

STUDENT PRIVACY



JIM GESSFORD & JUSTIN KNIGHT

DATA BREACHES

**“Data of 143 million
Americans exposed in
hack of credit reporting
agency Equifax”**

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DATA BREACHES

Safeguards in place?

**What to do if you are
hacked?**

DATA BREACHES

Neb. Rev. Stat. 87-803

**First step: Conduct in good faith a
reasonable and prompt investigation**

DATA BREACHES

Neb. Rev. Stat. 87-803

**Second step: give notice to the affected
Nebraska resident. Notice shall be
made **as soon as possible and without
unreasonable delay****

DATA BREACHES

Neb. Rev. Stat. 87-803

**Third step: give notice to the Nebraska
Attorney General**

DATA BREACHES

Outcome?

- **Anthem: \$115 million**
- **Target: \$28.5 million**
- **Home Depot: \$19.5 million settlement**
- **Sony: \$15 million**

**Student Online
Personal
Protection Act**

S.O.P.P.A.

“prohibits technology companies who are invited into schools from using student data for targeted advertising or creating student profiles for noneducation purposes, such as for providing credit or insurance services.”

S.O.P.P.A.

“Students today are incredibly tech savvy, but they are also very vulnerable to targeted advertising. Student privacy is critical, and it is imperative that adequate safeguards are in place to protect that privacy”

S.O.P.P.A.

“it does not impose any new obligations on schools, it's only imposing obligations on technology companies.”

S.O.P.P.A.

“Operator” = the **operator of an Internet web site, online service, online application, or mobile application with actual knowledge** that the site, service, or application is **used primarily for elementary, middle, or high school purposes** and was **designed and marketed for elementary, middle, or high school purposes.**

S.O.P.P.A.

**Operator
may not:**

- **Engage in targeted advertising**
- **Gather student information**
- **Sell student information**

S.O.P.P.A.

Microsoft: “we can collect more information about kids than ever before . . . There are concerns, number one, that schools have been transferring data to technology companies without adequate safeguards in place to protect the privacy and security of the information.”

S.O.P.P.A.

Microsoft: “this type of legislation nationally sprung from a particularly prominent technology company, I won't name names, that they run a search engine that you would have heard of, that was using data that they were collecting through their educational services. They were scanning it for targeted advertising.”

S.O.P.P.A.

“There are also concerns about the capacity of existing laws, like federal laws like the Family Educational Rights and Privacy Act or FERPA, or other federal laws to address the situation. Existing federal laws were passed decades ago, they are out of date . . .”

F.E.R.P.A.

Parent has right to access
their child's *education records*

Others *generally* do not:

Disclosure of personally
identifiable information [PII]
from *education records* is
prohibited without signed and
dated written parent consent

FERPA Issues in 2017

Video Surveillance:

- Does FERPA even apply?
 - NY Sup Ct & Washington SC: **No**
 - FPCO: **Yes**

FERPA Issues in 2017

Video Surveillance:

- **FPCO: Students must be “targets” of video**
 - **FPCO: Inspect without consent**
 - **Utah Court: Can require blur out**

FERPA Issues in 2017

Video Surveillance:

- **Body Worn Cameras**
 - “**Education records**” do not include records of the law enforcement unit of an educational agency

FERPA Issues in 2017

Video Surveillance:

- **Special Education Classroom**
 - **TX, GA, NV** require cameras
 - **“Landon Dunson Act”**

FERPA Issues in 2017

Other Video Issues:

- **Angel Sense:**
 - **Turn off “listening mode”**
 - **How to ensure it stays off?**

FERPA Issues in 2017

Deceased Students:

- Does FERPA still apply?

FERPA Issues in 2017

Text messages:

- Teacher texts one parent re: student's educational progress
- Other parent later requests “all educational records”

FERPA Issues in 2017

Threats:

- **Student A writes note: “I want to kill Student B”**
- **Teacher finds note**
- **Student B’s parents want note**

Other Tech Issues

Biometric Data:

Other Tech Issues

Biometric Data:

- What is it?
 - Fingerprints
 - Retina & iris patterns
 - Voiceprints
 - Facial characteristics
 - Handwriting
 - Etc.

Other Tech Issues

Biometric Data:

- **FERPA Protected** (*opt out issues*)

"Biometric record," is a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual.

Other Tech Issues

Biometric Data:

- Schools are using technology
 - Lunch lines
 - Building entry
 - Bus trip counts
 - Paying bills
 - Etc., etc.

Other Tech Issues

Biometric Data:

- Privacy & Big-brother anxiety
- eHow: "How to Circumvent a Biometric Scan"
- Florida may ban school use
- **Are you using???**
- **Do you have Policies???**

Other Tech Issues

Drones:

Other Tech Issues

“Geo-Listening”:

SnapTrends

<https://www.facebook.com/SnapTrends>

Geolistening

<https://geolistening.com/about-us/>



Privacy Technical Assistance Center
U.S. Department of Education

Protecting Student Privacy While Using Online Educational Services



[Protecting Student Privacy While Using Online Educational Services.](#)

This guidance should clarify questions related to student privacy and the use of educational technology in the classroom.

Protecting Student Privacy While Using Online Educational Services: Model Terms of Service

- A checklist for evaluating Terms of Service Agreements to ensure that the app or program will handle data in a safe and secure manner.
- Warning signs and potential illegal practices to look out for when using these applications.
- Recommendations and best practices for what you or your organization can do to protect yourself and your data.



Clear



Purge



Destroy



Privacy Technical
Assistance Center

For more information, please visit the Privacy Technical
Assistance Center: <http://ptac.ed.gov>

Best Practices for Data Destruction

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