



Change is in the Air: An Update on Student Privacy

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Presentation Overview

- Review of recent developments
- Legislative activity
- Big data
- FPCO News
- TA update
- Transparency
- Some concluding thoughts



Recent Developments

- The inBloom experience
- November 2014 CLIP report on marketing of student data
- Secretary Duncan February 24 speech
- A lot of media attention to student privacy
- Increasingly difficult to have a fact-based discussion about privacy



A New Concern: Marketing Student Data

- Center for Law and Information Policy
- Common Sense Media
- Senator Markey





“We must provide our schools, teachers and students cutting-edge learning tools. And we must protect our children’s privacy. We can and must accomplish both goals...”

Privacy rules may well be the seatbelts of this generation. I'd like to see vigorous self-policing by the commercial players. Frankly, it's in their interest to do so.”



**U.S. Secretary of Education
Arne Duncan
February 24, 2014**



“Big Data: Seizing Opportunities, Preserving Values”

“The federal government should ensure that data collected in schools is used for educational purposes and continue to support investment and innovation ...it should explore how to modernize the privacy regulatory framework under FERPA and COPPA”

Office of Science and Technology Policy

May, 2014

http://www.whitehouse.gov/sites/default/files/docs/big_data_privacy_report_5.1.14_final_print.pdf



“Big Data and Privacy: A Technological Perspective

“ In some fantasy world, users actually read [privacy] notices, understand their legal implications (consulting their attorneys if necessary), negotiate with other providers of similar services to get better privacy treatment, and only then click to indicate their consent. Reality is different.”

President’s Council of Advisors
On Science and Technology (PCAST)

May, 2014

http://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/pcast_big_data_and_privacy_-_may_2014.pdf



Legislative Update: Congress

- Uninterrupted Scholars Act – 2013
- Should FERPA be amended?
- Markey/Hatch “discussion draft”
- June 25 joint House hearing “How Data Mining Threatens Student Privacy”



Legislative Update: State

- The real action is in the state legislatures
- Latest statistic: 110 actions in 36 states
- The good, the bad, and the ugly:
 - Roles (creating a CPO)
 - Requiring governance structures
 - Forbidding certain data collections
 - Minimizing state holdings of data
 - Forbidding out-of-state transfers
 - Etc.



FPCO News

- Our “EPIC FOIA”
- Posting complaint letters/website
- Interactions with the vendor community
 - Informal meetings
 - Self initiated investigations



TA: Recent

- Online Educational Services
- Best Practices for Data Destruction
- FERPA Exceptions Summary
- FERPA/IDEA Cross-Walk
- Best Practices for Transparency



The Challenge of Online Educational Services

- Schools and districts are increasingly contracting out school functions
- We have new types of data, and much more of it
- Many online services do not utilize the traditional 2-party written contractual business model
- Increasing concern about the commercialization of personal information and behavioral marketing
- We need to use that data effectively and appropriately, and still protect student' privacy



Online Educational Services

This Guidance relates to the subset of education services that are:

- Computer software, mobile applications (apps), or web-based tools;
- Provided by a third-party to a school or district;
- Accessed via the Internet by students and/or parents; AND
- Used as part of a school activity.



The guidance does not cover online services or social media used in a personal capacity, nor does it apply to services used by a school or district that are not accessed by parents or students



Transparency

- New: “Best Practices for Transparency”
- Bottom line: Use your websites effectively
- Be aware of a new trend: parents seeking data from states
- Be aware that FERPA’s “seek to access” provisions apply to SEAs as well as districts.



TA - Forthcoming

On the wish list:

- Teacher training video
- Model Terms of Service
- Volunteer organizations

Delayed:

- Free and Reduced Price Lunch
- Integrated Data Systems
- Juvenile Justice



TA – Other Organizations

- [IKeepSafe](#)
- [COSN](#)
- [COSA](#)
- [DQC](#)
- [Future of Privacy Forum](#)
- Others

Bottom Line: We're not your only source for information about best practices.



Concluding Thoughts

- This isn't going away and you can ruin your best initiatives if you get it wrong
- It's worth the time and money to do privacy right
- Go beyond FERPA compliance and focus on Fair Information Practice Principles
- Transparency, transparency, and more transparency
- Separate fact from fiction



Elements of a High Quality Privacy Program

Selected elements:

- Defined roles and responsibilities (a CPO??)
- Written procedures and documentation
- Basic information on your website
- Training for staff



Questions and Comments

- Baron Rodriguez and Dale King will be in your individual committee meetings
- We need your feedback on the challenges you're facing and how we can help you.