

## Data Request Form

What type of data are you requesting? Include dates and other relevant parameters to help specify your request. *Please be as specific as possible when making your request.*

This request is for data from the '12-'13 school year.

1. Demographic enrollment data by supervisory union or district
  - o Demographic data needed:
    - Race/ethnicity
    - Free or reduced price lunch
    - Disability
      - IEP (including those with both IEP and 504)
      - 504 only
2. CIRS data of in school suspension, out of school suspension, expulsions (long term suspensions) by supervisory union or district
  - o Demographic data by reason for ISS, OSS, or expulsion
    - Demographic data needed:
      - Race/ethnicity
      - Free or reduced price lunch
      - Disability
        - o IEP (including those with both IEP and 504)
        - o 504 only
    - Reasons for ISS, OSS, or expulsion
      - Disorderly conduct
      - School conduct/ policy violation
      - Threat/ intimidation
      - Bullying
      - Fighting
3. Demographics of dropout and graduation rates by supervisory union or district
  - o Demographic data needed:
    - Race/ethnicity
    - Free or reduced price lunch
    - Disability
      - IEP (including those with both IEP and 504)
      - 504 only
4. Education data for students in DCF custody by supervisory union or district
  - o Dropout and graduation rates
  - o Educational Achievement

**Comment [TL1]:** As a preliminary principle, for context, AOE has to be exceedingly careful to comply with FERPA, and that compliance can be an intricate and resource-intensive undertaking. As illustrative background, please see the following resources from the Privacy Technical Assistance Center ("PTAC") within the U.S. Dept. of Ed.: [http://ptac.ed.gov/sites/default/files/FAQs\\_disclosure\\_avoidance.pdf](http://ptac.ed.gov/sites/default/files/FAQs_disclosure_avoidance.pdf) [http://ptac.ed.gov/sites/default/files/data\\_deidentification\\_terms.pdf](http://ptac.ed.gov/sites/default/files/data_deidentification_terms.pdf) ... [1]

**Comment [TL2]:** Nearly all of the information sought in this request is not available (or, due to legal confidentiality obligations, not disclosable) in the form requested, and substantial effort is required to gather, analyze, and/or de-identify data before release. Items with text in repr ... [2]

**Comment [TL3]:** There is no obligation to create a record of a type or in a form that an agency does not yet have. *Welch v. Seery*, 138 Vt. 126, 129, 411 A.2d 1351, 1353 (1980); much of this information, to the extent that AOE has it, is confidential under FERPA and 1 V.S.A. § 317(c)(1), (2) & (11). Edu ... [3]

**Comment [TL4]:** Mike Bailey, the AOE custodian of the data that may contain aspects of what is requested, and who is the person who would need to extract, compile, and/or analyze materials to produce responses to the extent, as indicated herein, that AOE is able to provide responses ... [4]

**Comment [TL5]:** See prior comment; any responses, if feasible, will only be by SU, and further comments and information will all be based on that assumption of SU-level data.

**Comment [TL6]:** Due to the very small numbers, some data may need to be suppressed even at the SU level in some instances. Analyzing when that needs to be done, and then performing it, is time and resource intensive.

**Comment [TL7]:** Free and reduced lunch related information is subject to its own very strict confidentiality requirements under the USDA, beyond FERPA; there are even criminal penalties see, e.g. 42 U.S.C. § 1758(b)(6). Accordingly, data re: FRL will not be furnished.

**Comment [TL8]:** This second sub-set of "2" is feasible if it is being requested on a stand-alone basis, and not as information correlated to the first sub-set of 2; if it were the latter, it is infeasible.

**Comment [TL9]:** AOE needs to clarify "graduation rate", however, as we have 4, 5 and 6 year cohorts. In the Annual Performance Report (APR) submitted to OSEP each year, and reported at the SU level via AOE website, we report the highest result for each SU. Our focus area for the Sta ... [5]

**Comment [TL10]:** The information in this first sub-set of "4" would be extremely difficult and resource-intensive to develop or provide (and is not compiled as existing records)(see, e.g. *Welch v. Seery*, 138 Vt. 126, 129, 411 A.2d 1351, 1353 (1980) (Public Records Act does not require custodia ... [6]

- Disability
  - IEP
  - 504 only
- CIRS data and other data of law enforcement referrals by supervisory union or district
  - Demographic data needed:
    - Race/ethnicity
    - Free or reduced price lunch
    - Disability
      - IEP (including those with both IEP and 504)
      - 504 only

