



**Memorandum of Understanding between  
Arizona Department of Education and  
Arizona Office of the Auditor General  
Regarding Provision of Data**

This Memorandum of Understanding (Memorandum or MOU) is made by and between the Arizona Department of Education (ADE or Department) and the Arizona Office of the Auditor General's Office (Auditor General).

1. **PARTIES:** The Arizona Department of Education is a state educational agency, authorized to collect and maintain student educational records and to receive information from local educational agencies (LEAs) consistent with applicable state and federal laws and subject to the federal Family Educational Rights and Privacy Act (FERPA), as authorized by 20 U.S.C. § 1232g(b) and 34 CFR Part 99.

The Arizona Office of the Auditor General's Office is a legislative agency which has audit and oversight responsibility for state agencies, universities, counties, community colleges, and school districts. It also completes specific research and investigative projects at the Legislature's request. Its powers and duties are defined in A.R.S. §41-1279.03. Its authority to examine records is defined in A.R.S. §41-1279.04.

2. **PURPOSE:** The purpose of the Memorandum is to document the terms under which the Department will release to the Auditor General personally identifiable student information for audit, evaluation, enforcement, and compliance purposes, and to designate the Auditor General as the authorized representative of the Department consistent with applicable federal and state laws concerning access to and confidentiality of student record information including, the Family Education Rights and Privacy Act (FERPA). The Auditor General, as the Department's authorized representative, may have access to personally identifiable information in the custody of the Department for use in projects identified in this Memorandum and under the terms and conditions described in this Memorandum. The Parties anticipate that the Auditor General will require such data on at least an annual basis. The Auditor General will request the data it requires using a form substantially similar to Appendix A.
3. **AUTHORITY:** Consistent with FERPA the Department may disclose personally identifiable information from students' education records to its authorized representative without written consent in connection with an audit or evaluation of federal- or state-supported education programs; or enforcement of, or compliance with, federal legal requirements relating to such programs. 34 CFR § 99.31(a)(3), 99.35, 20 U.S.C. § 1232g(b)(3).

The Department designates the Auditor General as its authorized representative for the purposes of disclosing student information, including personally identifiable information, for use in audit, evaluation, enforcement, or compliance, as described above.

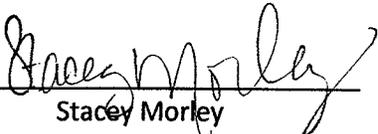
The purpose for which the personally identifiable information from education records is disclosed to the Auditor General is to carry out audits or evaluations of federal- or state-supported education programs, or to enforce or to comply with federal legal requirements that relate to those programs.

4. **PROJECTS:** The Auditor General will use the information to evaluate and illustrate the performance of school districts and their programs, state education agencies and their programs and other education programs, and to test compliance with federal grants, as described below:
  - a. School district audits prescribed by A.R.S. §41-1279.03(A)(9), special studies, performance audits and other projects authorized by A.R.S. §41-1279.03, sunset audits prescribed by A.R. S. §41-2954, audits of the Department of Education pursuant to A.R. S. §41-2958, and other audits as designated by law. Examples of personally identifiable information from education records for such audits and special studies include graduation rate data, AIMS data, ELL data, etc.
  - b. Audits to determine federal grant program compliance pursuant to OMB Circular A-133
5. **TERMS AND CONDITIONS:** To effect the transfer of data and information that is subject to state and federal confidentiality laws and to ensure that the required confidentiality of personally identifiable information shall always be maintained, the Auditor General agrees to:
  - a. Comply with the provisions of FERPA, 20 U.S.C. § 1232g, and 34 C.F.R. Part 99;
  - b. Use the data provided under this Memorandum for no other purpose than those described herein;
  - c. Protect the data provided under this Memorandum from further disclosures and other uses, except as provided in 34 C.F.R. 99.35(b)(1);
  - d. Destroy the personally identifiable information data provided under this agreement when the information is no longer needed for the purpose specified;
  - e. Retain data only until the report, review, or audit and respective followups, if any, have been issued or for the period of time required to comply with federal audit requirements;
  - f. Establish procedures consistent with FERPA and Arizona law to ensure the protection of any Personally Identifiable Information (PII) provided under this Memorandum. To effectuate the provision, the Auditor General agrees to:
    - i. Limit access to the data provided under this Memorandum only to those authorized persons who have a legitimate interest in the data;
    - ii. Require all employees, contractors and agents who have access of any kind to comply with this Memorandum, FERPA, and applicable Arizona law;
    - iii. Maintain all data received pursuant to this Memorandum in a secure manner, separate from all other data files, and not copy, reproduce, or transmit data obtained pursuant to this Memorandum except to its own agents acting for or on behalf of the Department and as necessary to fulfill the purposes of the projects described herein;

