

# PENNSYLVANIA

## Student Data Privacy and Security Highlights



Pennsylvania laws and regulations require “school entities” to develop education record plans, require school districts to protect the confidentiality of personally identifiable data about handicapped students and gifted students, and reference the Family Educational Rights and Privacy Act (FERPA) in provisions about student assessment, certain school reporting, and regarding health or safety emergencies. The Pennsylvania Department of Education (PDE) also adopted and follows a policy to guide the agency’s use and redisclosure of personally identifiable student data.

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*This section highlights key Pennsylvania protections for student data but does not provide a comprehensive list of statutory and regulatory requirements. Readers should consult their local counsel for further information about Pennsylvania law.*

### FERPA FAQs

#### 1. Does Pennsylvania law or regulation require education providers to adopt education record plans?



**SHORT ANSWER:** Yes. Every “school entity”—for example, any local public education provider such as a public school, charter school, cyber-charter school, area vocational-technical school, or intermediate unit—must adopt a plan for the collection, maintenance, and dissemination of student records.<sup>1</sup>

**DEEPER DIVE:** School entities must submit their education record plans to the PDE and maintain and update the plans as required by changes in state or federal law. The regulation does not specify the plans’ contents except that it must conform with any applicable state or federal laws, regulations, and directives identified in guidelines issued by the PDE.<sup>2</sup>

## 2. Does Pennsylvania address the confidentiality of education records?



**SHORT ANSWER:** Pennsylvania regulations do not include a provision addressing the confidentiality of education records in general, but regulations do provide a specific protection for “handicapped students” and “gifted students.” Pennsylvania statutes also directly reference the requirements of FERPA in provisions addressing student assessment and mandatory reporting by “recovery high schools” and “innovation schools.”

**DEEPER DIVE:** Regarding handicapped students, Pennsylvania requires school districts to

1. Protect the confidentiality of personally identifiable information regarding a protected handicapped student
2. Require parental consent before releasing personally identifiable information to unauthorized persons
3. Provide access to educational records of the student to the parents or a representative of the parents
4. Comply with FERPA<sup>3</sup>

Separately, the regulations state that covered entities must “protect the confidentiality of personally identifiable information regarding a gifted student or a student thought to be gifted [...]” in accordance with FERPA.<sup>4</sup>

Pennsylvania law and regulations also directly address FERPA in other specific areas, including that individual student test information must be maintained in a student’s educational record consistent with FERPA<sup>5</sup>, “recovery high schools” must submit reports on student outcomes and other information subject to FERPA<sup>6</sup>, and “innovation schools” must submit reports on student outcomes and other information subject to FERPA<sup>7</sup>.

## 3. Does Pennsylvania permit the release of a student’s personally identifiable information in the event of a health or safety emergency?



**SHORT ANSWER:** Yes. Pennsylvania permits school entities to disclose a student’s personally identifiable information (PII) in the event that releasing the information is necessary to protect the health or safety of the student or other individuals.

**DEEPER DIVE:** Pennsylvania allows PII to be released in health or safety emergencies, but school entities must evaluate the “totality of the circumstances pertaining to a threat.” If the entity determines that there is an “articulable and significant threat to the health or safety of a student or other individuals,” the PII may be released to a “Law Enforcement Authority, if knowledge of that information is necessary for the Law Enforcement Authority to protect the health or safety of the student or other individuals.” The School Entity must “record the articulable and significant threat to the health or safety of a student or other individuals so that it can demonstrate—to parents, students and the [U.S. Department of Education] Family Policy Compliance Office—what circumstance led it to determine that a health or safety emergency existed and why the disclosure was justified.”<sup>8</sup>

Related to this area, Pennsylvania law requires each school entity to establish at least one team for the assessment and intervention of “students whose behavior may indicate a threat to the safety of the student, other students, school employees, school facilities, the community or others.” After a preliminary investigation, such teams may consult with a county agency or juvenile probation department, including disclosing personally identifiable student data, but only if the sharing is permitted by FERPA and other relevant state and federal privacy requirements.<sup>9</sup>

#### 4. Does the Pennsylvania Department of Education follow specific state requirements about the use and disclosure of personally identifiable student data?



