



FERPA & VIRTUAL LEARNING

For Educators

The information below are excerpts taken from the [U.S. Department of Education's Webinar on FERPA and Virtual Learning During COVID-19](#) (held 3/30/20).

For specific guidance refer to your local school district's student data privacy policies including, but not limited to, JRA-Student Education Records and Information, JRA-R Student Education Records and Information Administrative Procedure, and JRA-E Notification of Rights Under FERPA.

VIRTUAL LEARNING

Moving from school to home and increasing use of virtual learning platforms may pose challenges to ensuring student data privacy. At the same time, digital delivery of instruction also provides opportunities for individualized learning, learning at an individualized pace, and increasing the relevancy of subject content.

FERPA'S SCHOOL OFFICIAL EXCEPTION TO THE GENERAL CONSENT RULE

Please view the details of the school official exception to the general consent rule at:

<https://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html>

VIDEO AND OTHER FORMS OF DIGITAL INSTRUCTION

- Can student education records be taken home?
 - Yes, if you have a legitimate educational interest in the education records as determined by your school district's policy.
 - You must take reasonable action to protect student data from further disclosure to others, including third party vendors. Efforts include physical, technological, and administrative controls.

What is FERPA

FERPA is a federal privacy law that applies to school districts and institutions that are funded by the U.S. Department of Education. The privacy law provides parents and eligible students three major rights:

- Access to education records and ability to seek an amendment of education records;
- To provide consent to the disclosure of personally identifiable information (PII) from student education records, unless a FERPA exception applies; and
- To file a complaint under FERPA

Contact

PHONE:

U.S. Dept. Ed 1-855-249-3072

WEBSITE:

<https://studentprivacy.ed.gov/>

EMAIL:FERPA@ed.gov

For specific guidance please refer to your school district's policies and/or consult your administrator.

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- Under FERPA, can a school use video conferencing apps or other virtual learning software to hold classes virtually?
 - Yes, under the school official exception to FERPA’s general consent requirement, educational agencies and institutions may disclose students’ education records, or PII in those records, to a provider of such a service or application if the provider:
 - 1.Performs an institutional service or function for which the educational agency or institution would otherwise use its own employees;
 2. Has been determined to meet the criteria set forth in the educational agency’s or institution’s annual notification of FERPA rights for being a school official with a legitimate educational interest in the education records or PII;
 3. Is under the direct control of the educational agency or institution regarding the use and maintenance of the education records or PII; and
 4. Uses the education records or PII only for authorized purposes and does not redisclose the education records or PII to other parties (unless the provider has specific authorization from the educational agency or institution to do so and it is otherwise permitted by FERPA). See 34 CFR §99.31(a)(1)(i).
- How can I learn more?
 - Refer to the U.S Department of Education’s Privacy and Technical Assistance Center’s resources such as:
 - [Protecting Student Privacy While Using Online Educational Services](#)
 - [Data Security Checklist](#)
 - Always read the platform’s Terms of Service
- Can non-students observe a virtual lesson?
 - Consider what information about students might be disclosed during the virtual classroom time?
 - Think of the virtual classroom much like a physical classroom.
- Is it permissible to record classes and share the recording of the virtual classes to students who are unable to attend?
 - Yes - assuming 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, FERPA would not prohibit the teacher from making a recording of the lesson available to students enrolled in the class.
 - Video recordings of virtual classroom lessons qualify as “education records” protected under FERPA only if they directly relate to a student and are maintained by an educational agency or institution or by a party acting on their behalf.
- Can parent-student conferences be held virtually.
 - Yes, as long PII from the student’s education record is not disclosed within hearing of others in the education official’s household; or
 - The education official obtains prior consent in writing (electronic) from the parent or eligible student for the potential disclosure of PII from the student’s education records to his or her spouse.

DEFINING EDUCATION RECORDS AND PII IN STUDENT EDUCATION RECORDS

This information can be found in your local school district’s policy.