



REQUEST FOR QUALIFICATIONS (RFQ) #16-001
QUALIFICATIONS FOR INDEPENDENT RECEIVERS

APPLICATION PERIOD

Initial Submission by: May 20, 2016

Next Determination of Approval by: June 3, 2016

Overall Application Period: Continuous and Ongoing

INSTRUCTIONS:

Responses should be typed into fill-in areas.

These areas will automatically expand, as needed, to accommodate text.

Some questions require clicking on boxes, which look like:

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1.0 GENERAL INFORMATION

1.1 PROGRAM SUMMARY

In April 2015, Subpart E of Part EE of Chapter 56 of the Laws of 2015 added a new Section, 211-f, to Education Law. Section 211-f requires that Persistently Struggling Schools, schools that have been in the most severe accountability status since the 2006-07 school year, be given an initial one-year period under a Superintendent Receiver to improve student performance. Struggling Schools, schools that have been Priority Schools since the 2012-13 school year, will be given an initial two-year period under a Superintendent Receiver to improve student performance. Should Struggling Schools or Persistently Struggling Schools not make demonstrable progress within the prescribed time frame; an Independent Receiver will then be appointed to the school for up to three years.

NYSED will use the criteria specified within this RFQ to review and approve applications, and to generate a list of Approved Independent Receivers for Persistently Struggling Schools.

1.2 BACKGROUND

The New York State school system is one of the most comprehensive educational systems in the country. It comprises 691 school districts, 37 BOCES, over 7,000 public/private elementary and secondary schools including 256 charter schools, and serves the educational needs of over 3.1 million students. Additionally, there are currently over 220,000 certified public school teachers and administrators employed by New York State schools who directly support the educational needs and achievement of our student population.



INDEPENDENT RECEIVER APPLICATION

In April 2015, Subpart E of Part EE of Chapter 56 of the Laws of 2015 created a new section of State Education Law (§211-f) pertaining to School Receivership. Based on §211-f, the Board of Regents promulgated §100.19 of the Commissioner's Regulations, pursuant to which the Commissioner of Education has designated current Priority Schools that have been in the most severe accountability status since the 2006-07 school year as "Persistently Struggling Schools."

In a district with a "Persistently Struggling School," the superintendent is given an initial one-year period during the 2015-2016 school year to use the enhanced authority of a Receiver to make demonstrable improvement in student performance or the Commissioner will direct that the school board appoint an Independent Receiver and submit the appointment for approval by the Commissioner. Additionally, the school will be eligible for a portion of \$75 million to support and implement its turnaround efforts over a two-year period.

"Struggling Schools" have been Priority Schools since the 2012-13 school year and will be given two years under a "Superintendent Receiver" (i.e., the superintendent of schools of the school district vested with the powers a Receiver would have under §211-f and §100.19) to make demonstrable improvement in student performance. Should the school fail to make demonstrable improvement in two years then the district will be required to appoint an Independent Receiver and submit the appointment for approval by the Commissioner. Independent Receivers are appointed for up to three school years and serve under contract with the Commissioner.

1.3 DEFINITIONS OF KEY TERMS USED IN THIS RFQ

Independent receiver shall mean a non-profit entity or an individual with a proven track record of improving school performance, or another school district in good standing, appointed by a school district and approved by the Commissioner to manage and operate all aspects of a school that the Commissioner has determined shall be placed into receivership pursuant to Education Law §211-f and §100.19 of the Commissioner's regulations. The independent receiver shall also develop and implement a school intervention plan for such school and convert such school to a community school, provided that, in the case of an independent receiver who is an individual, such individual shall not be an existing officer or employee of the school district at the time of such appointment.

School district shall mean a common, union free, central, central high school or city school district. The definition of school district shall not include a special act school district as defined in Education Law section 4001(8).

Community school shall mean a school that partners with one or more agencies with an integrated focus on rigorous academics and the fostering of a positive and supportive learning environment, and a range of school-based and school-linked programs and services that lead to improved student learning, stronger families, and healthier communities. At a minimum, programs must include, but are not limited, to:

- (i) addressing social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn;
- (ii) providing access to services in the school community to promote a safe and secure learning environment;
- (iii) encouraging family and community engagement to promote stronger home-school relationships and increase families' investment in the school community;
- (iv) providing access to nutrition services, resources or programs to ensure students have access to healthy food and understand how to make smart food choices;



INDEPENDENT RECEIVER APPLICATION

- (v) providing access to early childhood education to ensure a continuum of learning that helps prepare students for success; and
- (vi) offering access to career and technical education as well as workforce development services to students in the school and their families in order to provide meaningful employment skills and opportunities; and
- (vii) offering expanded learning opportunities that include afterschool, summer school, Science, Technology, Engineering, Arts, and Math programs (STEAM) and mentoring and other youth development programs.

Superintendent shall mean the superintendent of schools or other chief school officer of a school district, and for the purpose of receivership in the city school district of the City of New York, superintendent shall mean the chancellor or his/her designee.

Board of education shall mean the trustees or board of education of a school district; provided that in the case of the city school district of the City of New York, such term shall also mean the chancellor of the city school district or his/her designee acting in lieu of the board of education of such city school district to the extent authorized by article 52-A of the Education Law, and, with respect to community school districts and New York City superintendencies, such term shall mean the chancellor or his/her designee.

Department or NYSED shall mean the New York State Education Department.

Department-approved intervention model or comprehensive education plan shall mean a comprehensive education plan pursuant to section 100.18(h)(2)(iii) of the Commissioner's regulations, a plan for a School Under Registration Review pursuant to section 100.18(l)(3) of the Commissioner's regulations, or a school phase out or closure plan pursuant to section 100.18(m)(5) of the Commissioner's regulations.

School intervention plan shall mean a plan created by an independent school receiver and approved by the commissioner pursuant to Education Law section 211-f(3)-(7) and section 100.19(f) of the Commissioner's regulations.

School receiver shall mean a school district superintendent serving as a receiver, an independent receiver serving as a receiver, and an educational partnership organization (EPO) that has assumed the powers and duties of the superintendent of schools pursuant to Education Law section 211-e.

Diagnostic Tool for School and District Effectiveness shall mean a rubric used in accordance with a process prescribed by the Commissioner by which a determination is made regarding the degree to which the optimum conditions for learning have been established in a school based upon factors such as school leadership and capacity, school leader practices and decisions, curriculum development and support, teacher practices and decisions, student social and emotional developmental health, and family and community engagement.

"Consultation and cooperation" and "consultation and collaboration" shall mean a process by which the Commissioner or his or her designee seeks input and feedback through written correspondence and/or meetings (e.g., in-person meetings, site visits, telephone conferences, video conferences).

Consultation or consulted shall mean a process by which the school receiver seeks input and feedback through written correspondence and meetings (e.g., in-person meetings, site visits, telephone conferences, video conferences).

Day shall mean school day, unless otherwise specified.



INDEPENDENT RECEIVER APPLICATION

School district in good standing shall mean a school district that has not been identified pursuant to section 100.18(g) of the Commissioner's regulations as a focus district.

Evidence shall mean documentation that can be verified through a credible source; such as a State Education Department or school district website, or an officially published document.

