FORM 3 (AGENCY REPORT)
(Due on or before July 31, 2022)

Agency:	Board of Education Retirement System of the City of New York		
Agency Privacy Officer:	Alexander Kazazis		
Email:	akazazis@bers.nyc.gov	**Telephone:**	(929) 305-3785
Date of Report:	07/25/2022		

1. Specify the type of identifying information collected or disclosed (check all that apply):

☒Name
☒Social security number (full or last 4 digits)*****
☒Taxpayer ID number (full or last 4 digits)*

Work-Related Information
☒Employer information
☒Employment address

Biometric Information
☐Fingerprints
☒Photographs
☐Palm and handprints*
☐Retina and iris patterns*
☐Facial geometry*
☐Gait or movement patterns*
☐Voiceprints*
☐DNA sequences*

Government Program Information
☐Any scheduled appointments with any employee, contractor, or subcontractor
☐Any scheduled court appearances
☐Eligibility for or receipt of public assistance or City services
☒Income tax information
☐Motor vehicle information

Contact Information
☒Current and/or previous home addresses
☒Email address
☒Phone number

Demographic Information
☒Country of origin
☒Date of birth*****
☒Gender identity
☒Languages spoken
☒Marital or partnership status
☒Nationality
☒Race
☒Religion
☒Sexual orientation

Law Enforcement Information
☒Arrest record or criminal conviction
☐ Date and/or time of release from custody of ACS, DOC, or NYPD
☐Information obtained from any surveillance system operated by, for the benefit of, or at the direction of the NYPD

Status Information
☒Citizenship or immigration status
☒Employment status
☒Status as victim of domestic violence or sexual assault
☒Status as crime victim or witness

Technology-Related Information
☒Device identifier including media access control MAC address or Internet mobile equipment identity (IMEI)*****
☐GPS-based location obtained or derived from a device that can be used to track or locate an individual*****
☒Internet protocol (IP) address*****
☐Social media account information

Other Types of Identifying Information (list below):

Other: Medical records, banking information, various legal documents.

*Type of identifying information designated by the CPO (see CPO Policies & Protocols § 3.1.1).

2. Explain why the collection and retention of identifying information described in Question 1 furthers the purpose or mission of your agency.

Identifying Information Law

Information may also be shared with other City agencies as required for their own City business purposes, pursuant to data-sharing agreements.

Finally, information may also be released as otherwise required by law, determined on a case by case basis by the Agency Privacy Officer.

3. **Describe the following types of collections and disclosures: (1) pre-approved as routine, (2) pre-approved as routine by the APOs of two or more agencies, or (3) approved by the APO on a case-by-case basis. Appendix B of the Agency Guidance on the 2022 Biennial Compliance Process includes examples of routine and non-routine collections and disclosures.**

Add additional rows as needed.

Describe the Collection or Disclosure	Classification Type
BERS HR Department collects, discloses, and retains various personnel-related information and records in the performance of core administrative and human resource functions.	☒Pre-approved as routine ☒Approve as routine by two or more agencies ☐Approved by APO on a case-by-case basis
BERS collects, discloses, and retains pension related information as set forth in this report.	☒Pre-approved as routine ☒Approve as routine by two or more agencies ☐Approved by APO on a case-by-case basis
Extraordinary requests for information (e.g., under subpoena or Freedom of Information Law) are reviewed by the Agency Privacy Officer on a case-by-case basis. Example: BERS receives requests a Freedom of Information Law (FOIL) request from two different entities on an annual basis: the Empire Center, and American Transparency. These requests differ in terms of timing, but the content is substantially the same: for each BERS retiree, they request the first name, last name, last employer, and gross benefit for the preceding year.	☐Pre-approved as routine ☐Approve as routine by two or more agencies ☒Approved by APO on a case-by-case basis
BERS may share information with other City agencies as required for their own City business purposes, pursuant to data-sharing agreements. Example: Pursuant to a data-sharing agreement, the results of the Empire FOIL request are also shared with the Department of Social Services (DSS). Per the agreement, DSS uses the data provided by BERS solely for the purposes of fraud prevention and financial asset verification in determination for public benefits eligibility.	☐Pre-approved as routine ☐Approve as routine by two or more agencies ☒Approved by APO on a case-by-case basis

4. **If applicable, describe the types of collections and disclosures of identifying information involving your agency that have been approved by the Chief Privacy Officer as being in the best interests of the City.**

Add additional rows as needed.

Describe Type of Collection or Disclosure
N/A

5.	Describe the agency's current policies regarding requests for disclosures from other City agencies, local public authorities or local public benefit corporations, and third parties. Be as specific as possible.

