

Overview of CIPA, COPPA, and FERPA

Note: This overview is not meant to provide legal advice.

CIPA

CIPA – Children’s Internet Protection Act -- governs the filtering of Internet access; acceptable use; and digital citizenship education

Federal Agency with Oversight – Federal Communications Commission (FCC)

District Oversight / Responsibility:

- Technology Services manages technology protection measures;
- District staff, including teachers and support staff, are responsible for monitoring student use of district technology resources and educating students about proper online behavior

Violation of CIPA could result in the loss of eRate funds for the district

CIPA requires the district to

- Use a “technology protection measure” (Internet filter) to filter all Internet-connected devices and block access to visual depictions deemed “obscene,” “child pornography,” or “harmful to minors”
 - Filter can be disabled for adults for “bona fide research or other lawful purpose”
 - Under the law, “minor” is defined as “individual who has not attained the age of 17”
- Adopt and enforce an Internet Safety Policy. Policy must address
 - Monitoring of online activities
 - Safety and security of all forms of direct electronic communications
 - Unauthorized online access (hacking and other unlawful activities)
 - Unauthorized disclosure or personal identification information
- Educate students about appropriate online behavior (Digital Citizenship)

Resources:

- Federal Register -- <http://www.gpo.gov/fdsys/pkg/FR-2011-09-13/pdf/2011-23267.pdf>
- Children’s Internet Protection Act from eRate Central -- http://e-ratecentral.com/CIPA/Childrens_Internet_Protection_Act.pdf
- FCC Consumer Guide on CIPA -- <http://transition.fcc.gov/cgb/consumerfacts/cipa.pdf>
- CIPA Policy Primer from eRate Central -- http://e-ratecentral.com/CIPA/cipa_policy_primer.pdf

COPPA

COPPA -- Children's Online Privacy & Protection Act -- governs the collection, use, and disclosure of personal information collected from children under age 13

Federal Agency with Oversight – Federal Trade Commission (FTC)

District Oversight / Responsibility:

- Anyone, including teachers, who is selecting and evaluating online resources, websites, and apps that will be used by students under age 13

Key Terms:

Personal Information means individually identifiable information about an individual collected online, including

- First and last name
- Home or other physical address including street name and name of a city or town
- Online contact information (Screen name or user name that functions in the same manner as online contact information)
- Telephone number
- Social Security Number
- Persistent identifier that can be used over time and across different Web sites or online services. These include, but are not limited to,
 - Customer number held in a cookie
 - Internet Protocol (IP) address
 - Processor or device serial number
 - Unique device identifier
- Photo, video, or audio file where such file contains the child's image or voice
- Geolocation information sufficient to identify street name and city or town
- Information concerning the child or the parents that the operator collects online from the child and combines with an identifier described above

Data Collection:

- **Active Data Collection** – operator directly solicits information from children or enables children to make their personal information available
- **Passive Data Collection** – tracking or use of “any identifying code linked to an individual, such as a cookie,” as well as any other “identifiers” that can be used to identify, contact, or locate a child over time and across different websites or online services

COPPA requires operators (online service providers, website operators, etc.) to

- **Provide notice to parents**
 - Wishes to collect personal information from an individual child
 - Type of information it wishes to collect
 - Purpose of information collection
 - Means by which parents can provide and revoke consent
- **Obtain verifiable parental consent before they begin **collecting, using or disclosing** information from children under age 13**
 - COPPA permits a school to obtain parental consent on the operator's behalf, as long as the operator uses the information only on behalf of the school pursuant to the agreement between the school and the operator. [from COPPA FAQs M(1) – M(3)]

- An operator must obtain consent directly from the parents if it wants to use the data collected from the school for its own commercial purposes [from COPPA FAQs M(1) – M(3)]
- **Manage Disclosures to Third-Parties**
- **Maintain a Privacy Policy in easy to understand terms on their website**
 - Names of all operators that collect or maintain personal information from children
 - Define the type of information the provider collects, and whether collection is active or passive (see *Data Collection* above)
 - Uses, or potential uses, of the information
 - Disclosure and uses by third-parties
 - Parents may give limited consent to the collection and use of their child’s personal information without consenting to its disclosure
 - Operator cannot condition a child’s participation in an activity on his disclosure of more information than is “reasonably necessary”
 - Parent may review his or her child’s personal information, request its deletion, and refuse consent to further data collection
- **Retention and Disposal of personal information**
 - Retain personal information “for only as long as is reasonably necessary”
 - Protect against unauthorized access even when disposing of information

COPPA and Schools – See *Complying with COPPA: Frequently Asked Questions*, section M: COPPA and Schools for specific guidance from the FTC (the document linked below provides guidance for schools on COPPA compliance issues related to providing access to online services for students under age 13)

