STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

<u>MEMORANDUM</u>

DATE: November 10, 2022

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Kyle L. Guerrant, Deputy Superintendent *KG*
Division of Finance and Operations

SUBJECT: Federal Obligations for Local School Districts Under FERPA and PPRA

The Michigan Department of Education (MDE) is forwarding the information below to local school districts, both traditional public school districts and public school academies, for awareness of federal requirements regarding the Family Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA).

The Student Privacy Policy Office (SPPO) at the U.S. Department of Education (USED) provides annual notification to local educational agencies (LEAs) regarding the educational agencies' obligations under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and the Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98). The annual notification, which is required by 20 U.S.C. § 1232h(c)(5)(C), has not substantively changed since it was last issued. The notification may be accessed via the USED website at https://studentprivacy.ed.gov/annual-notices.

FERPA and PPRA

FERPA is a federal law that protects the privacy rights of parents and students in education records maintained by educational agencies and institutions or by persons acting for such agencies or institutions. PPRA affords parents and students with rights concerning certain LEA marketing activities, the administration or distribution of certain surveys to students, the administration of certain physical examinations or screenings to students, and parental access to certain instructional materials. Resources on FERPA and PPRA, including SPPO's online FERPA training modules, technical assistance request process, and USED's complaint process, can be accessed on the USED website at https://studentprivacy.ed.gov/. USED also recommends that districts sign up for its periodic student privacy newsletter by visiting https://studentprivacy.ed.gov/subscribe-student-privacy-newsletter.

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In Michigan, for example, FERPA is upheld by the data-sharing agreement required when authorizing the use of the Michigan Integrated Continuous Improvement Process (MICIP). No student-identified data is permitted in the MICIP platform.

SPPO Resources
In addition to SPPO's general resources, USED wants to highlight the following specific resources that may be helpful.

Resources on FERPA, COVID-19, and virtual learning:

- *FERPA and Virtual Learning During COVID-19*; *FERPA and the Coronavirus Disease 2019 (COVID-19) FAQs*; and *May Schools Disclose Information about Cases of COVID-19?* – provide information on the applicability of FERPA to COVID-19 related disclosures.
  https://studentprivacy.ed.gov/covid-19

General guidance for parents on FERPA and PPRA:

- *FERPA and Virtual Learning Related Resources* – identifies resources that may be helpful in supporting virtual learning.
  https://studentprivacy.ed.gov/resources/ferpa-and-virtual-learning

- *Protection of Pupil Rights Amendment (PPRA) General Guidance* – provides plain-language guidance on PPRA for parents and students.
  https://studentprivacy.ed.gov/resources/protection-pupil-rights-amendment-ppra-general-guidance

- *A Parent's Guide to FERPA* – provides plain-language guidance on FERPA for parents and eligible students.
  https://studentprivacy.ed.gov/resources/ferpa-general-guidance-parents

- Videos: *FERPA's Complaint Process Explained* and *What Happens When I File A Complaint?* – provide a succinct overview of the SPPO complaint process.
  https://studentprivacy.ed.gov/file-a-complaint

- Video: *What is the Protection of Pupil Rights Amendment or PPRA?* – provides a succinct description of PPRA.
  https://studentprivacy.ed.gov/training/what-protection-pupil-rights-amendment

Transparency Best Practices
Although not specifically required by FERPA, USED encourages local school districts to post on their websites their FERPA and PPRA notifications and policies to improve the transparency of information on student privacy. As local districts continue to leverage digital technology in classrooms, whether students are learning in person or remotely, USED encourages as much transparency as possible with the school community about the use of such technology, the information shared with online service providers, and the providers' responsibilities regarding the information that providers receive about students. For more information about transparency best

practices, please refer to USED's LEA website privacy review, which may be accessed at https://studentprivacy.ed.gov/lea-website-privacy-review.

Data Security Best Practices
Finally, USED recognizes the growing number of local districts affected by data breaches, cyber incidents, and ransomware attacks. If a local school district is affected by such incidents, USED strongly encourages districts to work with the relevant law enforcement and regulatory entities to respond in an appropriate and timely manner. In addition, USED encourages districts to take advantage of the resources and best practices available on its website:

- *Data Breach Response Training Kits* – provides customizable exercises designed around a series of scenarios to use for in-house trainings and data breach response exercises. https://studentprivacy.ed.gov/resources/data-breach-response-training-kit
- *A Parent's Guide for Understanding K-12 School Data Breaches* – provides parents of K-12 students information to help understand what a data breach means and provides tools and best practices to help navigate the sometimes confusing process of protecting children's data in the event of a breach. https://studentprivacy.ed.gov/resources/parent%E2%80%99s-guide-understanding-k-12-school-data-breaches

USED offers its assistance to local school districts with questions about FERPA, PPRA, and student privacy. Districts may contact USED by submitting questions to its student privacy help desk at FERPA@ed.gov.

cc: Michigan Education Alliance
     Confederation of Michigan Tribal Education Departments