1.4 RESERVATION OF RIGHTS

NYSED reserves the right to: 1) reject any or all applications received in response to the RFQ; 2) withdraw the RFQ at any time, at the agency's sole discretion; 3) disqualify any applicant whose conduct and/or application fails to conform to the requirements of the RFQ; 4) seek clarifications of any application; 5) use application information obtained through the state's investigation of a provider's qualifications, experience, ability, or financial standing, and any material or information submitted by the provider in response to the Department's request for clarifying information in the course of evaluation and/or selection under the RFQ; 6) during the application period, amend the RFQ specifications to correct errors or oversights, or to supply additional information, as it becomes available; 7) during the application period, direct providers to submit application modifications addressing subsequent RFQ amendments; 8) change any of the scheduled dates; 9) negotiate with the successful provider within the scope of the RFQ in the best interests of the state; 10) require clarification at any time during the qualification process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a provider's application and/or to determine a provider's compliance with the requirements of the RFQ; and 11) request accurate and current estimates of provider costs.

1.5 QUESTIONS AND ANSWERS

Any questions concerning this RFQ should be submitted to ReceivershipRFQ@NYSED.gov. Answers to questions received by April 27, 2016, will be posted no later than May 4, 2016. Thereafter, questions and responses will be posted regularly. The submitted questions and responses will be made available at <http://www.p12.nysed.gov/compcontracts/compcontracts.html>

2.0 SPECIFICATIONS

2.1 ELIGIBLE APPLICANTS

This RFQ is specific to those applicants who are seeking to be placed on NYSED's list of Approved Independent Receivers for Persistently Struggling Schools during the 2016-17 school year. The following section describes the entities that qualify as eligible applicants and who therefore, may submit applications in response to this Request for Qualifications.

In accordance with Education Law §211-f(2)(a) and Commissioner's Regulations §100.19(a)(6), an independent receiver must be an individual, a non-profit entity, or another school district in Good Standing.

2.2 SCOPE OF SERVICES

Education Law §211-f and Commissioner's Regulations §100.19 delineate the powers and duties of independent receivers. These can be found on pages 20 – 46 of the following link:



INDEPENDENT RECEIVER APPLICATION

<http://www.p12.nysed.gov/accountability/de/documents/MostRecent100.19Regs915p12a2.pdf>.

Section 211-f of the Education Law (<http://www.p12.nysed.gov/accountability/de/documents/SUBPARTH final.pdf>) and Section 100.19 of the Commissioner's Regulations describe the requirements of an independent receiver, once appointed. These include, but are not limited to, development of a school intervention plan and establishment of a community schools model.

Eligible applicants must submit a separate application for each Persistently Struggling School they are proposing to serve in the 2016-2017 school year.

2.3 COMPENSATION

If selected from the Approved List and appointed as an Independent Receiver, whether an individual, non-profit organization, or another school district, the Independent Receiver must work under contract with the Commissioner. (Such contract may be terminated by the commissioner for a violation of law or Commissioner's Regulations or neglect of duty.) Pursuant to Education Law section 211-f(2)(c), the compensation and reasonable and necessary costs of such receiver shall be paid from a state appropriation for such purpose, or the independent receiver may be paid by the school district, as determined by the commissioner, only if there is an open administrative staffing line available for the receiver, and the receiver will be taking on the responsibilities of such open line.

The Department has reserved the larger of \$200,000 or an amount equivalent to ten percent of a school's Persistently Struggling Schools Grant (PSSG) to pay for potential 2016-17 school year activities and/or the contracted costs of the Independent Receiver in Persistently Struggling Schools.

See the attached Appendix A which lists total allocations for independent receivers by school.

Continuation as an independent receiver will be determined on an annual basis by the Commissioner.

2.4 APPROVAL PERIOD

An applicant that is placed on NYSED's list of Approved Independent Receivers for Persistently Struggling Schools shall remain on the list unless the Department's approval of the applicant is terminated or the applicant makes a written request to the Department to be removed from the approved list. Additionally, approved applicants will be required to submit annual updates to the Office of Innovation and School Reform in order to remain on the approved list.

2.5 APPLICATION REVIEW PROCESS

NYSED shall review applications from potential independent receivers for inclusion on the Department's list of Approved Independent Receivers for Persistently Struggling Schools. Applicants must ensure that all components of this application request have been addressed and that each section is supported by evidence as requested, and as defined in Section 1.3.

NYSED reserves the right to request additional written material in support of an application.



INDEPENDENT RECEIVER APPLICATION

Applications will begin to be reviewed on May 20, 2016 with first determinations being issued on or about June 3, 2016 and will continue to be reviewed on a rolling basis. Subsequent to the creation of an Approved List of Independent Receivers to serve Persistently Struggling Schools during the 2016-17 school year, this RFQ may be re-released, or a separate RFQ may be released, with further information pertaining to independent receivership in Struggling Schools during the 2017-18 school year.

All applications received by NYSED will be reviewed by two reviewers. The scores of the first two reviewers will be totaled and then averaged to arrive at the final score for each application. If there is a difference of 15 points or more between the two reviewers' scores, a third reviewer will review the application. The two scores mathematically closest to each other will be averaged for the final score unless the difference between the third review score and the first two are equidistant, in which case the third reviewer's score will solely be used. All applications that receive a final average score of 60 points (out of 100) or more will be included on the approved list.

Mandatory Application Requirements:

The following items are *required*, and failure to submit them will result in the *disqualification* of an application:

- 1) Completed application cover sheet (Form A); and
- 2) Assurances and signature page (Form F).

Application Scoring and Quality Rating Guide

All eligible applications will be reviewed according to the following point distribution.

Scored Items (100 points)	Points
A. Qualifications (Form B, Part A)	45
B. Additional Desired Qualifications (Form B, Part B)	25
C. Requirements of Independent Receiver (Form C)	10
D. Powers and Duties of an Independent receiver (Form D)	10
E. Proposed Budget (Form E)	10
TOTAL POINTS	100

Scoring criteria will be reviewed based on the following Quality Rating Guide.

Quality Rating Guide	Rating
The whole response to the section reflects a <i>thorough</i> understanding of key issues and indicates capacity of the applicant to effectively oversee and implement the proposed activities. The response addresses <i>all</i> required elements within the section with specific, evidence-based and accurate information that shows thorough preparation and presents a clear, realistic picture of how the applicant expects to operate.	<i>Exemplary</i>
The whole response to the section indicates <i>solid</i> preparation and a grasp of key issues that would be considered reasonably comprehensive and provides evidence that the applicant has the capacity to effectively implement the proposed activities. The response addresses <i>all</i> required elements within the section with clear and accurate information, even though it may require additional specificity, support or elaboration of elements in certain categories.	<i>Very good</i>
The whole response to the section addresses a <i>majority</i> of the elements, but <i>not all</i> of them, in a manner that reflects some preparation, comprehensiveness, and capacity to implement; but either fails to provide certain elements or provides all elements but in varying quality (some stronger, some weaker), lacking detail, preparation.	<i>Acceptable</i>
The whole response to the category lacks meaningful detail; demonstrates lack of preparation; or otherwise raises concerns about the applicant's capacity to meet the requirements in practice.	<i>Approaching</i>
The whole response fails to address essential elements of the category; and/or submits requested attachments that are incomplete.	<i>Inadequate</i>
The applicant fails to address the section, or fails to provide requested attachments.	<i>Not Addressed</i>



INDEPENDENT RECEIVER APPLICATION

3.0 APPLICATION PROCEDURES

3.1 APPLICATION TIMELINE

All applicants shall submit all **required** materials. Applications will be accepted on a continuous and ongoing basis. The Department will review submissions and update the approved list as applications are approved.

