

Data Privacy – 00

Agency: 350 Office of Superintendent of Public Instruction
Budget Period: 2015-17

Recommendation Summary Text (Short Description):

To address increased focus on data privacy nationally and within the state, the increasing complexity of records management, and records retention, the Agency will centralize management of data privacy and records management policies and procedures by hiring a Privacy and Records Officer (PRO) and a Forms and Records Analyst 2. Regular privacy risk assessments and policy compliance audits results will be used to measure progress towards Agency goals. This request includes the creation and funding of 2.0 FTE, a Privacy and Records Officer and a Records Retention Specialist. The cost for these positions will be \$442,000 for the 2015-17 biennium.

Fiscal Detail

Operating Expenditures		FY 2016	FY 2017	Total
General Fund	001-01	\$226,000	\$216,000	\$442,000
Total Cost				

Staffing	FY 2016	FY 2017	Annual Avg.
Total FTEs Requested	2.0	2.0	2.0

Package Description (Includes the following sections)

Background

Ensuring the privacy of student information is one of OSPI's highest priorities. Over the last decade, however, maintaining the privacy and security has become more complex as federal and state policymakers have directed OSPI and other education agencies to collect an ever-increasing amount of student, educator, and financial information. The 2001 No Child Left Behind Act, for example, required states to collect student achievement and school safety data for the purpose of federal accountability. Likewise, in 2010, HB 2261 created a comprehensive K-12 data improvement system to enable the Legislature to make data-driven decisions regarding educational programs necessary to provide an ample program of basic education. OSPI accordingly collects many data sets to perform national and state level reporting, manage and evaluate educational programs, certify educators, and finance schools. And, to improve K-12 education programs and support Washington's school assessment system, OSPI shares this data with research partners, contractors, and other state agencies.

In performing this mission, OSPI complies with state and federal privacy laws, including the Family Educational Rights and Privacy Act (FERPA), and with the security requirements imposed by Washington's Office of the Chief Information Officer. But ensuring the ongoing security of sensitive student information can be challenging. New technologies, such as cloud computing and social media, are changing the way we think about storing and managing records. External security threats are growing more and more sophisticated. And, currently, OSPI's responsibilities and processes for managing

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records, ensuring privacy, and improving data quality are spread across the Agency, with multiple points of contact working to answer technical questions and questions regarding the privacy of student, educator, and other data.

Given the increasing demand for high quality education data and the related concerns regarding the security of that data, federal, state, and local education agencies across the country are increasingly centralizing their student privacy enforcement and records management resources. The U.S. Department of Education, public higher education institutions (including the University of Washington), and at least one state education agency (Colorado's) have created chief privacy or chief information security officers. The U.S. Department of Education's Privacy Technical Assistance Center recommends that each state education agency employ a privacy officer.

Current Situation

Records retention and public records request personnel work in different areas within the Agency. Each division has different levels of responsibility, which they address individually, leaving privacy and security expertise and control distributed across the Agency. Moreover, security practices can differ across OSPI. OSPI's teacher certification program, for example, uses a strict industry standard to manage debit/credit payment records. Student-level data, on the other hand, is disclosed to contractors and researchers under the terms of data sharing agreements. Other data sharing agreements regarding teacher data and other information are managed by different employees throughout the Agency. Although OSPI's records management processes and data security standards are effective, the absence of a single staff person to manage all privacy and security concerns in the Agency makes it difficult to coordinate policies and procedures regarding records and document management, perform thorough assessments of the Agencies' practices, and respond to privacy policy questions from legislators, privacy advocates, and researchers. There are also very few records management and public records training opportunities within the Agency.

With the further implementation of HB 2261, we expect policymakers to demand even more information from schools regarding the effectiveness of our K-12 system. This will put greater pressure on OSPI to ensure the security of the Agency's records.

Proposed Solution

OSPI would hire a Privacy and Records Officer and a Forms and Records Analyst 2. The PRO would be responsible for supervising public records request and records retention staff, and would develop agency-wide data privacy standards, policies, and procedures, privacy risk assessments, data security policy and procedures, periodic data security auditing (both internal and external), and data access control policies. Data privacy and data security policies and practices will be collaboratively managed with student, educator, fingerprint, HR, and other data owners. Centralized and

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dedicated staff for the oversight of all Agency records will allow OSPI to increase support, consistency, assessment activities, and auditing efforts across the full spectrum of records and document management, public records requests, data privacy, and data security.

The Forms and Records Analyst 2 will work with internal staff to support compliant and best practice usage of records and document management and retention tools, perform regular maintenance on OSPI's records retention schedule, act as primary liaison with the state archives, offer records and document management training to OSPI staff, and perform regular compliance audits. Increasing our records and document management capabilities will result in more consistent storage and retention of data, records and documents throughout the Agency, making it easier to locate and secure records and to support public records requests.

OSPI's Public Records Request program will benefit from this organizational restructuring of records and document management resources. Having more consistently applied storage and retention practices will reduce the amount of time needed to produce the information being requested by the public and provide better safeguards to help ensure student record privacy is maintained. This will free up time for our public records employees to provide training to OSPI staff and to research and implement public records and eDiscovery best practices and tools.

