

DPO NEWSLETTER

NYSED Privacy Office - Website Monitoring Issue

Welcome 2024

What a way to begin the new year - with last year's monitoring results and notice of a new review initiative for 2024! But before you panic - we will share information on the 2024 review initiative in this newsletter.

This newsletter is providing our educational agencies (EAs) with the results and information we learned from the Privacy Office's 2023 monitoring of EAs' website information for data privacy and security.

Why did the Privacy Office monitor? In response to an audit by the State Comptroller's Office which advised that the Privacy Office should be monitoring EAs for compliance with Part 121 of the Regulations. The Education Department agrees. The Privacy Office's mission is to ensure that EAs understand the requirements of FERPA and Part 121 and have information available to parents that is accessible and understandable. Ultimately, it's about the parents.

Who did the Privacy Office monitor? 115 school districts and 5 charter schools.

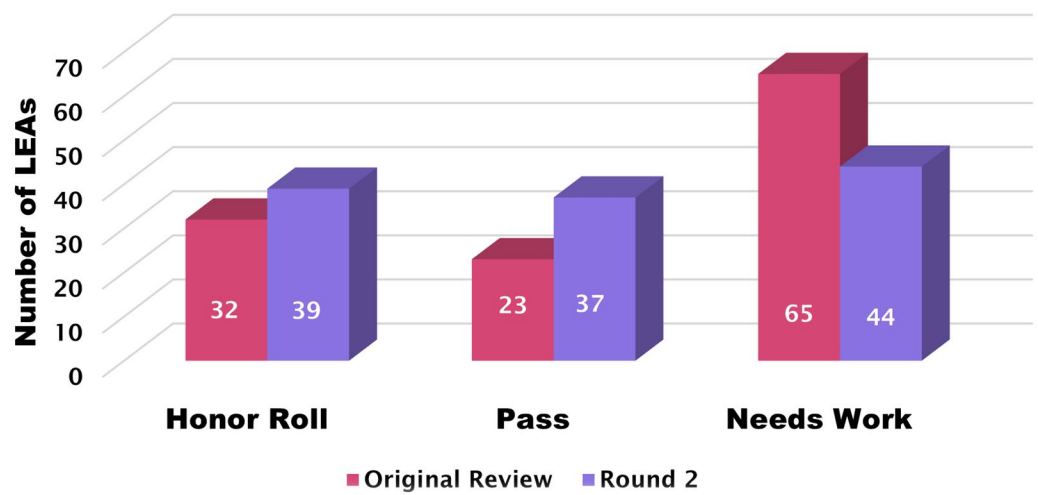
What did the Privacy Office learn from the monitoring? Most EAs, many with assistance from their RICs, are eager to comply with privacy requirements, and offer parents and eligible students the information they are entitled to under the law as well as additional information to assist them to understand their privacy rights.

Many EAs, some within hours of getting a letter from the Privacy Office, responded with a request for a "re-review" because they had made the suggested changes. In other words, EAs were enthusiastic to comply. Several superintendents thanked us for monitoring their school district and, whether the EA was an "honor roll" or "needs work", they informed us they would share the monitoring results with their respective Board's of Education.

The Privacy Office noted that some EAs, perhaps in their enthusiasm to assist parents, have too much information on their websites. This includes links to NYSED, the U.S.D.O.E., and others. Best practice is to share the information required by federal and State law with parents and not much else. There are many privacy requirements, and it can be overwhelming for parents to navigate. To be honest, it can be overwhelming for all of us to navigate. If your website clearly lists the name and contact information for the DPO then parents can reach out with any further privacy questions or concerns they may have.

Thank you to all the EAs that were monitored for your assistance and cooperation.