To be considered for receivership appointments for the 2016-2017 school year, it is encouraged that applications for approval for the list be received by the Department no later than May 20, 2016.

3.2 APPLICATION SUBMISSION METHOD

Applicants must adhere to the submission method detailed below:

Submit one (1) original and two (2) hardcopies of the application, as well as Word or PDF files of all application materials saved on a disc to:

New York State Education Department
Attn: Independent Receiver RFQ#16-001
Contract Administration Unit – Room 501W EB
89 Washington Ave
Albany, New York 12234

3.3 APPLICATION PACKAGE FORMAT

- All information should be submitted **in the order indicated** on the forms and in the instructions.
- Type size should be no smaller than 12 pt.
- Applicants must use this specialized Word document for their responses. The fill-in areas will automatically expand, as needed, to accommodate text.
- Appendices/Attachments may contain resumes, letters of reference, printed brochures describing the services provided, certificates of incorporation or other legal documents, fiscal documents, tables, charts, graphs, scanned images, or photocopies.
- The cover letter should be signed and dated by the authorized individual in **blue ink**.

3.4 APPLICANT RESPONSIBILITY QUESTIONNAIRE

Applicants must file the required Vendor Responsibility Questionnaire (VRQ) online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. School districts, Charter Schools, and the Research Foundation for SUNY and CUNY are some of the entities exempt from filing the VRQ (http://www.osc.state.ny.us/vendrep/faqs_general_agency.htm#5).

To enroll in and use the New York State VendRep System, see the VendRep System instructions at: http://www.osc.state.ny.us/vendrep/info_vrsystem_vendor.htm.



INDEPENDENT RECEIVER APPLICATION

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.state.ny.us. General information can be found at http://www.osc.state.ny.us/vendrep/info_vrsystem_vendor.htm.

See http://www.osc.state.ny.us/vendrep/documents/vendrep/document_requirements.pdf for a complete list of exempted entities.

Applicants opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website: http://www.osc.state.ny.us/vendrep/forms_vendor.htm or may contact the State Education Department or the OSC Help Desk for a copy of the paper form.

Note: Applicants must check the appropriate box in the application (Form A) to indicate if the questionnaire was submitted online or via paper format, or to indicate exempt status.



INDEPENDENT RECEIVER APPLICATION

3.5 APPLICATION PACKAGE CHECKLIST

Please use the checklist below to ensure that you have submitted all required materials in the required format:

Submitted?	Component	Requirement/Format
<input type="checkbox"/>	Cover Letter	The applicant should submit a brief <u>cover letter</u> on applicant's stationery, signed and dated by authorized individual to formally submit/transmit the application, on behalf of the applying entity, to the New York State Education Department.
<input type="checkbox"/>	Vendor Responsibility Questionnaire (VRQ)	A completed <u>VRQ</u> should be completed online (or may submitted as a hardcopy, if necessary), unless applicant is exempt. Applicants must check the appropriate box in Form A to indicate if the questionnaire was submitted online or via paper format, or to indicate exempt status.
<input type="checkbox"/>	Application Cover Sheet (FORM A)	The applicant must complete an <u>application cover sheet</u> , indicating the district(s) and schools identified as Persistently Struggling for which they are applying to serve.
<input type="checkbox"/>	Qualifications of an Independent Receiver (FORM B)	The applicant must provide a written narrative and data as evidence to highlight the qualifications to serve as an independent receiver.
<input type="checkbox"/>	Requirements of an Independent Receiver (FORM C)	The applicant must submit a comprehensive and detailed <u>narrative response</u> on Form C
<input type="checkbox"/>	Powers and Duties of an Independent Receiver (FORM D)	The applicant must submit a comprehensive and detailed <u>narrative response</u> on Form D
<input type="checkbox"/>	Proposed Budget (FORM E)	The applicant will provide a narrative and high-quality <u>budget</u> for independent receivership services in the Persistently Struggling School for which they are applying.
<input type="checkbox"/>	Assurance and Signature Page (FORM F)	The applicant must complete an <u>Assurances and Signature page</u> , signed and dated by an authorized individual.
<input type="checkbox"/>	Request for Exemption from Disclosure Pursuant to the Freedom of Information Law (FORM G)	The applicant should complete a <u>Request for Exemption</u> from Disclosure Pursuant to the Freedom of Information Law, for any proprietary materials.
<input type="checkbox"/>	Appendices/ Attachments	The applicant may provide appropriate <u>Appendices/ Attachments</u> and/or supporting documentation (graphs or charts demonstrating achievement, resumes, certificates of incorporation, etc.)



INDEPENDENT RECEIVER APPLICATION

4.0 APPLICATION

In this section, applicants must describe in detail: their qualifications to serve as an independent receiver; their past demonstration of the effective implementation of the requirements of an independent receiver; and their past demonstration of effectively implementing the powers and duties of an independent receiver. The application, which will be reviewed by the New York State Education Department Office of Innovation and School Reform, is described below.

Cover letter

The applicant should submit a brief **Cover Letter** to formally submit/transmit the application, proposal, and other materials, on behalf of the applying entity, to the New York State Education Department. The transmittal letter should be signed and dated by the authorized individual in **blue ink**.

Application Cover Sheet (Form A)

In this section, the applicant shall identify the entity applying to be an independent receiver and will indicate the district(s) and schools identified as persistently struggling in which you are willing and available to serve as independent receiver.

Qualifications of an Independent Receiver (Form B)

In this section, the applicant shall identify qualifications to serve as an independent receiver, specific to the grade levels for which it is applying to serve.

Requirements of an Independent Receiver (Form C)

In this section, the applicant shall submit a comprehensive and well-detailed narrative response to the following:

Section 211-f of the Education Law and Section 100.19 of the Commissioner's Regulations describe the requirements of an independent receiver, once appointed. These include, but are not limited to, the development of a school intervention plan and the establishment of a community schools model. Describe the applicant's proposed plan, strategies, actions and timeline for implementing these two requirements. The response should be directly aligned to the applicant's track record of expertise in raising student achievement in schools/districts and grade spans similar to those the applicant is proposing to serve.

Powers and Duties of an Independent Receiver (Form D)

In this section, the applicant shall submit a comprehensive and well-detailed narrative response to the following:

Section 211-f of the Education Law and Section 100.19 of the Commissioner's Regulations describe the powers and duties available to an independent receiver. These powers include, but are not limited to: reviewing and replacing the curriculum; ordering the conversion of a school into a charter school, abolishing teacher and/or school leadership positions; expanding the school day and/or school year; and negotiating a receivership agreement with the collective bargaining unit. Describe the applicant's proposed plan, strategies, actions and timeline addressing the powers of the independent receiver. The response should be directly aligned to the applicant's track record of expertise in raising student achievement in schools/districts and grade spans similar to those the applicant is proposing to serve.



INDEPENDENT RECEIVER APPLICATION

Proposed budget (Form E)

In this section, the applicant shall provide a proposal and high-level budget for how you would provide independent receivership services in each Persistently Struggling School for which you are applying to be an independent receiver **during the 2016-17 school year**. Include in your proposal a description of how the school's specific needs can be served through your proposal and your experience and qualifications. The budget for each proposal must demonstrate the services to be provided specific to the amount that is indicated for each Persistently Struggling School in Appendix A.