Contact person

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Narrative Justification and Impact Statement (Includes the following section)

What specific performance outcomes does the agency expect?

OSPI expects several areas of improved performance.

- 1) Improved data privacy and data security governance and support.
- 2) Consistent use of records and document management techniques and best practices.
- 3) Use of records and document management methodologies and technologies that better align with records retention and public records policies.
- 4) Employees that are better trained in the areas of records and document management, records retention, and public records, data privacy, and data security.
- 5) Increased OSPI representation in privacy policy activities, including federal and state legislative language, regulations, and other non-regulatory guidance.

Performance Measure Detail

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The Agency will measure data privacy risk and perform data security policy compliance audits of all internal divisions. The PRO will collaborate with student, educator, fingerprint, HR, and other data owners to set data privacy and data security policies, a risk assessment and policy compliance framework, and compliance measurement processes. OSPI expects that all divisions will attain at least “acceptable” status on the 2016 and 2017 data privacy risk assessments and data security policy compliance audits. OSPI will perform periodic compliance audits of data sharing agreements. Other measurements will include decreased response time to respond to public records requests, increased review of the records retention schedule, and heavier usage of state archives and other records and document management resources.

Is this decision package essential to implement a strategy identified in the agency’s strategic plan?

In a maturing world of information usage, with ever-growing datasets and changing technical capabilities and concerns, this package is essential to OSPI’s continuing to efficiently and effectively ensure data privacy, data security, and information accessibility. The Agency will continue to gather and use more information in the form of records and data to create the reports and research necessary to gauge the progress towards agency, state, and federal education goals. Data privacy and data security are always of the highest priority when gathering and using information collected at the Agency level.

Reason for change:

Does this decision package provide essential support to one of the Governor’s priorities?

Results Washington Goal One is to create a world-class education. OSPI is the governmental agency responsible for providing the research and reports required to measure the state’s progress toward the K12 portion of this goal. The act of providing this information requires the collection of records and data, which must be stored and used in a way that provides the highest levels of security to ensure the privacy of the students and education staff in the State of Washington.

Does this decision package provide essential support to one or more of the Governor’s Results Washington priorities? If so, describe.

This decision package does support the Governor’s Results Washington priority number one, as described above.

What are the other important connections or impacts related to this proposal?

The Agency is bound by FERPA, which is complex in both its interpretation and implementation. Washington’s Office of the CIO also places security and privacy regulations for all state agencies.

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Impact on Other State Programs

What alternatives were explored by the agency, and why was this alternative chosen?

An alternative to this decision package is to resolve records and document management, privacy, security policies and procedures issues through the Data Leadership Committee. However, the ability to assess privacy risk and perform compliance audits would be not possible in this scenario. Without this package, OSPI would not have the staffing resources available to gauge the Agency's progress and compliance in the areas of records and document management and security. There will also be no centralized OSPI representation for federal and state privacy policy activities.

What are the consequences of not funding this package?

If this package is not funded, existing records and document management, privacy, and security roles and responsibilities controls will remain distributed throughout the Agency. These functions are currently handled through controls in the Student Information, IT, Data Governance programs, and existing records management and public records request employees. OSPI's ability to mature its policies and practices in these areas will be slow without an employee to focus on and coordinate these efforts.

What is the relationship, if any, to the state's capital budget?

There is no relationship to the state's capital budget.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

No existing statutes, rules, or contracts will need to change to implement this change.

Expenditure and revenue calculations and assumptions:

Revenue Calculations and Assumptions:

Expenditure Calculations and Assumptions:

Privacy and Records Officer – 1 FTE @ WMS 3

- Annual salary: \$90,000
- Annual benefits: \$38,656
- **Annual Total: \$128,656**

Forms and Records Analyst 2 - 1 FTE @ Forms and Records Analyst 2

- Annual salary: \$43,572
- Annual benefits: \$24,868
- **Annual Total: \$68,440**

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Object Detail

		FY 2016	FY 2017	Total
A	Salary and Wages	\$133,572	\$133,572	\$267,144
B	Employee Benefits	\$63,524	\$63,524	\$127,048
C	Contracts	\$0	\$0	\$0
E	Goods/Services	\$11,676	\$11,676	\$23,352
G	Travel	\$7,228	\$7,228	\$14,456
J	Equipment	\$10,000	\$0	\$10,000
N	Grants	\$0	\$0	\$0
	Interagency Reimbursement	\$0	\$0	\$0
	Other	\$0	\$0	\$0
Total Objects		\$226,000	\$216,000	\$442,000

Expenditures & FTEs by Program

Activity Inventory Item		Staffing			Operating Expenditures		
		FY 2016	FY 2017	Avg	FY 2016	FY 2017	Total
A002 Administration	010	2	2	2	\$226,000	\$216,000	\$442,000
Total Activities		2	2	2	\$226,000	\$216,000	\$442,000

Six-Year Expenditure Estimates

Fund	15-17 Total	17-19 Total	17-19 Total
General Fund 001-1	\$442,000	\$432,000	\$432,000
Expenditure Total	\$442,000	\$432,000	\$432,000
FTE's	2	2	2

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

All costs are ongoing FTE expenditures, except for \$10,000 in one time equipment costs.