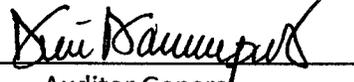
- iv. Not disclose data contained under the Agreement or addenda to it in any manner that could identify any individual student, except as authorized by FERPA, to any entity other than the Department, or authorized employees, contractors, and agents of the Auditor General working as the Department's authorized representative on projects consistent with this Memorandum;
  - v. Not report data of a group of students of less than 10, although the Auditor General usually reports data at a school district or higher level.
6. **TERM:** The Parties agree that terms of this Memorandum shall take effect upon execution, and that it shall remain in effect until canceled by the Parties upon 30 days' written notice, whichever occurs first. This Memorandum is renewable upon written approval by the authorized representative of each Party. This Memorandum may only be amended by a writing signed by both Parties.

Date: December 19, 2012

Arizona Department of Education

By   
Stacey Morley  
Executive Director of Policy Development  
and Government Relations

Arizona Office of the Auditor General

By   
Auditor General

## Appendix A

Revised ADE data extract and release guidelines - #IT XX-YY-0906171500



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Department of Education  
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Guideline: Data Extract Request and Release Guidelines      Guideline #: IT XX-YY-0906171500

Scope: ADE

Effective:

Expiration: This guideline is to be reviewed, and either revised or allowed to renew unchanged by:

Key Contact: [DataRequestMailbox@azed.gov](mailto:DataRequestMailbox@azed.gov)

### I. PURPOSE

The purpose of this guideline is to establish the authority and procedures for releasing data extracts of sensitive and confidential student detail information or aggregated data created from this data to associated schools, school districts and charter schools, and to such agencies or entities that may have a legitimate need to view them, and the legal right to do so in compliance with the federal Family Educational and Privacy Rights Act (FERPA), 20 U.S.C. § 1232g.

### II. GUIDELINE

It is the Arizona Department of Education's (ADE) operating principle and legal obligation to safeguard sensitive and/or confidential information pertaining to a student's identity, and the associated data related to the identified student when it is extracted from ADE databases and physically or electronically delivered to the appropriate school, local education agency (LEA), charter school entity, or other duly authorized agency. Legal mandates require that data be submitted by educational entities to ADE. Those data or subsets of data are to be made available to those entities, or to any legally authorized agency, upon request. The chief administrator or a designated senior official of the educational entity should make a formal request. When other agencies, such as the Attorney General or Auditor General have a need and the right to possess any student-level data collected by ADE, both the process of requesting and the delivery of data should be properly documented for public inspection and auditing purposes to ensure that the transfer of information followed proscribed procedures.

### III. PROCEDURE SUMMARY

**Note:** For a more detailed description of the Data Request Workflow please refer to Appendix A.

A. The LEA or other agency requiring a data extract notifies ADE's Data Management Team of the specific data request and its intended use. This should be done by means of a letter on the LEA's or agency's letterhead, signed by the agency head, chief administrator, or a senior official. An alternate method of request can be via e-mail with a recognizable and verifiable e-mail return address. The requester will be sent the Request/Release form attached below. Pending the completion and return of the form **along with the identity verification of the requester (i.e. photocopy of driver's license or employee badge)**, the request will be vetted by the Data Management team and the result of this process will be to authorize, reject (with cause), or further clarify the requirements with the requesting agent.

B. If the request is rejected, a Data Management representative will notify the requester and explain the reasons for that decision. Adjustments to the request may be made and resubmitted if appropriate.

C. If the request is authorized either directly or after needed clarifications have been made, an estimate of the delivery time will be made. The complexity of the request, workload, and staffing levels may all be contributing factors to this estimate.



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D. The Data Management analyst will generate the extract and load it into a package on an encrypted Web server. A notification (with full instructions) will be sent to the recipient. The recipient will navigate to the site and click a link and enter the username and password previously assigned. Using this SSL (Secure Socket Layer) technology, the file will then be decrypted for the recipient.

E. For later reference, quality control inspection, and audit purposes, the original request, the extraction script, and the result set will be archived.



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## RELEASE/RECEIPT FOR DATA EXTRACT OR RELEASE

Directions: Please complete all portions of this form. The completed form must be retained as a permanent record.