Assurance and Signature Page (Form F)

The applicant must complete an **Assurances and Signature page**, which must be signed and dated by an authorized individual.

Request for Exemption from Disclosure Pursuant to the Freedom of Information Law (Form G)

The applicant should complete a **Request for Exemption** form in order to identify any proprietary materials submitted as part of, or in support of, an applicant's proposal, which applicant considers confidential or otherwise excepted from disclosure under the Freedom of Information Law.

Appendices

The applicant may provide appropriate **Appendices/Attachments** and/or supporting documentation (graphs or charts demonstrating achievement, resumes, certificates of incorporation, etc.).



INDEPENDENT RECEIVER APPLICATION

FORM A

Application Cover Sheet

Applicants must submit a separate application for each Persistently Struggling School they are proposing to serve.

Name of Entity	
Address	
City, State Zip	
Phone	
Fax	
E-mail	
Name and Title of Authorized Contact	
Address (if different from above)	
City, State Zip	
Phone	
Fax	
E-mail (REQUIRED)	
Indicate the district and school identified as Persistently Struggling in which you are willing and available to serve as independent receiver	
Indicate the school level (elementary, middle, or high school) which you are applying to serve.	
Tax I.D. Number	
The organization is: (Please indicate by clicking on the appropriate box below:)	
Individual	<input type="checkbox"/>
Public school district	<input type="checkbox"/>
Non-profit corporation	<input type="checkbox"/>
	Click either: <input type="checkbox"/> NY corp. or <input type="checkbox"/> Foreign corp. or <input type="checkbox"/> NY LLC or <input type="checkbox"/> Foreign LLC
Vendor Responsibility Questionnaire (VRQ)	Check one: <input type="checkbox"/> Submitted online (preferred) <input type="checkbox"/> Paper form enclosed with application <input type="checkbox"/> Will not be filed due to exempt status as follows (please specify):



INDEPENDENT RECEIVER APPLICATION

IMPORTANT: Non-profit corporations are required to attach the following document(s), as applicable:

- **If a New York State corporation:** the Certificate of Incorporation, together with any Certificates of Amendments to such document filed to date.¹ (See important footnote below.)
- **If a foreign corporation:** (1) the Application for Authority to do business in New York State filed with the NYS Dept of State, **and** (2) the Certificate of Incorporation filed in the State of incorporation, (3) together with any amendments to such documents filed to date.* (See important footnote below.)
- **If a New York State non-profit LLC:** the Articles of Organization, together with any amendments to such document filed to date.* (See important footnote below.)
- **If a foreign non-profit LLC:** (1) the Application for Authority to do business in New York State filed with the NYS Dept of State, **and** (2) the articles of organization filed in the State of formation, (3) together with any amendments to such documents filed to date.* (See important footnote below.)
- **If the non-profit corporation will use an assumed name in New York State:** the certificate of Assumed Name

¹ Ensure that these documents include appropriate language authorizing the provision of these services. Information pertaining to the “Consent Obtaining” process may be accessed at the SED Office of Counsel website at www.counsel.nysed.gov or you may also contact the Office at 518-474-6400 if you have any questions regarding this requirement.



INDEPENDENT RECEIVER APPLICATION

FORM B

Qualifications of an Independent Receiver

In this section, the applicant must describe in detail the qualifications to serve as an independent receiver by responding to each of the following questions.

Your response will be thoroughly reviewed. We strongly encourage you to be as complete and detailed as possible in your responses. The evidence provided should demonstrate qualifications and experience to serve the grade levels and sub-groups of students for which you are applying to serve. *If you are attaching supporting documentation, please do not simply indicate "see attached" in the response fields, please specify where in the application to find the attached material.*

Part A

1. i) Provide resume(s). As applicable, ensure that a full employment history is provided for individuals that will be working in the designated school(s).

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- ii) Provide references. References provided should allow the Department the ability to confirm the validity of the data and evidence presented in the application.

2. Qualifications

Provide data as evidence to demonstrate the following qualifications:

- i) a track record of success in raising student achievement in English language arts and mathematics (at a minimum), in low performing schools and/or districts, or dramatically raising the achievement of high needs students in moderate to high performing schools and/or districts; specifically in the grade levels for which the applicant is applying to serve,



INDEPENDENT RECEIVER APPLICATION

- ii) A demonstrated record of successfully raising student achievement in English language arts and mathematics (at a minimum) and closing achievement gaps with at risk student populations specifically at the grade levels for which you are applying to serve;

- iii) A demonstrated record of successful experience forming collaborative relationships or partnerships with school community stakeholders, including but not limited to parents, teachers, administrators, school staff, collective bargaining units, school boards, and community members;

- iv) Be a school district in good standing under the accountability system; or, for individuals and, with respect to non-profit entities, the individual designated by the entity to oversee and manage the implementation of the provisions of Education Law section 211-f and this section, have New York State certification as a school district administrator or school district leader, or school administrator and supervisor, or school building leader or a substantially equivalent certification, as determined by the commissioner, issued by a jurisdiction outside the state;

- v) A demonstrated ability to successfully convert a school to a community school, specifically at the grade levels for which you are applying to serve.



INDEPENDENT RECEIVER APPLICATION

Additional Desired Qualifications - Part B

Provide evidence demonstrating the following qualifications:

- I. Experience in raising student achievement in English language arts and mathematics (at a minimum), in schools with high poverty, minority, English language learner, and special education populations, specifically at the grade levels for which you are applying to serve;

- II. Demonstrated experience in operating complex organizations, including administration and budgeting;

- III. An understanding of best practices research and a demonstrated implementation of school innovation models and comprehensive reform models, specifically at the grade levels for which you are applying to serve;

- IV. Relevant senior level leadership and management experience, including a record of proven results and responsibility for a complex office, institution of higher education, education or government;



INDEPENDENT RECEIVER APPLICATION

- V. A demonstrated ability to execute policy and develop systems and processes to drive organizational change; lead and manage diverse staff and constituencies; and to work collaboratively within a multifaceted educational organization that must respond to state, federal and local needs and requirements.



INDEPENDENT RECEIVER APPLICATION

FORM C

INDEPENDENT RECEIVERS RFQ Requirements of an Independent Receiver

In this section, the applicant must describe in detail the proposed strategies for implementing the requirements of an independent receiver as delineated in Section 211-f of the Education Law <http://www.p12.nysed.gov/accountability/de/documents/SUBPARTHfinal.pdf> and Commissioner's Regulations Part 100.19, Section (f) <http://www.p12.nysed.gov/accountability/de/documents/MostRecent100.19Regs915p12a2.pdf> by responding to the following question.

Your response will be thoroughly reviewed. We strongly encourage you to be as complete and detailed as possible in your responses. *If you are attaching supporting documentation, please do not simply indicate "see attached" in the response fields.*

1. The requirements for an independent receiver include, but are not limited to, development of a school intervention plan and establishment of a community schools model. Describe the applicant's proposed plan, strategies, actions and timeline for implementing these two requirements. The response should be directly aligned to the applicant's track record of expertise in raising student achievement in schools/districts and grade spans similar to those the applicant is proposing to serve.



