

TEXAS

Student Data Privacy and Security Highlights

Texas' student data privacy statutes provide parents with the right to access their student's education records and requires school districts to follow specific steps when designating directory information for public release. The state also requires "operators" that work with school districts to protect student data and follow strict student data handling practices, including prohibiting the entities from selling or renting student data and using the data for amassing student profiles for non-school purposes.

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

FERPA FAQs

1. Does Texas law provide parents a right to access their student's education records?



SHORT ANSWER: Yes. Texas Code allows for parents to access their own child's written student records.

DEEPER DIVE: Texas law provides that parents are entitled to all written records of a school district concerning the parent's child. The statute notes that this access includes the following:

- Attendance records
- Test scores
- Grades
- Disciplinary records
- Counseling records
- Psychological records
- Applications for admission
- Health and immunization information
- Teacher and school counselor evaluations
- Reports of behavioral patterns
- Records relating to assistance provided for learning difficulties¹

Texas law also states that a "parent is entitled to full information regarding the school activities of a parent's child [...]" except in limited circumstances.²

2. Does Texas law address student data classification and disclosure of “directory information”?



SHORT ANSWER: Yes. Texas law expressly permits the release of certain personally identifiable student data that has been properly classified as “directory information,” but parents must receive notice of the school district’s plan to designate eligible student data as directory information and be given an opportunity to opt out of the data’s disclosure.³

DEEPER DIVE: Texas school districts may designate student data as directory information, as defined and permitted by the federal Family Educational Rights and Privacy Act (FERPA). Each school year, school districts must provide a written explanation of FERPA’s directory information provisions and written notice (text and font size prescribed by statute) of the parent’s right to object to the release of directory information about their student. The written notice must feature opt-out options if the district’s directory information policy permits the parent to object to one or more specific categories of directory information (e.g. distinguishing between a general release of a student’s name or address from permitting a student to appear or be referenced in a school yearbook).⁴

3. Does Texas place special data privacy requirements on third party “operators” that work with schools and handle student data?



SHORT ANSWER: Yes. Texas prohibits “operators” that work with schools or school districts from selling or renting a student’s personally identifiable data, using it for targeted advertising, or amassing student profiles for non-school purposes. The law also requires operators to meet other specific privacy obligations, such as security requirements designed to prevent unauthorized access to the data.

DEEPER DIVE: Texas law defines “operators” as an “operator of a website, online service, online application, or mobile application who has actual knowledge that the website, online service, online application, or mobile application is used primarily for a school purpose and was designed and marketed for a school purpose.” State law prohibits operators from knowingly using protected information for targeted advertising, using protected information to create profiles about students for non-school purposes, and selling or renting any student’s covered information.⁵ However, Operators may sell or rent covered information if it is made in the purchase, merger, or acquisition by another entity, so long as the new entity also complies with this law.

Texas law specifies situations where operators are allowed to disclose student information, which include using the information

- To further a school purpose of a website, online service, online application, or mobile application where the recipient of the covered information does not further disclose the information, unless the information is disclosed to allow or improve operability and functionality of the operator’s website, online service, online application, or mobile application
- To ensure legal and regulatory compliance
- To protect against liability
- To respond to the judicial process
- To protect users of a website, online service, online application, or mobile application
- To protect the security of the website, online services, online application, or mobile application

- For a school, education, or employment purpose, if the information is requested by the student or the student's parent
- To use the information for a legitimate research purpose
- For a school purpose or postsecondary educational purpose
- For a request by the agency or school district for a school purpose⁶

National assessment providers may disclose information with the consent of a student or parent in order to provide access to employment, educational scholarships, financial aid, or postsecondary educational opportunities. Information may be disclosed if federal or state law requires the disclosure, and operators may disclose covered information to a third party pursuant to a contract.⁷

Texas law allows operators to use covered information in several other instances. Operators may use covered information to improve educational products, develop or improve educational websites, recommend additional services for students, respond to a student's request for information, or use the information for a student to identify institutions of higher education or scholarship providers that are seeking students who meet specific criteria.⁸

If a school district asks the operator to delete student information under the control of the district but maintained by the operator, the operator is required to delete the information unless the student's parent consents to the maintenance of the information.⁹

4. Does Texas law address data security?



SHORT ANSWER: Yes. Texas law provides specific security obligations for operators.

DEEPER DIVE: Operators must protect student information from unauthorized access, deletion, use, modification, or disclosure. To this end, operators must implement and maintain reasonable security procedures and practices.¹⁰

5. Does Texas have a centralized data system that houses all student data information?

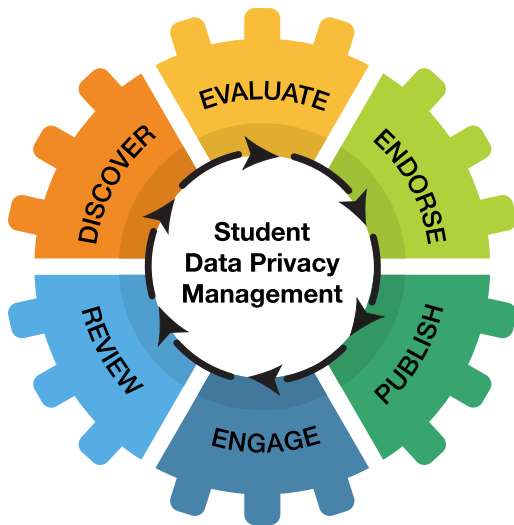


SHORT ANSWER: Yes. The Texas Education Agency operates the Texas Student Data System (TSDS) for data collection, management, and reporting.

DEEPER DIVE: Texas law and regulations require each school district to participate in the state's Public Education Information Management System.¹¹ The TSDS, which replaces and expands on the Public Education Information Management System, is a new statewide system used by the Texas Education Agency to improve data collection, management, and reporting in Texas education.

The data is collected in order to determine school accountability ratings, provide a basis for policy decisions, and determine school funding. To ensure student privacy, the dashboard data is limited only to authorized educators, and the limited data that is made available to the public is aggregated for anonymity.¹²

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 Texas Ed. Code § 26.004

² Texas Ed. Code § 26.008

³ Texas Ed. Code § 26.013

⁴ Ibid.

⁵ Texas Ed. Code § 32.152

⁶ Texas Ed. Code § 32.153

⁷ Texas Ed. Code § 32.153

⁸ Texas Ed. Code § 32.154

⁹ Texas Ed. Code § 32.156

¹⁰ Texas Ed. Code § 32.155

¹¹ Texas Ed. Code §§ 42.006 & 48.008; 19 Texas Admin. Code § 61.1025

¹² Texas Education Agency, Texas Student Data System

<https://www.texasstudentdatasystem.org>

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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