

FLORIDA

Student Data Privacy and Security Highlights



Florida's student privacy laws integrate with the protections provided by the Family Educational Rights and Privacy Act (FERPA) while also placing special emphasis on the following:

- Parent and student rights to access, review, and correct education records
- Limiting school and district collection of sensitive student information, including biometric data
- Directing local boards of education to develop and adopt policies to enforce state and federal student privacy protections.

Florida law also provides students and parents with the ability to enforce their privacy rights in state court, not just by filing complaints with state regulators.

This informational resource highlights these and other Florida protections for student data but does not provide a comprehensive explanation of Florida's statutory and regulatory privacy requirements. Readers should consult their local counsel for further information about Florida law.

FERPA FAQs

1. Does Florida law limit the disclosure of a student's education records?



SHORT ANSWER: Yes. Florida prohibits education agencies and institutions, including schools and school districts, from disclosing a student's education records without consent except as permitted by FERPA.¹ School boards must adopt specific policies about education record disclosures and related privacy protections.

DEEPER DIVE: Education agencies or institutions may not release a student's education records without the written consent of a parent or student unless the disclosure is permitted by FERPA. For example, FERPA's disclosure exceptions include releasing information to properly designated school officials, for audits or evaluations of state or federal programs, for qualified studies, for health and safety emergencies, and more.² Florida permits the release of education records consistent with each of FERPA's exceptions, but the law specifically notes that covered records may be disclosed to the state's Auditor General or the Office of Program Policy Analysis and Government Accountability when the release of data is needed for the agencies to perform their official duties and responsibilities. Florida statutes also note the education records may also be released without written consent pursuant to an interagency agreement among the agencies seeking to provide services to a juvenile or juvenile's family.³

2. Does Florida law provide students and parents with the right to access education records?



SHORT ANSWER: Yes. Florida provides students and parents with the right to access their education records as well as to challenge any content they believe is inaccurate or misleading “or otherwise a violation of privacy or other rights.”⁴

DEEPER DIVE: Florida law expressly protects the “rights of students and their parents with respect to education records created, maintained or used by public educational institutions and agencies [...]” and notes that the records must be protected in accordance with FERPA.⁵ Florida law directs the State Board of Education to ensure, including through rulemaking, that students and parents have the following rights:

- The right to access education records, including the right to inspect and review those records
- The right to waive access to education records in certain circumstances
- The right to challenge the content of education records in order to ensure that the records are not inaccurate, misleading, or otherwise a violation of privacy
- The right to privacy with respect to the records and reports
- The right to receive annual notice of their rights with respect to education records⁶

These parent and student access, correction, and other rights align with similar FERPA education record requirements. However, unlike FERPA, Florida law provides parents and students with the right to seek an injunction in state court to enforce their privacy rights.⁷

3. Does Florida law limit the collection of information from students and their families?



SHORT ANSWER: Yes. Florida law prohibits education agencies and institutions from collecting some sensitive information, including biometric information, about students and their families.

DEEPER DIVE: Agencies and institutions in Florida are prohibited from collecting information about a student, student’s parent, or student’s sibling regarding their political affiliation, voting history, religious affiliation, or biometric information. The statute notes that “[e]xamples of biometric information include, but are not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan.”⁸

4. Does Florida place special privacy responsibilities on school boards, principals, and superintendents?



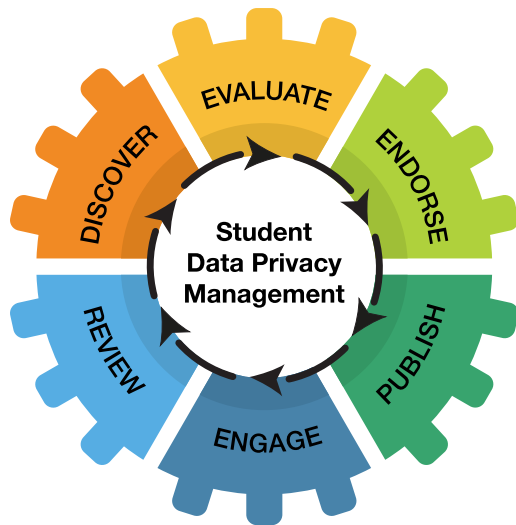
SHORT ANSWER: Yes. Florida’s education regulations require local school boards to adopt policies for protecting education records. State regulations also specifically designate school principals as the party responsible for the privacy and security of all student records maintained in the school. Superintendents are responsible for any records that are not under the supervision of the principal.