INDEPENDENT RECEIVER APPLICATION

FORM D

INDEPENDENT RECEIVERS RFQ Powers and Duties of an Independent Receiver

In this section, the applicant must describe in detail the proposed strategies for implementing receivership powers and duties as delineated in Section 211- of the Education Law <http://www.p12.nysed.gov/accountability/de/documents/SUBPARTHfinal.pdf> and Commissioner's Regulations Part 100.19, Section (g) <http://www.p12.nysed.gov/accountability/de/documents/MostRecent100.19Regs915p12a2.pdf> by responding to the following question.

Your response will be thoroughly reviewed. We strongly encourage you to be as complete and detailed as possible in your responses. *If you are attaching supporting documentation, please do not simply indicate "see attached" in the response fields.*

1. The powers and duties available to an independent receiver, include, but are not limited to: reviewing and replacing the curriculum; ordering the conversion of a school into a charter school, abolishing teacher and/or school leadership positions; expanding the school day and/or school year; and negotiating a receivership agreement with the collective bargaining unit. Describe the applicant's proposed plan, strategies, actions and timeline addressing the powers of the independent receiver. The response should be directly aligned to the applicant's track record of expertise in raising student achievement in schools/districts and grade spans similar to those the applicant is proposing to serve.



INDEPENDENT RECEIVER APPLICATION

FORM E

**INDEPENDENT RECEIVERS RFQ
Proposed Budget**

Your response will be thoroughly reviewed. We strongly encourage you to be as complete and detailed as possible in your responses. *If you are attaching supporting documentation, please do not simply indicate “see attached” in the response fields.*

1. In this section, the applicant shall provide a narrative proposal and a budget indicating how independent receivership activities and/or services would be provided in each Persistently Struggling School for which you are applying to be an independent receiver during the 2016-17 school year. This budget should include potential 2016-17 school year activities and/or the contracted costs of the Independent Receiver. Include in your proposal a description of how each school’s specific needs can be served through your proposal and your experience and qualifications. The budget for each proposal must demonstrate the services to be provided specific to the amount that is indicated for each Persistently Struggling School in Appendix A.
2. Please complete the following budget template (Insert rows as needed):

Proposed Activity and Time for Implementation	Connection to Needs Assessment	Connection to Demonstrable Improvement Metrics	Process for Monitoring Progress	Budgeted Amount
<u>Total</u>				

The final budget will be subject to negotiation.



INDEPENDENT RECEIVER APPLICATION

FORM F

Assurances and Signature

In submitting this application to be included in the State Education Department's Independent Receiver Provider list, I certify that:

1. The organization will comply with all applicable Federal, State and local health, safety, and civil rights laws.
2. All individuals employed by or otherwise associated with the organization, who will have direct contact with eligible teachers, principals, or students, will be subject to all of the fingerprint and criminal history record check requirements contained in law, including, Education Law §§305(30), 1125(3), 1604(39), 1604(40), 1709(39), 1709(40), 1804(9), 1804(10), 1950(4)(ll), 1950(4)(mm), 2503(18), 2503(19), 2554(25), 2554(26), 2590-h (20), 2854(3)(a-2), 2854(3)(a-3), 3035 and Part 87 of the regulations of the Commissioner of Education.
3. All instruction and content will be secular, neutral, and non-ideological.
4. All instruction and content provided to LEA's will be aligned to the applicable professional standards of practice for teachers and/or principals, including but not limited to, the New York State Teaching Standards, ISLCC 2008 Leadership standards, New York State Education Law, and the Commissioner's regulations.
5. The organization is fiscally sound and will be able to complete services to the eligible local educational agency.
6. The purpose of this RFQ is to develop a list of qualified individuals/entities from which independent receivers could be appointed by school districts to contract with the Commissioner. You hereby assure that, in the event that you or your entity are a "third party contractor" as defined in Education Law §2-d(1)(k) and are placed on the list and appointed by a school district, you will comply with all applicable requirements of Education Law §2-d and with the *Data Security and Privacy Plan* (Appendix R), *Parents' Bill of Rights for Data Privacy and Security* (Appendix S), and the *Attachment to Parents' Bill of Rights for Contracts Involving Disclosure of Certain Personally Identifiable Information* (Appendix S-1) as a condition of your contract with the Commissioner.

The undersigned hereby certifies that I am an individual authorized to act on behalf of the organization in submitting this application and assurances. I certify that all of the information provided herein is true and accurate, to the best of my knowledge. I understand that, if any of the information contained herein is found to have been deliberately misrepresented, that may constitute grounds for denying the applicant's request for approval to be placed on the list of Independent Receivers or for removal from that same list. I further certify that the organization will comply with all of the assurances set forth herein.

Signed: _____

Date: _____



INDEPENDENT RECEIVER APPLICATION

FORM G

Request for Exemption from Disclosure Pursuant to the Freedom of Information Law

New York State Public Officers Law, Article 6 (Freedom of Information Law) requires that each agency shall make available all records maintained by said agency, except that agencies may deny access to records or portions thereof that fall within the scope of the exceptions listed in Public Officers Law §87(2).

Any proprietary materials submitted as part of, or in support of, an applicant's proposal, which applicant considers confidential or otherwise excepted from disclosure under the Freedom of Information Law, must be specifically so identified, and the basis for such confidentiality or other exception must be specifically set forth.

Please list **all** such documents for every portion of the proposal on the form below. Materials which are not indicated below may be released in their entirety upon request without notice to you.

According to law, the entity requesting exemption from disclosure has the burden of establishing entitlement to confidentiality. Submission of this form does not necessarily guarantee that a request for exemption from disclosure will be granted. If necessary, NYSED will make a determination regarding the requested exemptions, in accordance with the process set forth in Public Officers Law §89(5).

Name of Organization:

Material for which Exemption is Requested	Location / Page Number(s)	Basis for Request



INDEPENDENT RECEIVER APPLICATION

Appendix A: Allocations for Independent Receivers in Persistently Struggling Schools

BEDS Code	School	District	Independent Receiver Set-Aside
140600010037	PS 37 FUTURES ACADEMY	BUFFALO CITY SD	\$231,798
140600010118	WEST HERTEL ELEMENTARY SCHOOL	BUFFALO CITY SD	\$388,139
261600010009	SCHOOL 9-DR MARTIN LUTHER KING JR	ROCHESTER CITY SD	\$949,939
261600010061	EAST HIGH SCHOOL	ROCHESTER CITY SD	\$240,553
261600010066	JAMES MONROE HIGH SCHOOL	ROCHESTER CITY SD	\$200,000
280201030007	HEMPSTEAD HIGH SCHOOL	HEMPSTEAD UFSD	\$299,919
320700010162	JHS 162 L RODRIGUEZ DE TIO	NYC GEOG DIST # 7 - ISC-BRONX	\$231,798
320900010022	JHS 22 JORDAN L MOTT	NYC GEOG DIST # 9 - ISC-BRONX	\$240,553
320900010117	IS 117 JOSEPH H WADE	NYC GEOG DIST # 9 - ISC-BRONX	\$299,919