### Section A: Requester Information

Date of Request:

Name and Title:

Address:

Email Address:

Phone Number:

Fax Number:

### Section B: Check all fields that apply regarding this data request.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Data will be published           | <input type="checkbox"/> Data resides on ADE Public Website          | <input type="checkbox"/> New Report Request    |
| <input type="checkbox"/> Data is reported to FEDS         | <input type="checkbox"/> Data Warehouse User (Section D)             | <input type="checkbox"/> Other                 |
| <input type="checkbox"/> Data is for Promotional Purposes | <input type="checkbox"/> Authorized to receive Educational Data      | <input type="checkbox"/> ADE collects the data |
| <input type="checkbox"/> Data is Student Level            | <input type="checkbox"/> Data is Confidential (Sections G, H, and I) | <input type="checkbox"/> Raw Data              |

### Section C: Precise description of the data requested and its intended use (include attachments if necessary).

Description of data request:

Intended use for data:



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Which Fiscal Year or reported year:

Due date:

Level of aggregation: **Raw data/student level**

Type of aggregation: **Grade**

Section D: Data Warehouse Users

If you are a trained Data Warehouse User, do you see student level non-masked data?  Yes  No

If Yes, what is the Entity Name and ID number?

AEDW Role Assigned: **Researcher**



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Section E: ADE Employee who is authorizing the release of data.

Name

Signature and Date

Responsible Official, Research and Evaluation

Responsible Official, ADE IT Data Management Group

Section F: Person who is requesting the data.

The undersigned acknowledges receipt of information as described above, understands that it may include sensitive, personal or confidential information, and accepts responsibility for safeguarding it as appropriate. The undersigned is aware of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99), understands that it is a federal law that protects the privacy of student educational records, and recognizes that there are severe penalties for its violation. The undersigned also acknowledges and understands that Arizona Revised Statute §15-537 governs the confidentiality of records regarding school employees.

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Signature and date

Printed name

Requesting Agency, Department, or Educational Entity



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Section G: ADE employee releasing the data.

The undersigned ADE employee affirms (1) that the person receiving the data extract described above was properly identified by photo credential as checked below, and (2) that ADE has received proper authorization from the responsible local education agency to release its data, as checked below. Proper written authorization is a letter of release on the requesting agency's letterhead signed by the agency head, chief administrator, or a senior official, or other appropriate formal document including identifiable and verifiable email.

- 1) I identified the person who is receiving the information by the following photo credential:

**Driver's License**

- 2) I have attached a photocopy of the photo credential.

- 3) The responsible LEA/Agency authorized release of this information by:

**Written authorization**

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Ade Employee Signature and date

ADE Employee printed name

ADE Department or Unit

Section H: FERPA.

The purpose of FERPA is two-fold: to assure that parents and eligible students can access the student's education records, and to protect their right to privacy by limiting the transferability of their education records without their consent. 120 Cong. Rec. 39862. As such, FERPA is not an open records statute or part of an open records system. The only parties who have a right to obtain access to education records under FERPA are parents and eligible students. Journalists, researchers, and other members of the public have no right under FERPA to gain access to education records for school accountability or other matters of public interest, including misconduct by those running for public office. Nonetheless, as explained in the preamble to the NPRM, 73 FR 15584-15585, we believe that the regulatory standard for defining and removing personally identifiable information from education records establishes an appropriate balance that facilitates school accountability and educational research while preserving the



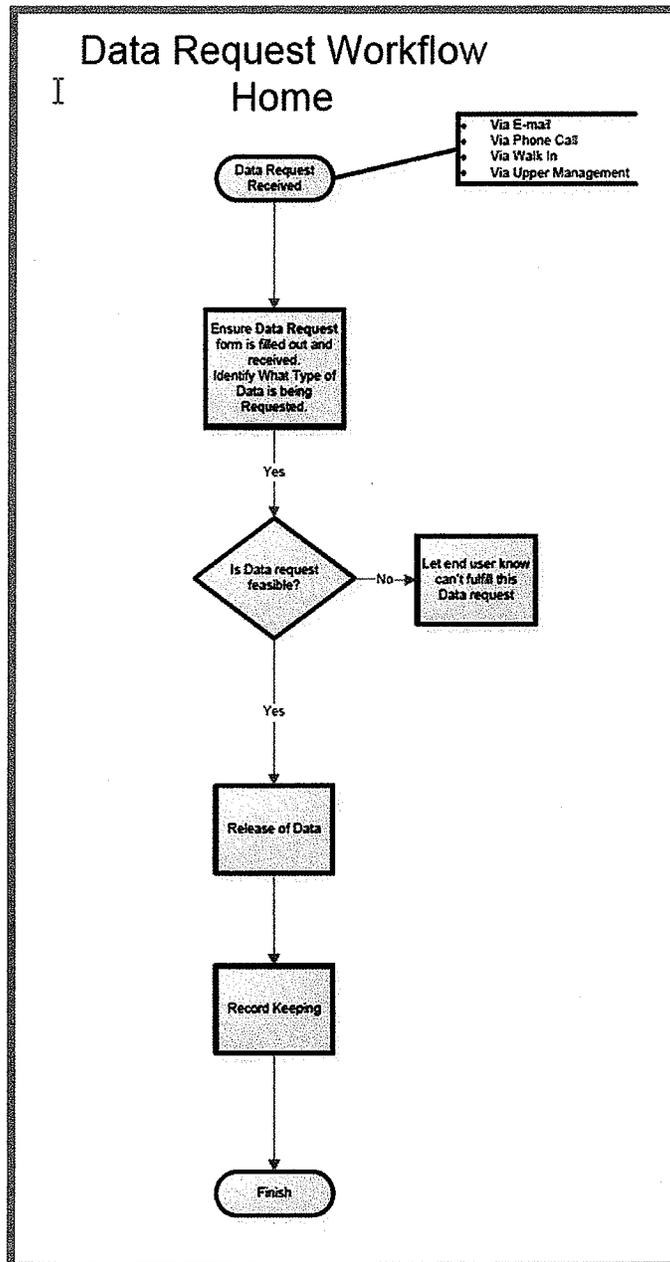
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statutory privacy protections in FERPA. The simple removal of nominal or direct identifiers, such as name and SSN (or other ID number), does not necessarily avoid the release of personally identifiable information. Other information, such as address, date and place of birth, race, ethnicity, gender, physical description, disability, activities and accomplishments, disciplinary actions, and so forth, can indirectly identify someone depending on the combination of factors and level of detail released. The requested of information hereby acknowledges these concerns and affirms that it will comply with all requirements of FERPA or be subject to all penalties available under state and federal law.



