

The Federal Role in Safeguarding Student Data

Areas for federal action recommended by a coalition of national organizations

High-quality education data—data that are timely and useful—empower students, parents, educators, local and state education leaders, and policymakers with the information they need to make better decisions to improve student achievement and success. That is something all students and families deserve.

We are a coalition of organizations and individuals that represent diverse policy perspectives and believe adamantly in the effective use of data to support student learning and success. We believe everyone who uses student information has a responsibility to maintain its privacy and security.

As our school systems move into the digital age, we believe that the federal government has a role in prioritizing student data privacy and security and building trust in the use of student information. We offer the following context to frame the discussion about what the federal government can do to support the education field in safeguarding student data. We have identified three broad areas for federal action that we agree upon, although each of us may have differing opinions on how best to implement them.

Data Matter to Meeting Our Education Goals

We have more useful and richer information than ever before that can be used to support teaching and learning. But educators, students, and families will not use this information to make decisions, personalize learning, and help students succeed if they do not trust that doing so is safe. Over the past year, states, districts, education and privacy organizations, and school service providers have demonstrated tremendous leadership in prioritizing the need to safeguard student information. These efforts have led to greater transparency about what data are collected and for what purposes, stronger privacy and security laws and policies, clearer governance of data, and more open communication across the field—especially with parents and teachers.

There is a critical federal role in complementing, supporting, and reinforcing these activities. **Federal action should continue to align and clarify student protections and build capacity throughout the field to protect student information.**

Existing federal laws including the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), and the Children’s Online Privacy Protection Act (COPPA) offer an important legal foundation for safeguarding student data. Information practices and technological capabilities have changed radically since each of them was enacted. The federal government should continue to provide a clear student data privacy and security framework and support for states, local school systems, and schools that have varying legal and technical capacity.

Potential Areas for Federal Action

We believe that with appropriate federal leadership and guidance, state and local leaders and especially those closest to students—teachers and principals—can be informed about how federal laws apply to activities in the classroom and can be empowered to use education data well and safeguard them. We propose the three general areas for federal action on the following page.

FEDERAL LAWS THAT PROTECT STUDENT INFORMATION

LEGISLATION	DATE ENACTED	ADMINISTERED BY
Family Educational Rights and Privacy Act (FERPA)	1974	US Department of Education
Protection of Pupil Rights Amendment (PPRA)	1978	US Department of Education
Children’s Online Privacy Protection Act (COPPA)	1998	Federal Trade Commission
Student Digital Privacy and Parental Rights Act	Expected in 2015	Federal Trade Commission

1. ENSURE THAT FEDERAL LAWS PROVIDE A STRONG FOUNDATION TO PROTECT STUDENT INFORMATION IN A CONSTANTLY CHANGING AND INCREASINGLY DIGITAL SCHOOL ENVIRONMENT.

THE CURRENT LANDSCAPE: Current federal laws do not specifically address current and evolving technology-driven practices that have implications for the privacy and security of student information. Student data are now collected, stored, and shared digitally—rather than on paper—often in cloud-based systems. New technologies can produce more sophisticated feedback on student progress and are informing classroom practices and educators’ efforts to personalize instruction. While COPPA addresses online privacy, how the law applies to the use of various technologies in the classroom is not always clear to school districts and educators. And while FERPA has been applied to electronic records in some situations, the law is not designed to cover data collected outside of a student’s

official school record. Neither law addresses current and potential security concerns related to the aforementioned new digital capabilities.

THE FEDERAL ROLE: Federal law should establish a strong privacy and security foundation for educational institutions and agencies that provides baseline protections and consistency across states. Yet federal law should be broad enough to allow states and districts to innovate and respond to new developments in technology. Any changes to FERPA should recognize the electronic environments in which student data are generated and stored, account for schools’ uses of third-party online applications that collect student information, and address the need for security safeguards designed for modern digital environments.

2. ENSURE THAT THE FEDERAL GOVERNMENT COORDINATES ACROSS AGENCIES TO PROVIDE CLARITY TO THOSE ON THE GROUND AS TO HOW PRIVACY LAWS WORK TOGETHER.

THE CURRENT LANDSCAPE: States and districts must navigate the student data privacy protections offered by federal laws, namely FERPA and PPR, which are administered by the US Department of Education (ED), and COPPA, which is administered by the Federal Trade Commission (FTC). An aligned federal foundation that is coherent across applications and a continued commitment to coordinated communications can provide consistent definitions and standards for those on the ground.

THE FEDERAL ROLE: ED and the FTC should continue to coordinate to meet the needs of families, educators, and others working in states and school systems. These agencies can issue joint guidance to help individuals in states and districts navigate and implement federal privacy laws and inform complementary state laws and policies. They can help clarify for the public which federal laws govern student data privacy, their application in school settings, and federal governance of websites and online applications.

3. SUPPORT STATE AND LOCAL CAPACITY TO SAFEGUARD DATA.

THE CURRENT LANDSCAPE: To safeguard student data, individuals in schools and local school systems need training and support to build a culture of trust and implement best practices in data privacy and security. The federal government has numerous tools to support local infrastructure and capacity building. Federal agencies have already taken steps to support the field; the Privacy Technical Assistance Center, for example, has provided great value to the field through its hotline and its guidance on such important issues as data breach response and model terms of service.

THE FEDERAL ROLE: Continued federal attention to the role of states and school districts in safeguarding student data is vital. The federal government can do more to support them by providing more tools and resources to help them adopt policies and best practices in transparency, governance, and privacy and security. These supports can also include funding for building capacity—especially through related training and professional development—throughout the system, from the state to the local, school, and classroom levels. There are opportunities in federal law, such as the Elementary and Secondary Education Act, to address the need to equip teachers and school leaders to protect and use data effectively.

We, the undersigned organizations, support the three areas for federal action in safeguarding student data outlined in this document:

AASA, The School Superintendents Association

Consortium for School Networking

International Society for Technology in Education

National Association of State Boards of Education

SIF Association

Alliance for Excellent Education

Data Quality Campaign

National Association of Elementary School Principals

National Association of State Directors of Teacher Education and Certification

State Education Technology Directors Association

Association of Educational Service Agencies

The Education Trust

National Association of Secondary School Principals

National Rural Education Advocacy Coalition

StriveTogether

Future of Privacy Forum

International Association for K-12 Online Learning

StudentsFirst