<https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions#Schools>

Resources:

- Electronic Code of Federal Regulations – Children’s Online Privacy & Protection Act --
http://www.ecfr.gov/cgi-bin/text-idx?SID=ad417dd5af1c499aa56467636227509e&tpl=/ecfrbrowse/Title16/16cfr312_main_02.tpl
- FTC COPPA Rule --
<https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/childrens-online-privacy-protection-rule>
- Federal Register -- <http://www.gpo.gov/fdsys/pkg/FR-2013-01-17/pdf/2012-31341.pdf>
- FTC Press Release about changes to COPPA --
<https://www.ftc.gov/news-events/press-releases/2012/12/ftc-strengthens-kids-privacy-gives-parents-greater-control-over>

FERPA

FERPA - - Family Educational Rights and Privacy Act – protects the privacy of student education records

Federal Agency with Oversight – U.S. Department of Education

District Oversight / Responsibility: Everyone with access to education records

A FERPA violation occurs if a student's education records are released to unauthorized persons, and may result in the loss of funding from the U.S. D.O.E.

FERPA requires education institutions and agencies to **obtain written permission from the parent or eligible student in order to release any information from a student's education record**. Educational institutions and agencies are also required to notify parents and students over age 18 of their rights under FERPA on an annual basis, and provide them adequate time to request that the student's records not be shared. It also provides parents or students over the age of 18 with the following rights

- Inspect or review the student's education records maintained by the school within 45 days of request
- Seek to amend education records believed to be inaccurate
- Consent to the disclosure of personally identifiable information from education records, except as specified by law. Consent may be signed electronically, as long as (1) the mechanism by which the electronic signature is received identifies and authenticates a particular person as the source of the consent; and (2) the record of the consent indicates the person's approval of the information in the consent.

Key Terms:

Education Records – materials that are “maintained by an educational agency or institution or by a person acting for such an agency or institution” and contain information directly related to a student.

Term **does not include** the following:

- Records kept by the person who made them that are used only as a “personal memory aid” and not shared with anyone besides a temporary substitute
- Records maintained by the local education agency's law enforcement unit
- Employee records made in the normal course of business and that pertain only to that individual's employment
- Records of a student over age 18 or who is attending post-secondary education made by professionals such as a physician or psychiatrist for treatment of the student; this info can only be disclosed to those who provide the treatment
- Records that the LEA made or received after the student stopped attending the institution; these records cannot directly relate to the student's attendance
- Grades on peer-reviewed papers **before** they are collected and recorded by a teacher

Disclosure – to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record

Record – any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche

Personally Identifiable Information (PII)– the term includes, but is not limited to,

- Student's name
- Name of the student's parent or family members
- Address of the student or student's family

- Personal identifier, such as the student's social security number, student number, or biometric record
- Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name
- Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty,
- Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates

Directory Information – This information can be released without consent, and **does not include social security numbers or student ID numbers.**

- Student's name
- Address
- Telephone number
- Date and place of birth
- Honors and awards
- Sports and activities
- Dates of attendance

Schools may disclose **de-identified data** without prior parental consent. De-identification requires

- Removal of all personally identifiable information and
- A reasonable determination that a student's identity is not personally identifiable

De-identified education records may be disclosed for education research purposes, provided the school attaches a code to the de-identified data to allow the recipient of the data to match information received from the same source. The code must not be based on the student's social security number or other personal information, nor should it contain any information that would allow the recipient to identify a student based on the code.

FERPA allows schools to disclose records without consent to the following parties or under the following conditions:

- School officials with legitimate educational interest
- Other schools to which a student is transferring
- Specified officials for audit or evaluation purposes
- Appropriate parties in connection with financial aid to a student
- Organizations conducting certain studies for or on behalf of the school
- Accrediting organizations
- To comply with a judicial order or subpoena
- Appropriate officials in cases of health and safety emergencies
- State and local authorities within a juvenile justice system, pursuant to specific State law

Resources:

- Electronic Code of Federal Regulations Family Educational Rights and Privacy Act -- <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=txt&node=34:1.1.1.1.33&idno=34>
- U.S. Dept. of Education - Family Educational Rights and Privacy Act -- <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Additional information on COPPA and FERPA was gathered from:

Ritvo, Dalia Topelson and Bavitz, Christopher and Gupta, Ritu and Oberman, Irina, Privacy and Children's Data – An Overview of the Children's Online Privacy Protection Act and the Family Educational Rights and Privacy Act (November 14, 2013). Berkman Center Research Publication No. 23. Available at <http://dx.doi.org/10.2139/ssrn.2354339>