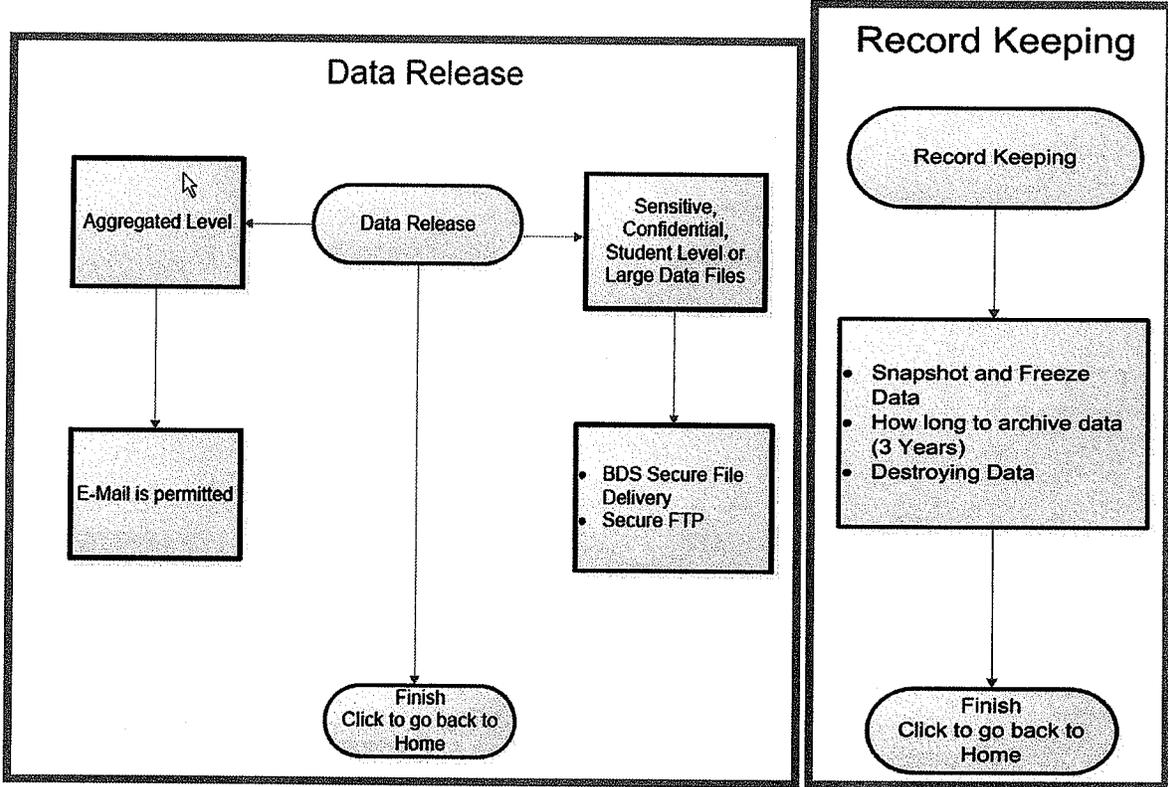
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Appendix A. Data Request Workflow





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