

Guidance to Districts on Providing Internet to Students – April 9, 2020

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FERPA and Virtual Learning

What is FERPA? **New as of April 2, 2020**

The Family Educational Rights and Privacy Act (FERPA) is the federal law that protects the privacy of personally identifiable information (PII) in students' education records. "Education records" are those records that are: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. FERPA provides parents and eligible students (turned 18 or attending college at any age) the right to protect the PII in students' education records. An educational agency or institution may not disclose PII from students' education records, without consent, unless the disclosure meets an exception under FERPA. 20 U.S.C. 1232g; 34 C.F.R. Part 99.

Does FERPA permit a school district to use video conferencing or other virtual learning software applications to hold classes virtually?

Yes. Educational agencies and institutions may disclose, without consent, education records, or PII contained in those records, to the providers of such a service or application under FERPA's "school official" exception. 34 C.F.R. § 99.31(a)(1)(i).

Does FERPA provide specific security standards?

FERPA is a privacy rule and does not include explicit information regarding security standards. Therefore, school districts should work with their information security officers and attorneys to review information security requirements and terms of service.

TEA's recent webinar, "Cybersecurity Tips and Tools- Cybersecurity Challenges with a Remote Workforce," has been uploaded and is available at the link below. The Texas Gateway portal is where all of the webinars and cybersecurity resources have been shared for the educational community:

<https://www.texasgateway.org/resource/cybersecurity-tips-and-tools>

Additional resources concerning cybersecurity:

[K-12 Secure Remote Learning Checklist](#)

[Securing Zoom](#)

[TexasGateway](#) also has a list of questions and considerations for cloud providers.

Can non-students observe a virtual lesson?

FERPA applies to the disclosure of tangible records and of information derived from tangible records. A teacher is prohibited from disclosing information from a child's education records to other students in the classroom unless appropriate written consent has been obtained. Therefore, assuming that during the virtual lesson PII from student education records is not disclosed, FERPA would not prohibit a non-student from observing the virtual lesson.

May a teacher record virtual classes and share the recording with students who are unable to attend?

Yes. FERPA does not prohibit a teacher from making a recording of the lesson available to students enrolled in the class, provided the video recording does not disclose PII from student education records during a virtual classroom lesson or appropriate written consent is obtained if PII from the education record is included.

I am concerned about managing behavior in my Zoom classroom. What can I do?

- [Securing Your Virtual Classroom](#) from Zoom
- [The Complete Guide to a Secure Zoom Experience](#) from Zoom
- Other [Zoom Tips](#) from Edsurge
- TEA is conducting a webinar on ensuring proper security in Zoom and other popular tools the week of 4/13

How do I know if resources support the privacy and security of students?

- Choosing district support resources is the safest way to ensure this since these resources been vetted by district legal and procurement departments.
- COSN's [Protecting Privacy In Connected Learning](#) page. These two specific documents from COSN can provide guidance if there are questions about non district resources.
 - o [Vetting Online Resources](#)
 - o [Security Questions for Service Providers](#)
- Vendors that have taken the [Student Privacy Pledge](#)
- Common Sense Media Resource [Privacy Evaluations](#)
- TEA is conducting a webinar on ensuring proper security in Zoom and other popular tools the week of 4/13

What steps should a district take to secure online platforms when providing distance learning?

- Most popular virtual meeting platforms can do this without a significant security risk. Every LEA should make the decision on what meeting tool to use based on their level of comfort with the security within the tool. TEA is conducting a webinar on appropriate security precautions to take with several of the most popular tools during the week of 4/13.

What is TEA's guidance regarding Senate Bill (SB) 944 of the 86th Texas Legislative Session as it relates to educator and student interactions during this time?

- To the extent educator-student interactions develop a record, all records must be retained in accordance with local records retention schedules and are subject to the Public Information Act. However, all records that constitute “education records” are subject to the confidentiality provisions of the Family Educational Rights and Privacy Act (FERPA).

Additional Resources

The U.S. Department of Education has issued the following resources addressing FERPA and Virtual Learning:

[U.S. Department of Education COVID-19 Information and Resources for Schools and School Personnel](#)

[FAQs on student privacy \(FERPA\) and coronavirus](#) from the U.S. Department of Education Student Privacy Policy Office

[Q&A on providing services to children with disabilities during the coronavirus outbreak](#)

[FERPA and Virtual Learning Related Resources](#) from the U.S. Department of Education Student Privacy Policy Office.

FERPA and Virtual Learning Webinar Recording:

<https://studentprivacy.ed.gov/training/ferpa-and-virtual-learning-during-covid-19-webinar-recording>

FERPA and Virtual Learning Webinar Slide Deck:

<https://studentprivacy.ed.gov/resources/ferpa-and-virtual-learning-during-covid-19>

Cybersecurity Tips and Tools – Virtual Meeting Security Considerations

Date: Thursday, April 16, 2020 10-11am CDT

Webinar Registration: <https://attendee.gotowebinar.com/register/7768453577073784076>

Description: As we increase our use of online lessons and meetings, we need to be especially diligent with our cybersecurity efforts to protect the confidentiality, integrity, and availability of student and staff information. This session will review some common virtual meeting platforms, and how best to secure these meetings.

Cybersecurity coordinators, auditors and representatives interested in cybersecurity issues and resources, which can be utilized within the education communities, are encouraged to attend.