INDEPENDENT RECEIVER APPLICATION

APPENDIX R DATA SECURITY AND PRIVACY PLAN

1. The individually identifiable data provided to or stored by the Contractor pursuant to this agreement (the "Data") are sensitive, requiring appropriate levels of security to prevent unauthorized disclosure or modification. The Contractor shall take all reasonable measures to protect the confidentiality of the Data as required by federal and state laws and regulations applicable to the Contractor. These may include but are not limited to the New York State Social Services Law, Personal Privacy Protection Law and Education Law §2-d; the federal Social Security Act and Family Educational Rights and Privacy Act; internet security laws; and any regulations promulgated thereunder.
2. The Contractor has full and final responsibility for the security of the Data. The Contractor agrees to implement reasonable technical and physical security measures to ensure the confidentiality, integrity and availability of the Data. Such security measures may be reviewed by the State, both through an informal audit of policies and procedures and/or through inspection of security methods used within the Contractor's infrastructure, storage, and other physical security. The Contractor should review its implementation and maintenance of its security review periodically to protect the data in strict compliance with statutory and regulatory requirements.
3. The Contractor's security measures must also include:
 - a. Provision that access to the Data is restricted solely to staff who need such access to carry out the responsibilities of the Contractor under this agreement, and that such staff will not release such Data to any unauthorized party;
 - b. All confidential Data are stored on computer and storage facilities maintained within Contractor's computer networks, behind appropriate firewalls;
 - c. Access to computer applications and Data are managed through appropriate userID/password procedures;
 - d. Contractor's computer network storing the Data is scanned for inappropriate access through an intrusion detection system. NYSED has the right to perform a site visit to review the vendor's security practices if NYSED feels it is necessary;
 - e. That Contractor have a disaster recovery plan that is acceptable to the State;
 - f. Satisfactory redundant and uninterruptible power and fiber infrastructure provisions; and
 - g. A copy of the Contractor's security review evidencing compliance with these requirements must be submitted to NYSED for review and approval within 6 months of the signing of the contract or before the first certification test is performed, whichever occurs first.
4. The Data must be returned to NYSED upon termination or expiration of this Agreement, or at such point that the Data are no longer needed for the purpose referenced in this Agreement, or, at the sole discretion of NYSED, securely destroyed. All hard copies of personally identifiable Data in the possession of the Contractor must be securely destroyed, and all electronic Data must be purged from the network in a manner that does not permit retrieval of the data. The contractor is specifically prohibited from commingling any data from outside sources into the Data received from NYSED, except as specifically authorized by NYSED.



INDEPENDENT RECEIVER APPLICATION

5. If personally identifiable data of students, teachers or building principals will be disclosed to the Contractor by NYSED for purposes of the Contractor providing services to NYSED, the Contractor must comply with the following requirements of Education Law §2-d (Chapter 56, Subpart L of the Laws of 2014) and any implementing regulations:
 - a. Any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access;
 - b. limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - c. not use the education records for any other purposes than those explicitly authorized in its contract;
 - d. except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any personally identifiable information to any other party:
 - (i) without the prior written consent of the parent or eligible student; or
 - (ii) unless required by statute or court order and the party provides a notice of the disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - e. maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody; and
 - f. use encryption technology consistent with Education Law §2-d and any implementing regulations.
6. If requested by NYSED to make any disclosure of aggregated data using the Data provided to or stored by the Contractor, Contractor must ensure that the disclosed aggregated data cannot reasonably be used to identify a particular individual. Aggregated data will be considered identifiable if the disclosure has less than five (5) data elements per cell or the data elements per cell comprise 100% of the subject population.
7. Contractor agrees that all Data shall remain at all times the property of the State, and may not be used for any purpose other than the purpose outlined in this Agreement without the express written permission of NYSED. The Contractor has no ownership of or licensing rights to the Data except as provided in this Agreement, and Contractor specifically agrees that it will not sell, give or otherwise transfer the Data to any third party without NYSED's express prior approval.
8. The Contractor must ensure that these confidentiality and security provisions apply to any subcontractor engaged by the Contractor for the work under this agreement. The Contractor shall take full responsibility for the acts and omissions of its subcontractors, and the use of subcontractors shall not impair the rights of NYSED against the Contractor in accordance with this Agreement.
9. Hardware, software and services acquired by the Contractor under this Agreement may not be used for other activities beyond those described in the scope of the contract unless authorized in advance by NYSED.



INDEPENDENT RECEIVER APPLICATION

10. Security of Location - Server room will remain a restricted access, locked room with access via security cards. The list of staff with access to the server room will continue to be reviewed quarterly against the number of times each staff actually gained access to the server room.
11. Breach Notification.
 - a. Contractor that receives student data or teacher or principal data pursuant to a contract or other written agreement with an educational agency shall be required to notify such educational agency of any breach of security resulting in an unauthorized release of such data in accordance with Education Law §2-d and any implementing regulations. Upon such notification, the educational agency shall take appropriate action in accordance with Education Law §2-d and any implementing regulations.
 - b. In the event that the State is required, pursuant to Education Law §2-d(6)(b), to notify one or more parent, eligible student, teacher or principal of an unauthorized release of student data by the Contractor or its assignee, the Contractor shall promptly reimburse the State for the full cost of such notification.
 - c. Contractor acknowledges that it may be subject to penalties under Education Law §§2-d(6) and 2-d(7) for unauthorized disclosure of personally identifiable student, teacher or principal data.
 - d. Contractor agrees that it will cooperate and promptly comply with any inquiries from the State based upon the State's receipt of a complaint or other information indicating that an improper or unauthorized disclosure of personally identifiable information may have occurred. Contractor will permit on-site examination and inspection, and will provide at its own cost necessary documentation or testimony of any employee, representative or assignee of Contractor relating to the alleged improper disclosure of data.



INDEPENDENT RECEIVER APPLICATION

Appendix S PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

To satisfy their responsibilities regarding the provision of education to students in pre-kindergarten through grade twelve, “educational agencies” (as defined below) in the State of New York collect and maintain certain personally identifiable information from the education records of their students. As part of the Common Core Implementation Reform Act, Education Law §2-d requires that each educational agency in the State of New York must develop a Parents’ Bill of Rights for Data Privacy and Security (Parents’ Bill of Rights). The Parents’ Bill of Rights must be published on the website of each educational agency, and must be included with every contract the educational agency enters into with a “third party contractor” (as defined below) where the third party contractor receives student data, or certain protected teacher/principal data related to Annual Professional Performance Reviews that is designated as confidential pursuant to Education Law §3012-c (“APPR data”).

The purpose of the Parents’ Bill of Rights is to inform parents (which also include legal guardians or persons in parental relation to a student, but generally not the parents of a student who is age eighteen or over) of the legal requirements regarding privacy, security and use of student data. In addition to the federal Family Educational Rights and Privacy Act (FERPA), Education Law §2-d provides important new protections for student data, and new remedies for breaches of the responsibility to maintain the security and confidentiality of such data.

A. What are the essential parents’ rights under the Family Educational Rights and Privacy Act (FERPA) relating to personally identifiable information in their child’s student records?

The rights of parents under FERPA are summarized in the Model Notification of Rights prepared by the United States Department of Education for use by schools in providing annual notification of rights to parents. It can be accessed at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>, and a copy is attached to this Parents’ Bill of Rights. Complete student records are maintained by schools and school districts, and not at the New York State Education Department (NYSED). Further, NYSED would need to establish and implement a means to verify a parent’s identity and right of access to records before processing a request for records to the school or school district. Therefore, requests to access student records will be most efficiently managed at the school or school district level.