DEEPER DIVE: Florida’s education regulations require school boards to adopt education records policies that include the following:

- Providing annual written notice to students and parents about their privacy rights, including accessibility for non-English speakers
- Enabling students and parents to access and review their records
- Preventing schools from requiring students and parents to waive their privacy rights
- A schedule of fees for accessing records
- The types and locations of education records maintained by the district and the officials responsible for the records
- Provisions for disclosure of personally identifiable information where prior written consent is not required
- Provisions for records disclosure when consent is required
- Provisions for the maintenance and security of records
- Provisions for disclosure in health and safety emergencies
- Provisions for parents and students to challenge the content of the records.

Florida regulations also specify that a school’s principal is responsible for the privacy and security of all student records and that any records that are not under the supervision of the principal are the responsibility of the superintendent of schools. Institutions and agencies that are not part of a school district must designate the office or position responsible for the privacy and security of all student records.⁹

DEEPER Conversations to Support Student Data Privacy Policy Compliance



DISCOVER new and existing district application usage

EVALUATE application privacy policies, terms of service, and 3rd party policy badging

ENDORSE approved apps by grade, building, or district

PUBLISH list of approved apps, policies, contracts and more with stakeholders

ENGAGE leadership in ongoing conversations on effective usage, results, and application efficacy

REVIEW policy changes, compliance, and application updates

CatchOn allows you to engage your entire leadership team in DEEPER conversations to safeguard your student data and help maintain compliance with state and federal privacy laws.

A few questions your district should consider when selecting a tool to monitor student data privacy compliance:

1. How are you discovering and tracking those apps and online tools your students are using on your school-owned devices that are unknown, not approved, and/or lie outside of your SSO?
2. If you are using an analytics tool to track usage, does that analytics tool allow you to review application information including privacy policies, terms of service, and 3rd party approvals from privacy consortiums like Student Data Privacy Consortium and IMS Global?
3. Does your analytics tool notify you of application policy updates automatically?
4. Are you able to tag your applications for approved use at various grade, building or program level usage?
5. Can you share your application information and privacy policies publicly with district and community stakeholders?
6. Will your analytics tool allow you to see trending application usage within your district, as well as other districts, and monitor accurate application usage by students to the minute with an active window monitoring feature?

CatchOn's Commitment to Promoting Student Data Privacy

CatchOn proudly supports and has signed the Student Privacy Pledge. As a software as a service solution that is both a software discovery and usage tracking tool for applications, CatchOn is committed to protecting student data. Our 360-degree approach to student data privacy helps you keep your data safe and provides you real-time visibility into the learning tools being used in your school district.

See how CatchOn specifically helps districts stay compliant with education privacy laws below.

Education Law What is Required at a Glance	CatchOn's Solution How CatchOn Can Help You Stay Compliant	
Review 3 rd party agreements	Affords quick access to 3 rd party websites and privacy policies	✓
Ensure District privacy/security policies are aligned	Provides ability to mark and categorize applications as approved or not approved by the district	✓
District data protection office	Enables education leaders to see software applications used on school devices, both inside and outside the classroom; Empowers leaders to diagnose applications vulnerable to student data privacy policies	✓
Continuous review for compliance	Provides the ability to monitor known and unknown apps for compliance	✓
Parental notifications	Enables districts to post and share approved and monitored apps with parents using automated reports	✓
Breach notification plan	Provides the ability to gather data on EdTech usage, applications privacy policies, and district purchases to avoid vulnerabilities	✓
Align to NIST framework and FERPA policies	CatchOn tracks only de-identified aggregated information PII stays on district server; CatchOn signed student privacy pledge	✓
Privacy training	Enables districts to facilitate training opportunities by leveraging data analytics that track data usage, trends, and impact	✓

¹ Florida Stat. § 1002.22(2)(a); Florida Admin. Rule § 6A-1.0955.

² 34 C.F.R. §99.31.

³ Florida Stat. § 1002.22(2)(c).

⁴ Florida Stat. § 1002.22(2)(b)(2).

⁵ Florida Stat. § 1002.22(2).

⁶ Ibid.

⁷ Florida Stat. § 1002.22(4).

⁸ Florida Stat. § 1002.22(1).

⁹ Florida Admin. Rule § 6A-1.0955 Education Records.

Provided by:



CatchOn is an expansive data analytics tool that compiles real-time data on every device, enabling school districts to make data-informed decisions about the apps and online tools their educators and students are using. In 2018, CatchOn joined forces with ENA, a leading provider of comprehensive technology solutions to education institutions and libraries across the nation. Collectively, CatchOn and ENA leverage their respective resources and expertise to deliver critical services and solutions that help school districts produce positive outcomes in the communities they serve. For more information, please visit www.catchon.com, call 866-615-1101, or email solutions@catchon.com

FORESIGHT LAW+POLICY

Foresight Law + Policy is a national education law firm based in Washington, D.C. Our lawyers and other professionals counsel education leaders, nonprofit organizations and companies working to strengthen public education and prepare all kids for success. For more information, please visit <https://www.flpadvisors.com/>

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