

## Safety Review of AI Tools in Education

### Vet Terms & Conditions:

School districts should have a vetting system in place to evaluate student data privacy and safety when new AI tools are introduced or existing educational software programs are updated with AI features.

### Notice:

School districts should request to be notified of any updates to terms and conditions that could include use of AI because AI may exceed the scope of what the district originally agreed to.

### Parental Consent:

Evaluate whether collection of student data in AI will trigger parental consent requirement for use of the software.

### Protection of PII:

Staff and students should be trained not to include any PII in a generative open AI tool.

### Threat Monitoring:

Determine whether the software monitors and responds to any threats to self or others that may be input by a student into an AI program. Consider including a limitation on district liability and protocols for district response.

## Parent / Guardian Consent May Be Required

### FERPA School Business Official Exception

Educational software typically falls within the exception to FERPA's parental consent requirement because the software is considered a "school business official" that is performing an administrative function of the district and has a legitimate educational interest in the student data collected. Additionally, traditional education technology limits resharing to serve the original purpose of the Agreement.

### Open Generative AI May Exceed FERPA Exception for Parent Consent.

- Collecting student data which populates on open AI knowledge base beyond the school setting likely goes beyond a "legitimate educational interest."
- Populating an open AI knowledge base with student inserted content may also resharing student data beyond the scope of the original purpose of the educational software.

### Key Components of Parental Consent

- Clear explanation of what student data may be collected.
- If and how data may be shared beyond students' educational purpose.
  - Is the AI tool open or closed AI?
  - Is the AI tool generative AI?
- School district liability waiver.

## Partnership with F3 Law

F3 Law is supporting school districts throughout the U.S. on a variety of emerging EdTech legal issues, including:

- AI Chatbot for education contract drafting and negotiations
- Legal action against Social Media companies for student mental health
- Development of National Student Data Privacy Agreement
- Creation of National Purchasing Consortium for EdTech products
- Counsel for Party in Interest to U.S. Supreme Court Case on school board member social media use.

F3 Law is available to consult with school districts in the following areas of EdTech:

- Policy updates for staff and students on emerging technologies
- Student Data Privacy Compliance
- Ed Tech Contract review process and procedures
- Training for staff and students regarding responsible use of EdTech
- Managing School District Social Media
- Network Monitoring for Threats, policies and procedures

THIS GUIDE IS A SUMMARY ONLY AND NOT LEGAL ADVICE. WE RECOMMEND THAT YOU CONSULT WITH LEGAL COUNSEL TO DETERMINE HOW THIS MAY APPLY TO YOUR SPECIFIC FACTS AND CIRCUMSTANCES