**M.  COPPA AND SCHOOLS**

**1.   Can an educational institution consent to a website or app’s collection, use or disclosure of personal information from students?**

Yes. Many school districts contract with third-party website operators to offer online programs solely for the benefit of their students and for the school system – for example, homework help lines, individualized education modules, online research and organizational tools, or web-based testing services. In these cases, the schools may act as the parent’s agent and can consent to the collection of kids’ information on the parent’s behalf. However, the school’s ability to consent for the parent is limited to the educational context – where an operator collects personal information from students for the use and benefit of the school, and for no other commercial purpose. Whether the website or app can rely on the school to provide consent is addressed in FAQ M.2.  FAQ M.5 provides examples of other “commercial purposes.”

In order for the operator to get consent from the school, the operator must provide the school with all the notices required under COPPA. In addition, the operator, upon request from the school, must provide the school a description of the types of personal information collected; an opportunity to review the child’s personal information and/or have the information deleted; and the opportunity to prevent further use or online collection of a child’s personal information. As long as the operator limits use of the child’s information to the educational context authorized by the school, the operator can presume that the school’s authorization is based on the school’s having obtained the parent’s consent. However, as a best practice, schools should consider making such notices available to parents, and consider the feasibility of allowing parents to review the personal information collected. See FAQ M.4. Schools also should ensure operators to delete children’s personal information once the information is no longer needed for its educational purpose.

In addition, the school must consider its obligations under the Family Educational Rights and Privacy Act (FERPA), which gives parents certain rights with respect to their children’s education records. FERPA is administered by the U.S. Department of Education.  For general information on FERPA, see <http://ptac.ed.gov/>. Schools also must comply with the Protection of Pupil Rights Amendment (PPRA), which also is administered by the Department of Education. *See* <http://ptac.ed.gov/>. (*See* FAQ M.5 for more information on the PPRA.)

Student data may be protected under state law, too. For example, California’s Student Online Personal Information Protection Act, among other things, places restrictions on the use of K-12 students’ information for targeted advertising, profiling, or onward disclosure. States such as Oklahoma, Idaho, and Arizona require educators to include express provisions in contracts with private vendors to safeguard privacy and security or to prohibit secondary uses of student data without parental consent.

**2.  Under what circumstances can an operator of a website or online service rely upon an educational institution to provide consent?**

Where a school has contracted with an operator to collect personal information from students for the use and benefit of the school, and for no other commercial purpose, the operator is not required to obtain consent directly from parents, and can presume that the school’s authorization for the collection of students’ personal information is based upon the school having obtained the parents’ consent.  However, the operator must provide the school with full notice of its collection, use, and disclosure practices, so that the school may make an informed decision.

If, however, an operator intends to use or disclose children’s personal information for its own commercial purposes in addition to the provision of services to the school, it will need to obtain parental consent. Operators may not use the personal information collected from children based on a school’s consent for another commercial purpose because the scope of the school’s authority to act on behalf of the parent is limited to the school context.

Where an operator gets consent from the school rather than the parent, the operator’s method must be reasonably calculated, in light of available technology, to ensure that a school is actually providing consent, and not a child pretending to be a teacher, for example.

**3.  Who should provide consent – an individual teacher, the school administration, or the school district?**

As a best practice, we recommend that schools or school districts decide whether a particular site’s or service’s information practices are appropriate, rather than delegating that decision to the teacher.  Many schools have a process for assessing sites’ and services’ practices so that this task does not fall on individual teachers’ shoulders.

**4.  When the school gives consent, what are the school’s obligations regarding notifying the parent?**

As a best practice, the school should consider providing parents with a notice of the websites and online services whose collection it has consented to on behalf of the parent. Schools can identify, for example, sites and services that have been approved for use district-wide or for the particular school.

In addition, the school may want to make the operators’ direct notices regarding their information practices available to interested parents. Many school systems have implemented Acceptable Use Policies for Internet use (AUPs) to educate parents and students about in-school Internet use. The school could maintain this information on a website or provide a link to the information at the beginning of the school year.

**5.  What information should a school seek from an operator before entering into an arrangement that permits the collection, use, or disclosure of personal information from students?**

In deciding whether to use online technologies with students, a school should be careful to understand how an operator will collect, use, and disclose personal information from its students. Among the questions that a school should ask potential operators are:

* What types of personal information will the operator collect from students?
* How does the operator use this personal information?
* Does the operator use or share the information for commercial purposes not related to the provision of the online services requested by the school?  For instance, does it use the students’ personal information in connection with online behavioral advertising, or building user profiles for commercial purposes not related to the provision of the online service?  If so, the school cannot consent on behalf of the parent.
* Does the operator enable the school to review and have deleted the personal information collected from their students?  If not, the school cannot consent on behalf of the parent.
* What measures does the operator take to protect the security, confidentiality, and integrity of the personal information that it collects?

What are the operator’s data retention and deletion policies for children’s personal information?Schools also should keep in mind that under the Protection of Pupil Rights Amendment, Local Educational Agencies (LEAs) must adopt policies and must provide direct notification to parents at least annually regarding the specific or approximate dates of, and the rights of parents to opt their children out of participation in, activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information (or otherwise providing the information to others for that purpose).