**SHORT ANSWER:** Yes. The Pennsylvania Department of Education adopted and follows a Student Data Access and Use Policy that addresses the agency's use and redisclosure of personally identifiable student data.

**DEEPER DIVE:** The Pennsylvania Department of Education's Student Data Access and Use Policy states that personally identifiable student data will not be released or disclosed unless the disclosure is permitted by law.<sup>10</sup> The policy prohibits the release of confidential information, pursuant to federal regulations, without parental consent. This confidential data includes the following:

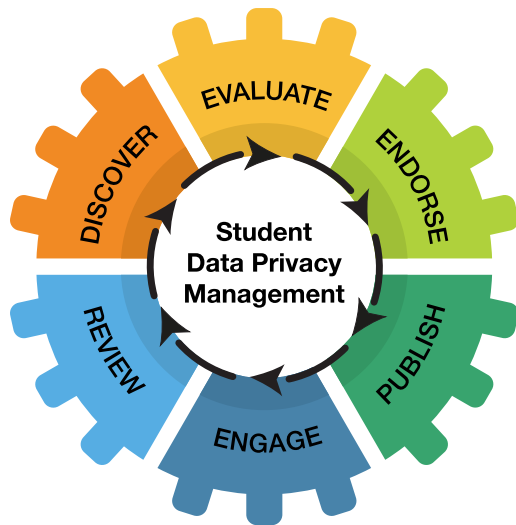
- Family information, including names, address, phone numbers, personal and business financial data, household members' social security numbers, household members' employment information, household Temporary Assistance for Needy Families, and Food stamp eligibility
- Personal information, which includes identification codes, grades, scores, courses taken, or other information that is directly linked to a student
- Special education records
- Eligibility status regarding Free or Reduced Price meal programs
- Any information that would make the student's identity easily traceable<sup>11</sup>

The PDE's *Student Data Access and Use Policy* specifies that release of personally identifiable information must abide by the following, in addition to meeting other federal and state requirements:

- The party receiving the data shall not disclose the information to any third party without the prior written consent of parents or students
- The data will only be used for the purpose for which the disclosure was made
- The data is then destroyed when the party receiving the data no longer has a purpose for such data<sup>12</sup>

The PDE's *Student Data Access and Use Policy* also addresses data security requirements, record keeping requirements, permissible research disclosures, parent access rights, data ownership, and a student data non-disclosure agreement.

# 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 <sup>rd</sup> party agreements	Affords quick access to 3 <sup>rd</sup> 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	✓

<sup>1</sup> 22 Pa. Code § 12.31

<sup>2</sup> 22 Pa. Code § 12.32

<sup>3</sup> 22 Pa. Code § 15.9

<sup>4</sup> 22 Pa. Code § 16.65

<sup>5</sup> 22 Pa. Code § 4.52(d)

<sup>6</sup> 24 Pa. Public School Code § 14-1407A

<sup>7</sup> 24 Pa. Public School Code § 14-1406B

<sup>8</sup> 22 Pa. Code § 10.25; See also 24 Pa. Public School Code § 14-1409

<sup>9</sup> 24 Pa. Cons. Stat. § 13-1302-E

<sup>10</sup> Pennsylvania Department of Education. Student Data Access and Use Policy. <https://www.education.pa.gov/Documents/Data%20and%20Statistics/Research%20and%20Evaluation/PIMS%20Data%20Access%20Policy.pdf>

<sup>11</sup> Ibid.

<sup>12</sup> Pennsylvania Department of Education. Student Data Access and Use Policy. <https://www.education.pa.gov/Documents/Data%20and%20Statistics/Research%20and%20Evaluation/PIMS%20Data%20Access%20Policy.pdf>

## 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](http://www.catchon.com), call 866-615-1101, or email [solutions@catchon.com](mailto: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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Founded in 2001, the **State Educational Technology Directors Association (SETDA)** is the principal nonprofit membership association representing US state and territorial educational technology leaders. Our mission is to build and increase the capacity of state and national leaders to improve education through technology policy and practice. For more information, please visit [setda.org](http://setda.org).