NOTE: For questions 5 – 11, refer as necessary to the Model Citywide Protocol for Handling Third Party Requests for Information Held by City Agencies (on file with the Office of Information Privacy) and the Identifying Information Rider.

a. Routine circumstances.

As a retirement system, BERS requires certain identifying information in order to execute its statutory mission. This includes the collection of member contributions, the tracking of all creditable service, the disbursement and recoupment of loans, and the calculation of pensions, refunds and death benefits.

b. Exigent circumstances.

In case of emergency, including an urgent request by law enforcement, collection or request and disclosure is possible, but must be reported immediately to the Agency Privacy Officer.

c. Exceptional circumstances with written approval by BERS Privacy Officer.

The BERS Privacy Officer may issue written approval for the collection and/or disclosure of identifying information upon a finding that the collection or disclosure either furthers the purpose or mission of the agency, or is required by law or treaty.

All requests for non-routine disclosure of identifying information must be referred to the Privacy Officer. Any questions regarding the BERS Protection of Identifying Information Policy should also be directed to the Privacy Officer.

6.	Do the above policies address access to or use of identifying information by employees, contractors, and subcontractors?	☒ Yes ☐ No
7.	If YES, do those policies specify that access to identifying information must be necessary to perform their duties?	☒ Yes ☐ No

8.	Describe whether the policies are implemented in a manner that minimizes access to the greatest extent possible while furthering the purpose or mission of the agency.	All staff/contractors/subcontractors are instructed in each case to request only the information that is necessary to complete the task at hand. System access rights are designed to be as restrictive as possible while permitting staff/contractors/subcontractors to discharge their duties.

N.Y.C. Admin. Code §§23-1205(a)(1)(c)(1), and (4)

9.	Describe the agency's current policies for handling proposals for disclosures of identifying information to other City agencies, local public authorities or local public benefit corporations, and third parties. Be as specific as possible.

All routine, pre-approved collections, retentions and disclosures are explicitly set forth in a memo from the Agency Privacy Officer to all staff/contractors/subcontractors. Any non-routine requests for disclosure are evaluated by the Agency Privacy Officer on a case by case basis.

N.Y.C. Admin. Code §23-1205(a)(1)(c)(2)

10.	Describe the agency's current policies regarding the classification of disclosures as necessitated by the existence of exigent circumstances or as routine. Be as specific as possible.

Classification of disclosures is determined by the Agency Privacy Officer, in consultation with agency management and/or the NYC Law Department as needed.

Identifying Information Law

11. Describe the agency's current policies regarding which divisions and categories of employees have been approved by the agency privacy officer to disclose identifying information. Be as specific as possible.

Disclosures are performed only as necessary in order to execute the agency's statutory mission or to otherwise comply with applicable law. The divisions and categories of employees permitted to make disclosures are determined by the Agency Privacy Officer, in consultation with agency management and/or the NYC Law Department as needed.

N.Y.C. Admin. Code §23-1205(a)(1)(c)(4)

12. Describe whether the agency has considered or implemented, where applicable, any alternative policies since 2020 that minimize the collection, retention, and disclosure of identifying information to the greatest extent possible while furthering the agency's purpose or mission.

As a retirement system, BERS is required to determine benefit eligibility and calculate benefits for covered employees, based on the entirety of their history of credited service. Accordingly, it is necessary to collect and retain a significant amount of employment-related and demographic data over a considerable length of time. BERS periodically re-evaluates its collection, retention, and disclosure policies to ensure that only the minimum necessary amount of data is collected, retained, and disclosed.

N.Y.C. Admin. Code §23-1205(a)(4)

13. Describe the agency's use of agreements for any use or disclosure of identifying information.

BERS incorporates privacy terms into its contracts with any vendors who, due to the nature of their duties, may have exposure to information collected and retained by BERS. BERS staff/contractors/subcontractors are required to sign a Non-Disclosure Agreement. All users of the BERS network are also subject to the BERS Information Technology Security Policies and Procedures.

Additionally, BERS may share information with other City agencies as required for their own City business purposes, pursuant to data-sharing agreements. When negotiating these agreements, BERS ensures that only the minimum necessary data is shared, and these agreements bind the other City agency to use the shared data only in specified ways and in furtherance of its City mission.

N.Y.C. Admin. Code §23-1205(a)(1)(d)

14. Using the table below, describe the types of entities requesting the disclosure of identifying information or proposals for disclosures of identifying information. For each entity, describe (1) why the agency discloses identifying information to the entity, and (2) why any disclosures further the purpose or mission of the agency.

Add additional rows as needed.

