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# DPO NEWSLETTER

NYSED Privacy Office – Education Law § 2-d is 10 Issue

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## 2023 Annual Report is Posted

The [2023 Annual Report](#) has been posted on the NYSED data privacy and security webpage. The data incident reports have increased from 140 in 2022 to 204 in 2023. As discussed below, the Privacy Office expects another busy year in 2024 since, as of March 15<sup>th</sup>, our Office has already received 191 reports. Similar to what has been done in the past, the report contains anecdotes and data breach examples that occurred across New York's educational

## Phishers, accessible data, and an avalanche of breach reports... Oh My!

While folklore attributes the month of March to roaring in like a lion and going out like a lamb, for data incidents, 2024 has roared in like a lion and so far, the roaring continues. As of March 22nd, the Privacy Office has already received over 95% of the number of reports that we received in all of 2023. That is a jaw dropping statistic! Although most reports are attributed to two third-party contractor incidents, the number of reports outside of those two incidents is still outpacing last year's results.

We cannot predict the future, but we know that breaches in the form of erroneous and accidental disclosures will continue to occur. To make the reporting of erroneous and accidental disclosures easier, and to also limit the data collected by the Privacy Office, we are providing a new form for educational agencies to report these types of disclosures.

**Beginning April 1, 2024**, the "Educational Agencies Report of Erroneous or Accidental Accessibility or Disclosure" form will be available at <https://forms.office.com/r/v8fRwtde8e>, and will be processed in the same manner as the current Data Incident Reporting Form. There are many benefits to using this revised form:

- Responses are securely stored by NYSED.
- The form is shorter, more appropriate for erroneous and accidental disclosures and easier to use.
- Educational agencies will be able to save a copy of their submitted response.
- After filing with our Office, educational agencies will receive an email documenting the report.

What qualifies as an erroneous or accidental disclosure are disclosures that are made by mistake. Examples when an educational agency should use this new form are when an email containing student data or APPR data is sent to someone who does not have a legitimate educational interest or need to know the student data, or when there are improper permissions configurations on files or folders allowing inappropriate access to student data or APPR data.

Other examples of what is considered an erroneous or accidental disclosure:

- An email with student transcripts for the senior class at School A is sent to a group of teachers at School B. The email was intended only for a group of teachers with a legitimate educational interest at School A.
- An email containing student data for multiple students is sent to teachers and a parent. The parent did not need to know the