



STUDENT PRIVACY POLICY OFFICE FERPA and Virtual Learning Related Resources March 2020

As educators and students move to virtual learning during this time of social distancing due to COVID-19, the Student Privacy Policy Office (SPPO) has received questions about available resources on virtual learning and the Family Educational Rights and Privacy Act (FERPA).

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 the right to access a student's education records, the right to seek to have the records amended, and the right to protect the PII in students' education records. (An "eligible student" is a student who has turned 18 or is attending college at any age.) Under FERPA, 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.

Two key resources on our website are:

- [*Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*](#) — this resource identifies applicable exceptions under FERPA, including the school official exception. This resource, while originally developed for online educational services, is also applicable for virtual learning tools and includes best practices for safeguarding student education records under FERPA.
- [*Protecting Student Privacy While Using Online Educational Services: Model Terms of Service*](#) — this checklist is a helpful tool to evaluate online educational apps.

These two resources are part of our [Security Best Practices](#), which includes additional resources on safeguarding education records.

There are also additional resources on related topics under FERPA, including classroom observations, use of emails, videos, and other virtual learning tools. Under FERPA, the determination of who can observe a virtual classroom, similar to an in-person classroom, is a local school decision as teachers generally do not disclose personally identifiable information from a student's education record during classroom instruction. FERPA neither requires nor prohibits individuals from observing a classroom.

- Our [Letter to Mamas](#) on classroom observation is also applicable to virtual classrooms.
- Our video, [Email and Student Privacy](#), identifies best practices for emails.
- With regard to videos and virtual classrooms, to the extent videos are recorded and maintained as education records, the [FAQs on Photos and Videos under FERPA](#) might be useful.

Additionally, the recently-released [FERPA and the Coronavirus Disease 2019 \(COVID-19\) FAQs](#) document identifies questions for school officials regarding the health or safety emergency exception under FERPA in the context of COVID-19.

SPPO is available to assist you with your student privacy questions under FERPA. Additional information is on our website at <https://studentprivacy.ed.gov>.