Parents’ rights under FERPA include:

1. The right to inspect and review the student's education records within 45 days after the day the school or school district receives a request for access.
2. The right to request amendment of the student’s education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA. Complete student records are maintained by schools and school districts and not at



INDEPENDENT RECEIVER APPLICATION

NYSED, which is the secondary repository of data, and NYSED make amendments to school or school district records. Schools and school districts are in the best position to make corrections to students' education records.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent (including but not limited to disclosure under specified conditions to: (i) school officials within the school or school district with legitimate educational interests; (ii) officials of another school for purposes of enrollment or transfer; (iii) third party contractors providing services to, or performing functions for an educational agency; (iv) authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as NYSED; (iv) (v) organizations conducting studies for or on behalf of educational agencies) and (vi) the public where the school or school district has designated certain student data as "directory information" (described below). The attached FERPA Model Notification of Rights more fully describes the exceptions to the consent requirement under FERPA).
4. Where a school or school district has a policy of releasing "directory information" from student records, the parent has a right to refuse to let the school or school district designate any all of such information as directory information. Directory information, as defined in federal regulations, includes: the student's name, address, telephone number, email address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received and the most recent educational agency or institution attended. Where disclosure without consent is otherwise authorized under FERPA, however, a parent's refusal to permit disclosure of directory information does not prevent disclosure pursuant to such separate authorization.
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA.

B. What are parents' rights under the Personal Privacy Protection Law (PPPL), Article 6-A of the Public Officers Law relating to records held by State agencies?

The PPPL (Public Officers Law §§91-99) applies to all records of State agencies and is not specific to student records or to parents. It does not apply to school districts or other local educational agencies. It imposes duties on State agencies to have procedures in place to protect from disclosure of "personal information," defined as information which because of a name, number, symbol, mark or other identifier, can be used to identify a "data subject" (in this case the student or the student's parent). Like FERPA, the PPPL confers a right on the data subject (student or the student's parent) to access to State agency records relating to them and requires State agencies to have procedures for correction or amendment of records.

A more detailed description of the PPPL is available from the Committee on Open Government of the New York Department of State. Guidance on what you should know about the PPPL can be accessed at



INDEPENDENT RECEIVER APPLICATION

<http://www.dos.ny.gov/coog/shldno1.html>. The Committee on Open Government's address is Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, suite 650, Albany, NY 12231, their email address is coog@dos.ny.gov, and their telephone number is (518) 474-2518.

C. Parents' Rights Under Education Law §2-d relating to Unauthorized Release of Personally Identifiable Information

1. What "educational agencies" are included in the requirements of Education Law §2-d?

- The New York State Education Department ("NYSED");
- Each public school district;
- Each Board of Cooperative Educational Services or BOCES; and
- All schools that are:
 - a public elementary or secondary school;
 - a universal pre-kindergarten program authorized pursuant to Education Law §3602-e;
 - an approved provider of preschool special education services;
 - any other publicly funded pre-kindergarten program;
 - a school serving children in a special act school district as defined in Education Law 4001; or
 - certain schools for the education of students with disabilities - an approved private school, a state-supported school subject to the provisions of Education Law Article 85, or a state-operated school subject to Education Law Article 87 or 88.

2. What kind of student data is subject to the confidentiality and security requirements of Education Law §2-d?

The law applies to personally identifiable information contained in student records of an educational agency listed above. The term "student" refers to any person attending or seeking to enroll in an educational agency, and the term "personally identifiable information" ("PII") uses the definition provided in FERPA. Under FERPA, personally identifiable information or PII includes, but is not limited to:

- (a) The student's name;
- (b) The name of the student's parent or other family members;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number, student number, or biometric record;
- (e) Other indirect identifiers, such as the student's date of birth, place of birth, and Mother's Maiden Name²;
- (f) Other information that, alone or in combination, is linked or linkable to a specific student that

² Please note that NYSED does not collect certain information defined in FERPA, such as students' social security numbers, biometric records, mother's maiden name (unless used as the mother's legal name).



INDEPENDENT RECEIVER APPLICATION

would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
(g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

3. What kind of student data is *not* subject to the confidentiality and security requirements of Education Law §2-d?

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, de-identified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d or within the scope of this Parents' Bill of Rights.

4. What are my rights under Education Law § 2-d as a parent regarding my student's PII?

Education Law §2-d ensures that, in addition to all of the protections and rights of parents under the federal FERPA law, certain rights will also be provided under the Education Law. These rights include, but are not limited to, the following elements:

- (A) A student's PII cannot be sold or released by the educational agency for any commercial or marketing purposes.
 - PII may be used for purposes of a contract that provides payment to a vendor for providing services to an educational agency as permitted by law.
 - However, sale of PII to a third party solely for commercial purposes or receipt of payment by an educational agency, or disclosure of PII that is not related to a service being provided to the educational agency, is strictly prohibited.
- (B) Parents have the right to inspect and review the complete contents of their child's education record including any student data stored or maintained by an educational agency.
 - This right of inspection is consistent with the requirements of FERPA. In addition to the right of inspection of the educational record, Education Law §2-d provides a specific right for parents to inspect or receive copies of any data in the student's educational record.
 - NYSED will develop policies for annual notification by educational agencies to parents regarding the right to request student data. Such policies will specify a reasonable time for the educational agency to comply with such requests.
 - The policies will also require security measures when providing student data to parents, to ensure that only authorized individuals receive such data. A parent may be asked for information or verifications reasonably necessary to ensure that he or she is in fact the student's parent and is authorized to receive such information pursuant to law.



INDEPENDENT RECEIVER APPLICATION

- (C) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

Education Law §2-d also specifically provides certain limitations on the collection of data by educational agencies, including, but not limited to:

- (A) A mandate that, except as otherwise specifically authorized by law, NYSED shall only collect PII relating to an educational purpose;
- (B) NYSED may only require districts to submit PII, including data on disability status and student suspensions, where such release is required by law or otherwise authorized under FERPA and/or the New York State Personal Privacy Law; and
- (C) Except as required by law or in the case of educational enrollment data, school districts shall not report to NYSED student data regarding juvenile delinquency records, criminal records, medical and health records or student biometric information.
- (D) Parents may access the NYSED Student Data Elements List, a complete list of all student data elements collected by NYSED, at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>, or may obtain a copy of this list by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234; and
- (E) Parents have the right to file complaints with an educational agency about possible breaches of student data by that educational agency's third party contractors or their employees, officers, or assignees, or with NYSED. Complaints to NYSED should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany NY 12234, email to CPO@mail.nysed.gov. The complaint process is under development and will be established through regulations to be proposed by NYSED's Chief Privacy Officer, who has not yet been appointed.
- Specifically, the Commissioner of Education, after consultation with the Chief Privacy Officer, will promulgate regulations establishing procedures for the submission of complaints from parents, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal APPR data by a third party contractor or its officers, employees or assignees.
 - When appointed, the Chief Privacy Officer of NYSED will also provide a procedure within NYSED whereby parents, students, teachers, superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

5. Must additional elements be included in the Parents' Bill of Rights.?



INDEPENDENT RECEIVER APPLICATION

Yes. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents' Bill of Rights each contract an educational agency enters into with a third party contractor shall include the following supplemental information:

- (A) the exclusive purposes for which the student data, or teacher or principal data, will be used;
- (B) how the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
- (C) when the agreement with the third party contractor expires and what happens to the student data or teacher or principal data upon expiration of the agreement;
- (D) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and
- (E) where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.
 - a. In addition, the Chief Privacy Officer, with input from parents and other education and expert stakeholders, is required to develop additional elements of the Parents' Bill of Rights to be prescribed in Regulations of the Commissioner.

