

Protecting Student Privacy: FERPA and Virtual Learning

PUBLISHED ON

April 1, 2020

Nationwide school closures have led educators and students to connect home and school through the world of virtual learning. The U.S. Department of Education's Student Privacy Policy Office recently hosted a [webinar](#) providing [guidance](#) for schools concerned about the Family Educational Rights and Privacy Act (FERPA) and the implications for distance learning.

The guidance offers 10 scenarios covering the following six topics:

- School official exception to consent
- The use of video or other forms of instruction (email, group chat, teleconference)
- The importance of defining educational records and identifying personally identifiable information in student education records
- Timelines for accessing educational records
- Whether FERPA written consent can be electronic
- Health or safety emergency exception

Highlights of the scenarios included:

- FERPA does permit electronic consent if it identifies the person giving consent and does so through an authenticated email address or other authenticated means
- If a parent requests a copy of their child's educational records, schools may securely provide electronic access
- Educators are permitted to record classes, as long as they do not disclose personally identifiable information from an educational record
- Schools may use video conferencing under the school official exemption

The office has [additional resources](#) and suggested best practices for privacy and security, including communicating to the school community about your online schedule and platforms being used, as well as consulting your solicitors and in-house information technology specialists.

Please reach out to any member of the [Barley Snyder Education Practice Group](#) if you have any questions about continued legal obligations related to coronavirus.

DISCLAIMER: As we face an unprecedented time of legal and business uncertainty, we are working to

provide updates on the status of important legal news related to COVID-19. It is important to note that the situation is changing rapidly and the information provided in our alerts is not intended to create an attorney-client relationship. The information contained in our alerts is for general informational purposes only and should not be construed as legal advice or a substitute for legal counsel. If you have questions about your legal situation or about how to apply information contained in this alert to your situation or about how any other information found on our website may affect your business, you should reach out to one of our attorneys. We assume no responsibility for the accuracy or timeliness of any information provided herein or by any linked site. As information changes rapidly, users are strongly advised to verify any information before relying upon it.