EA Website Monitoring - 120 LEAs



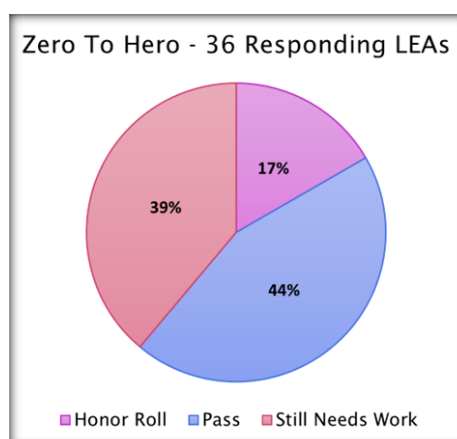
Original review and second review statistics for LEAs with websites that needed work.

Website Monitoring Has Concluded!

On July 19, 2023, the Privacy Office sent a memorandum to Superintendents, DPOs and Charter School leaders advising that our Office would start monitoring EA websites in the Fall. In September, the Privacy Office began monitoring, which consisted of an initial review used by a second reviewer to write a letter to the EA.

EAs received one of three types of letters, Honor Roll, Pass (any issues with the website were not overly problematic, but it was not an Honor Roll website) and Needs Work (the letter provided feedback on the website's shortcomings and required a response to the Privacy Team). Any EA that did not meet the requirements of Education Law § 2-d and Part 121 received a Needs Work letter. Of the EAs that received a Needs Work letter, 56% of the School Districts and 100% of the Charter Schools responded by their due dates (way to go Charter Schools!). Those EA websites were evaluated again as Round 2 reviews.

In the end we had 39 Honor Roll EAs! Congratulations to you all. The complete list of Honor Roll EAs can be found on [NYSED's data privacy and security website](#). As you can see, it is possible to go from Needs Work to being on the Honor Roll.



2024 will be the year of the Data Security Review

From mid-August to mid-September of 2023, EAs reported eight cyberattacks. Several of these were serious enough to warrant shutting systems down. As you know, the expression in this industry is not *if* but *when* a cyberattack occurs and schools are a constant target of threat actors. So, what can we do? We can ensure New York's EAs are as prepared as possible.

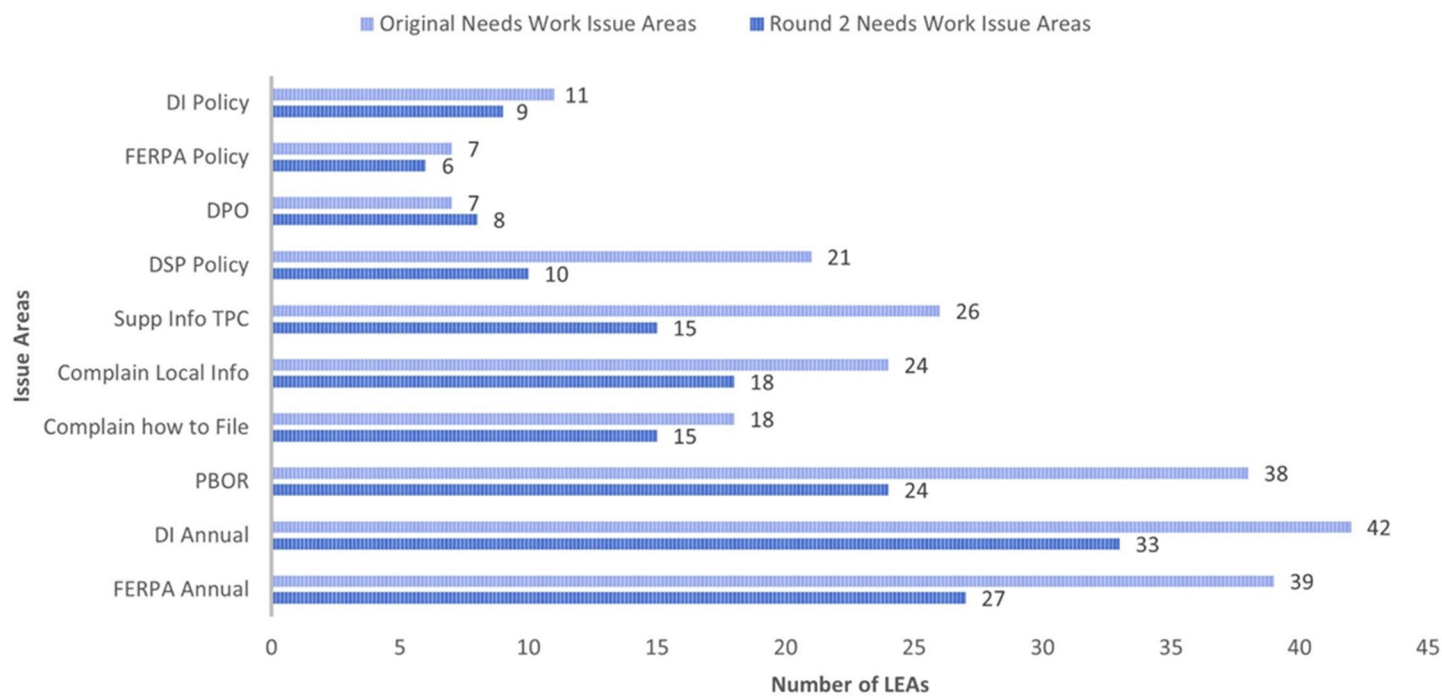
As part of that effort, NYSED's Information Security Office (Infosec) will be undertaking a data security review starting the first quarter of 2024. This will be done by meeting and working with EAs to capture the physical and technological information needed and identify the security controls in place to minimize the impact if data is compromised. The following is what EAs can expect:

- 1) Review the EAs security controls to protect systems, applications, and data.
- 2) Review password management.
- 3) Review how data is shared with third party contractors.
- 4) Discuss MFA implementation.
- 5) Review policy for onboarding and offboarding accounts.
- 6) Review current policies, such as: acceptable use, password, incident response, disaster recovery and privacy and security.
- 7) Discuss asset inventory and the ability to identify critical assets.

A memorandum outlining how this review will be undertaken and what EAs should expect to be reviewed will be sent to the field soon. We appreciate your anticipated cooperation with this review.

Monitoring... The Pitfalls

WEBSITE ISSUE AREAS



10 Easy Pitfalls to Avoid

1. Make sure that your website is both mobile browser and computer browser friendly. For example, try to have pdf files open in a new browser window instead of being a download. It is more difficult to handle downloads on a mobile device.

2. Test your website to make sure that a parent can find your privacy and data security information with little or no difficulty. Ask a neighboring district to look for the privacy information on your website. Remember, we're not playing Where's Waldo.

3. In the Parents Bill of Rights (PBOR) link to NYSED's Privacy Website for the Data Elements. Do not link to a file, the elements could change or the file could be deleted from the server.

4. List your DPO's name and contact information on your website.

5. List a local contact for parent complaints. Parents are free to send NYSED a complaint and we will investigate. Best practice, however, is to have the local EA work with the parent directly. Keep in mind that complaint decisions are published on the NYSED Data Privacy and Security website and reported in the Annual report.

6. At a minimum, post a list of the 2-D contracts that you have with language that additional information is available by contacting a specific person. Then, be prepared to provide the information without requiring the parent or eligible student to FOIL the supplemental information.

7. Your FERPA Board Policy and Directory Information Board Policy are **not** the FERPA Annual Notification. They are policies that require the EA to annually notify parents.

8. Post your FERPA Annual Notification on your website each year. You must provide it to parents annually anyway. The reason FERPA does not require that it be posted on your webpage is probably because FERPA was passed in 1974 (50 years! Happy Birthday FERPA).

9. Some quicks facts: Education Law 2-D is a law of the State of New York, not the United States. Nor is it a regulation of the US Department of Education. The first CPO was appointed in 2016 and Part 121 was promulgated in January 2020. If your website or any policy has language that indicates anything different, it needs to be updated.

10. When you borrow forms from another District or NYSED, please remember to change their name to your district's name.

Things to Look Forward to in 2024

Data Privacy Week
is January 21-27, 2024

FERPA turns
Fabulous 50!

Education Law § 2-d
turns 10!