6. What protections are required to be in place if an educational agency contracts with a third party contractor to provide services, and the contract requires the disclosure of PII to the third party contractor?

Education Law §2-d provides very specific protections for contracts with “third party contractors”, defined as any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency. The term “third party contractor” also includes an educational partnership organization that receives student and/or teacher or principal APPR data from a school district to carry out its responsibilities pursuant to Education Law §211-e, and a not-for-profit corporation or other non-profit organization, which are not themselves covered by the definition of an “educational agency.”

Services of a third party contractor covered under Education Law §2-d include, but not limited to, data management or storage services, conducting studies for or on behalf of the educational agency, or audit or evaluation of publicly funded programs.



INDEPENDENT RECEIVER APPLICATION

When an educational agency enters into a contract with a third party contractor, under which the third party contractor will receive student data, the contract or agreement must include a data security and privacy plan that outlines how all state, federal, and local data security and privacy contract requirements will be implemented over the life of the contract, consistent with the educational agency's policy on data security and privacy. However, the standards for an educational agency's policy on data security and privacy must be prescribed in Regulations of the Commissioner that have not yet been promulgated. A signed copy of the Parents' Bill of Rights must be included, as well as a requirement that any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access.

Each third party contractor that enters into a contract or other written agreement with an educational agency under which the third party contractor will receive student data or teacher or principal data shall:

- limit internal access to education records to those individuals that are determined to have legitimate educational interests
- not use the education records for any other purposes than those explicitly authorized in its contract;
- except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any PII to any other party (i) without the prior written consent of the parent or eligible student; or (ii) unless required by statute or court order and the party provides a notice of the disclosure to NYSED, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
- maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII in its custody; and
- use encryption technology to protect data while in motion or in its custody from unauthorized disclosure.

7. What steps can and must be taken in the event of a breach of confidentiality or security?

Upon receipt of a complaint or other information indicating that a third party contractor may have improperly disclosed student data, or teacher or principal APPR data, NYSED's Chief Privacy Officer is authorized to investigate, visit, examine and inspect the third party contractor's facilities and records and obtain documentation from, or require the testimony of, any party relating to the alleged improper disclosure of student data or teacher or principal APPR data.

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational agency of the breach in the



INDEPENDENT RECEIVER APPLICATION

most expedient way possible and without unreasonable delay; (ii) the educational agency must notify the parent in the most expedient way possible and without unreasonable delay; and (iii) the third party contractor may be subject to certain penalties including, but not limited to, a monetary fine; mandatory training regarding federal and state law governing the confidentiality of student data, or teacher or principal APPR data; and preclusion from accessing any student data, or teacher or principal APPR data, from an educational agency for a fixed period up to five years.

8. Data Security and Privacy Standards

Upon appointment, NYSED's Chief Privacy Officer will be required to develop, with input from experts, standards for educational agency data security and privacy policies. The Commissioner will then promulgate regulations implementing these data security and privacy standards.

9. No Private Right of Action

Please note that Education Law §2-d explicitly states that it does not create a private right of action against NYSED or any other educational agency, such as a school, school district or BOCES.



INDEPENDENT RECEIVER APPLICATION

ATTACHMENT

Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend a record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a



INDEPENDENT RECEIVER APPLICATION

legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by §99.37 of the regulations, with its annual notification of rights under FERPA.]

[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational



INDEPENDENT RECEIVER APPLICATION

agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)

- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as "directory information" under §99.37. (§99.31(a)(11))



INDEPENDENT RECEIVER APPLICATION

APPENDIX S-1 Attachment To Parents' Bill Of Rights For Contracts Involving Disclosure of Certain Personally Identifiable Information

Education Law §2-d, added by Ch. 56 of the Laws of 2014, requires that a Parents' Bill of Rights be attached to every contract with a third-party contractor (as defined in the law) which involves the disclosure of personally identifiable information (PII) derived from student education records ("Student Data"), or certain teacher/principal information regarding annual professional performance evaluations that is confidential pursuant to Education Law §30212-c ("APPR Data"). Each such Contract must include this completed Attachment to provide specific information about the use of such data by the Contractor.

1. Specify whether this Contract involves disclosure to the Contractor of Student Data, APPR Data, or both. *NYSED program office checks applicable box(es).*

Disclosure of Student Data

Disclosure of APPR Data

2. Describe the exclusive purposes for which the Student Data or APPR Data will be used in the performance of this contract.

NYSED program office provides brief description (approximately 2-3 sentences) of the deliverables/services to be provided under the contract that require the use of data.

3. Identify any subcontractors or other persons/entities with whom the Contractor will share the Student Data or APPR in the performance of this Contract, and describe how the Contractor will ensure that such persons/entities will abide by the data protection and security requirements of the Contract.

Subcontractors or other entities with whom the Contractor will share data:

Contractor will specifically list in this section any/all subcontractors that will/may receive data.

In the event the Contractor engages a Subcontractor or otherwise shares Student Data or APPR Data with any other entity, Contractor acknowledges and agrees that before any such data is shared with a Contractor or another entity, such party must agree in writing to be bound by the confidentiality and data protection provisions set forth in this Contract including, but not limited to, the "Data Security and Privacy Plan" set forth in Appendix R. Upon termination of the agreement between the Contractor and



INDEPENDENT RECEIVER APPLICATION

a Subcontractor or other entity, Contractor acknowledges and agrees that it is responsible for ensuring that all Student Data or APPR Data shared by the Contractor must be returned to Contractor or otherwise destroyed as provided in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

4. Specify the expiration date of the Contract, and explain what will happen to the Student Data or APPR Data in the Contractor’s possession, or the possession of any person/entity described in response to Paragraph 3, upon the expiration or earlier termination of the Contract.

Contract expiration date: ***Date entered by NYSED program office when RFP completed*** _____

NYSED program office checks applicable box.

- Contractor agrees to return the Student Data or APPR Data to NYSED consistent with the protocols set forth in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.
- Contractor agree to securely destroy the Student Data or APPR Data consistent with the protocols set forth in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

5. State whether the Contractor will be collecting any data from or pertaining to students derived from the student’s education record, or pertaining to teachers or principals’ annual professional performance evaluation pursuant to the Contract, and explain if and how a parent, student, eligible student (a student eighteen years or older), teacher or principal may challenge the accuracy of the Student Data or APPR data that is collected. ***NYSED program office checks applicable box(es).***

- Student Data
- APPR Data

Any challenges to the accuracy of any of the Student Data or APPR Data shared pursuant to this Contract should be addressed to the school, educational agency or entity which produced, generated or otherwise created such data.

6. Describe where the Student Data or APPR Data will be stored (in a manner that does not jeopardize data security), and the security protections taken to ensure that the data will be protected, including whether such data will be encrypted.

Contractor will detail in this section where data will be stored, what security measures will be in place, and whether electronic data is encrypted in motion and/or at rest.