating the timely enrollment of children of military families and ensuring they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district . . . "● Utah Code Ann. 53E-3-903: Education records under the Interstate Compact include "official records, files, and data directly related to a student and maintained by the school or [LEA], including but not limited to records encompassing all the material kept in the student's cumulative folder" such as general identifying data, attendance records, and records of academic work, records of achievement and test results, health data, disciplinary status, and IEPs.
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Appendix C: Sample Data Transfer Policy

This appendix reproduces an excerpt of the Texas Record Exchange (TReX) data standard requirements document. This document provides an example of a statewide system, which could serve as a starting point for schools and districts to build transfer policies of their own. However, schools and districts must also consider how they want to handle other information, like teacher notes or homework assignments, that a statewide system may not mention. The full TReX document is available at [https://tea.texas.gov/Reports_and_Data/Data_Submission/Texas_Records_Exchange_\(TReX\)/2018-2019_TReX_Data_Standards_Version_4_7/](https://tea.texas.gov/Reports_and_Data/Data_Submission/Texas_Records_Exchange_(TReX)/2018-2019_TReX_Data_Standards_Version_4_7/).

Section 1 - TReX Requirements and Overview

Introduction

TReX is a web-based application hosted by the Texas Education Agency (TEA) for transferring student records electronically between Texas public school districts and open enrollment charter schools, as well as transmitting high school transcripts to Texas public colleges and universities that use the National Student Clearinghouse (NSC) SPEEDE server, formerly known as the UT SPEEDE Server.

The TEA Student Attendance Accounting Handbook describes the following minimum information that must be transmitted when a student transfers from one Texas public school district or open enrollment charter school to another under Withdrawal Procedures.

- *Student ID (Social Security Number or State-Approved Alternate ID);*
- *Prior ID (Social Security Number or State-Approved Alternate ID, if different from above);*
- *Local Student ID Number, if used;*
- *County-District-Campus Number;*
- *Campus Name and Phone Number;*
- *First, Middle, and Last Name and Suffix of the student;*
- *Gender, Ethnicity, and Date of Birth of the student;*
- *Current Grade Level for the student; and*
- *Immunization records. Texas Education Code (TEC) §25.002(a)(3).*

Home Language Survey

The U.S. Department of Education, Office of Civil Rights and Texas state law require school districts to collect information about a student's language background at the time of enrollment/registration in order to determine whether the student is a potential English learner. When a student enrolls in a Texas school for the very first time, a home language survey is completed. If a language other than English is identified, the student shall be tested to determine the student's language classification and eligibility for placement into a bilingual education or English as a second language program. This original home language survey is retained in the student's permanent record for the duration of the student's education.

- *Original Home Language Survey*
- *Initial/end-of-year Language Proficiency Assessment Committee (LPAC) documentation*
- *Parent permission/denial forms*

In addition, TEC 7.010 requires the following information to be included with the student records sent through TReX. Note that the IEP may be scanned and sent as an attached file. See the section on File Requirements below. Appendix A contains a complete list of data elements that may be transmitted through the TReX application.

- *Student Course or Grade Completion*
- *Teachers of Record*
- *Student Assessment Results*
- *Receipt of special education services, including placement in a special education program and individualized education program developed (IEP).*
- *Students Personal Graduation Plan*

Registrars are encouraged to send all relevant information that is available through TReX when a student transfers from one school to another. While schools are not required to send copies of birth certificates or social security cards through TReX when a student transfers, these documents may be scanned and transmitted as attachments if the registrar chooses.

Please be aware if you are sending a transcript to a college or university on behalf of a student who is applying for college admission, most Texas public colleges require the following information as part of their admission process. Although Exit Level TAKS or STAAR® EOC scores will not appear on the transcript, the scores will be transmitted electronically to the college or university through the SPEEDE server if they are populated on the xml file.

- *Class Size*
- *Class Rank*
- *Date of Class Rank*
- *Date of Graduation*
- *Exit Level TAKS or STAAR® EOC score by Subject*

The Student Attendance Accounting Handbook, Part 3 Section 3-9, states enrollment by a student in a school district constitutes authority for the sending district to release the education records of that student, regardless of whether parental authority has been received. (The federal Family Education Rights and Privacy Act (FERPA) 34 CFR Part 99, 99.31(a)(2) and 99.34)

By law (TEC §25.002(a-1)), a district must respond to a request for a student record from the receiving district within 10 working days after the date the request for information is received. The timely transfer of a student record is important for a student's appropriate instructional placement for continued

education as well as for various reports and entries on the state assessment forms. TReX facilitates the process of responding to and fulfilling requests for records within the required timeframe.

TReX Roles

Following is a list of TReX roles and privileges.

TReX Role Name	Examples of Users	Privileges
Campus Registrar/Counselor	Counselors, Registrars, Admissions Office staff	Send, receive, accept, download, view, track, and approve all information in student records or transcripts for a campus; generate and view TReX reports for a campus; manually enter student record/transcript data for a campus; attach TEA-approved graduation diploma seals and send official high school transcripts for graduates at a campus
Campus Registrar/Counselor Multiple Campuses	Counselors, Registrars, Admissions Office staff responsible for more than one campus but not for a full district	Send, receive, accept, download, view, track, and approve all information in student records or transcripts for a campus; generate and view TReX reports for a campus; manually enter student record/transcript data for a campus; attach TEA-approved graduation diploma seals and send official high school transcripts for graduates at more than one campus
Campus View-Only	Principal, Vice-Principal, Secretary	Track and view TReX transaction history logs for a campus; view TReX summary reports
District Registrar/Counselor	District-wide Admissions staff or District Registrar	Send, receive, accept, download, view, track, and approve all information in student records or transcripts for all campuses within a district; generate and view TReX reports for all campuses within a district; manually enter student record/transcript data for all campuses within a district; attach TEA-approved graduation diploma seals and send official high school transcripts for graduates for any campus within a district

District Registrar/Counselor Multiple Districts	Counselors, Registrars, Admissions Office staff responsible for more than one district	Send, receive, accept, download, view, track, and approve all information in student records or transcripts for all campuses within a district; generate and view TReX reports for all campuses within a district; manually enter student record/transcript data for all campuses within a district; attach TEA-approved graduation diploma seals and send official high school transcripts for graduates for any campus within multiple districts
District View-Only	District staff, TReX Coordinator	Track and view transaction history logs district-wide (all campuses within a district); view TReX summary reports for all campuses in the district
ESC View-Only	ESC TReX Coordinator/Trainer	Track and view transaction history; view TReX summary reports for all districts or campuses within the ESC region
Vendor	SIS Vendors	Validate XML extract files against TReX schema.
TEA View-Only	Agency TReX staff and managers	Track and view transaction history logs; view TReX summary reports for all campuses/districts within the state
TEA Administrator	Agency technical staff supporting TReX	Perform technical administrative and trouble-shooting functions on a statewide level; generate and view reports