**Comment [TL11]:** The information in this second sub-set of "4" is not available.

**Page 1: [1] Comment [TL1]**

**Trevor Lewis**

**7/7/2014 9:06:00 AM**

As a preliminary principle, for context, AOE has to be exceedingly careful to comply with FERPA, and that compliance can be an intricate and resource-intensive undertaking. As illustrative background, please see the following resources from the Privacy Technical Assistance Center ("PTAC") within the US. Dept. of Ed.:

[http://ptac.ed.gov/sites/default/files/FAQs\\_disclosure\\_avoidance.pdf](http://ptac.ed.gov/sites/default/files/FAQs_disclosure_avoidance.pdf)

[http://ptac.ed.gov/sites/default/files/data\\_deidentification\\_terms.pdf](http://ptac.ed.gov/sites/default/files/data_deidentification_terms.pdf)

These requirements mean that, particularly with Vermont's especially small sizes of towns, schools, grades, classes, and special needs and ethnic populations, AOE is unable to provide the fort of data requested at a District level. 1 V.S.A. § 317(c)(1),(2)&(11)

**Page 1: [2] Comment [TL2]**

**Trevor Lewis**

**7/3/2014 3:00:00 PM**

Nearly all of the information sought in this request is not available (or, due to legal confidentiality obligations, not disclosable) in the form requested, and substantial effort is required to gather, analyze, and/ or de-identify data before release. Items with text in green represent instances in which AOE personnel may be able to do this, subject to not interfering with core Agency missions, if, when, and as time and personnel may be available. Items with text in red represent instances in which information is not available in the form requested, confidentiality requirements do not permit release of the requested data, and/ or where the process of gathering and processing that data requires resources that would unduly divert resources from core Agency functions.

**Page 1: [3] Comment [TL3]**

**Trevor Lewis**

**7/7/2014 9:12:00 AM**

There is no obligation to create a record of a type or in a form that an agency does not yet have. *Welch v. Seery*, 138 Vt. 126, 129, 411 A.2d 1351, 1353 (1980); much of this information, to the extent that AOE has it, is confidential under FERPA and 1 V.S.A. § 317(c)(1),(2)&(11). Educational authorities are under no mandatory obligation to manipulate and modify records to prevent a violation of privacy requirements. *Sargent School District No. RE-33J v. Western Services, Inc.*, 751 P.2d 56, 60-61 (Colo. 1988). Even more broadly, a variety of courts have recognized that "custodians of computerized public records need not manipulate that data in order to create a new record upon request of a member of the public" or create a "sanitized" version of detailed private and exempt data. See *Office of the Court Administrator v. Background Information Services*, 994 P.2d 420, 431 (1999) and cases cited therein.

**Page 1: [4] Comment [TL4]**

**Trevor Lewis**

**7/7/2014 9:18:00 AM**

Mike Bailey, the AOE custodian of the data that may contain aspects of what is requested, and who is the person who would need to extract, compile, and/ or analyze materials to produce responses to the extent, as indicated herein, that AOE is able to provide responses, is scheduled to be out of the office from approximately July 11 through August 4, and, upon return, is scheduled for a series of intensive obligations with federal officials. Any time that he may be able to take to extract, compile, and/ or analyze materials, will be secondary to those existing obligations and his primary work duties.

**Page 1: [5] Comment [TL9]**

**Trevor Lewis**

**7/7/2014 8:52:00 AM**

AOE needs to clarify "graduation rate", however, as we have 4, 5 and 6 year cohorts. In the Annual Performance Report (APR) submitted to OSEP each year, and reported at the SU level via AoE website, we report the highest result for each SU. Our focus area for the State Substantive Improvement Report (SSIP), which is a component of the new APR requirements, is improving the 4 year graduation rate.

**Page 1: [6] Comment [TL10]**

**Trevor Lewis**

**7/7/2014 9:11:00 AM**

The information in this first sub-set of "4" would be extremely difficult and resource-intensive to develop or provide (and is not compiled as existing records)(see, e.g. *Welch v. Seery*, 138 Vt. 126, 129, 411 A.2d 1351, 1353

(1980) (Public Records Act does not require custodian to create record from information held by it)), and thus would unduly divert resources from core Agency functions and therefore is not available.