Type of Entity	Description of Reason for Disclosure	Description of how disclosure furthers the agency's purpose or mission
Member	Each member of the retirement system is entitled to information about their own accounts to ensure that they can make appropriate decisions regarding their retirement benefits.	Assisting members to make informed decisions is an element of BERS' mission.
Authorized third parties	Authorized third parties, such as agents in fact or guardians, are legally entitled to information in order to make appropriate decisions on the member's behalf.	Assisting authorized parties to make informed decisions on behalf of members is an element of BERS' mission.
Court or party in litigation	The agency complies with court orders to release information to the extent required by law.	BERS complies with court orders as required by law.
Third party pursuant to Freedom of Information laws	The agency complies with FOIL requests to release information to the extent required by law.	BERS complies with FOIL requests as required by law.
Participating employer	Some data must be shared with the employer to ensure collection of contributions and loan repayments. Furthermore, the employer is entitled to notice when a member has retired.	Collecting contributions and loan repayments is an element of BERS' mission. The employer is entitled to notice when a member has retired.
Other retirement systems/pension funds of New York City or New York State	Following change of employment, a member may transfer their membership rights from BERS to another retirement system, or vice versa. In such cases, information must be exchanged between retirement systems to effect the transfer.	Processing transfers into and out of BERS is an element of BERS' mission.
NYC Department of Education Medical, Leaves and Records Administration	An applicant for disability retirement must be examined by the NYC Department of Education Medical, Leaves and Records Administration. The sharing of medical records is performed only pursuant to a HIPAA release by the member.	Processing disability applications is an element of BERS' mission.
NYC Office of Equal Employment Opportunity	BERS is required by law to submit statistical information to the NYC Office of Equal Employment Opportunity. This data does not contain personally identifying information per se.	BERS reports statistical information as required by law.
NYC Office of the Actuary	BERS is required to submit information to the NYC Office of the Actuary in order to certify pension and death benefits, and to permit the Office of the Actuary to calculate the employer liability for pension obligations.	Processing retirements and death benefits is an element of BERS' mission. Ensuring that the Office of the Actuary has sound actuarial information regarding BERS-related liabilities is an element of BERS' mission.
NYC Office of Payroll Administration/ Financial Information Services Agency	Some data must be shared with OPA/FISA to ensure collection of contributions and loan repayments, and to administer pension and employment benefits.	Collecting contributions and loan repayments, and administering pensions, are elements of BERS' mission. As an employer, BERS also has certain responsibilities related to the administration of employment benefits for its own staff.
NYC Office of the Comptroller	Administration of pensions, refunds, death benefits, and loan disbursements is routed through the NYC Office of the	Disbursement of pensions, refunds, death benefits, and loans is an element of BERS' mission.

	Comptroller.

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15. Describe the impact of the Identifying Information Law and other local, state, or federal laws upon your agency's practices in relation to collecting, retaining, and disclosing identifying information (i.e., if such practices would differ in the absence of these laws).
The Identifying Information Law has led to a careful examination and documentation of BERS' information collection, retention, and disclosure practices. A memorandum has been issued to staff. Reminders to observe the best practices of information hygiene are periodically distributed to all staff.
N.Y.C. Admin. Code §23-1205(a)(2)

16. Describe the impact of the privacy policies and protocols issued by the Chief Privacy Officer, or by the Citywide Privacy Protection Committee, as applicable, upon your agency's practices in relation to collecting, retaining, and disclosing identifying information (i.e., if they have affected such practices).
The Agency Guidance from the Mayor's Office of Information Privacy has allowed BERS to further formalize its existing policies regarding the collection, disclosure, and retention of identifying information.
N.Y.C. Admin. Code §23-1205(a)(3)

APPROVAL SIGNATURE FOR AGENCY REPORT

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ELECTRONIC SIGNATURE OF AGENCY HEAD OR DESIGNEE REQUIRED BELOW			
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SIGNATURE CERTIFICATE

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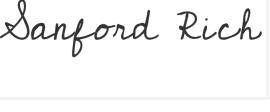
SIGNERS

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Name Sanford R. Rich **Email** srich4@bers.nyc.gov **Components** 2	**Status** signed **Multi-factor Digital Fingerprint Checksum** 12a9dea523fd2c4f704a716d5aefd77aeaf65aa683497dfe40405ba8dcdecf67 **IP Address** 174.192.3.139 **Device** Chrome Mobile via Android **Typed Signature** *Sanford Rich* **Signature Reference ID** 838F7A5F	**Viewed At** 07/25/2022 08:26 EDT **Identity Authenticated At** 07/25/2022 08:27 EDT **Signed At** 07/25/2022 08:27 EDT

AUDITS

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