

Student Data Privacy and Data Ethics Scenarios

USER GUIDE



OCTOBER 2021

ABOUT THE FUTURE OF PRIVACY FORUM

The Future of Privacy Forum (FPF) is a nonprofit organization focused on how emerging technologies affect consumer privacy. FPF is based in Washington, DC, and includes an advisory board comprised of leading figures from industry, academia, law, and advocacy groups.

FPF's Youth & Education Privacy program works to protect child and student privacy while allowing for data and technology use that can help young people learn, grow, develop, and succeed. FPF works with stakeholders from practitioners to policymakers, providing technical assistance, resources, trend analysis, and training. FPF's Youth and Education Privacy team runs [Student Privacy Compass](#), the one-stop-shop resource site on all things related to student privacy.

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Purpose

Student data privacy and data ethics are essential topics that should be included in educator training and professional development. Educators' very role requires them to make daily decisions that impact which student data is collected or revealed, how the data is stored, how data is interpreted and used to make decisions about students, and how district and state policies are upheld in the classroom. Responsible data use is more than compliance with laws and regulations; it requires practices that ensure ethical and equitable uses of data that work to minimize potential for harm. These responsibilities have become all the more important as schools have worked to adapt to new forms of learning prompted by the pandemic, including virtual, hybrid, and modified face-to-face. The Student Data Privacy and Data Ethics Scenarios are free, supplemental course materials that aim to help educators understand privacy risks and ethical concerns that arise in school-based situations and provide expert guidance on how to mitigate risk and harm through discussions on the legal obligations and best practices for protecting student data privacy.



Audience

These resources were created for the professional development of K-12 educators and can be useful at any point in their careers, from teacher candidacy to veteran teacher. Professors of educator preparation programs can adopt the resources to supplement their course materials. The resources can also be used by professional development providers, technical assistance providers, district in-service staff and administrators, and educators themselves.



How To Use the Resources

These scenarios are meant to be flexible and can be integrated into coursework and professional development training. In educator preparation programs, they can be integrated as assignments, ancillary material, or a complete lesson. They can be used in classes, for small group discussions, and for individual students and can be parts of assignments, essays, lectures, research projects, discussion forums, or other creative projects that instructors may devise. Similarly, in professional development settings, the scenarios can be used for whole or small group discussions or ice breakers.

Facilitators, instructors, professional development providers, and users are free to select the scenarios that they believe to be the most useful and relevant to their learners. Due to the number of scenarios and wide range of topics that target various aspects of student data privacy, we suggest that instructors consider which scenarios or subset of scenarios best fit their particular courses or professional development sessions and learner needs.

Users should feel free to add context and make slight modifications to the scenarios as best meets the needs of their learners. For example, teacher candidates who have never set foot in a classroom may require additional background knowledge to critically engage with the scenario and discussion questions. Additionally, facilitators may want to change the grade level or class subject indicated in the scenario to be more relevant to their students. We also provide a Student Privacy Primer that provides a foundation of data ethics and data privacy that can be used for the development of the facilitator and learners.

As the aim of these scenarios is to teach data privacy and data ethics through the discussion of authentic situations, it is critical for the instructor to use framing questions to foster discussion and critical thinking. Learners will get more out of these resources by making connections to their own experiences, learning from others, and spending time in the gray areas posed by the scenarios, as opposed to being told the “right answer”. In addition to the unique discussion questions we include with each scenario, instructors can also use the following overarching and framing questions for the discussion:

- » What options does the teacher have in this scenario?
- » Why do you think the teacher chose to do that? What do you think was their rationale?
- » Is there anything in this situation that is covered under student privacy law? Is there anything covered under district or school policy?



Format

SECTIONS

The Student Data Privacy and Data Ethics Scenarios are composed of a wide range of scenarios that each contain five sections:

- 1. Scenario description.** This section outlines the circumstance of the real-world ethical dilemma, reflecting authentic situations that educators may encounter.
- 2. Questions for discussion.** These are overarching questions that instructors and professional development providers can pose to the learners. The goal of these questions is to guide scenario analysis and discussions.
- 3. How we see it.** This section describes the important privacy, legal, and ethical considerations arising from the scenario and advises what steps to follow to comply with relevant law and align with best practices. Data privacy experts and attorneys have vetted this section to ensure accuracy and clarity. Users of the scenarios should communicate this section's content to learners, as it provides important legal requirements and best practices. This section often recommends seeking input and guidance from district policies and administrators to provide the most accurate guidance possible.
- 4. Questions for further discussion.** These probes are intended to prompt further in-depth exploration of the ethical dilemma.
- 5. Unintended consequences.** This section describes the potential unintended consequences prompted by the scenario. The unintended consequences we list are only a starting point, as learners may identify relevant and specific topics to their student populations and school community. Note that in this section, we focus on the negative unintended consequences (potential harms and risks) because we are making the assumption that teacher candidates receive sufficient professional development on the benefits of data and the importance of using data and technology for students. On the other hand, we believe both learners and facilitators would benefit from explicit guidance on what could potentially go wrong. It is important to identify and understand potential harms and risks in analyzing and answering the discussion questions to inform the decision-making process and to better understand the ethical issue at hand.



VERSIONS

Each scenario has a teacher version and a student version. The teacher version includes all five sections, while the student version only includes the first two sections: the scenario description and discussion questions. The student version allows facilitators to assign scenarios to their learners, analyze the situation, and answer the discussion questions on their own or in groups without access to guidance.

CATEGORY TOPICS

Each scenario is assigned at least one topic category, listed below. Some are assigned with more than one, as applicable.

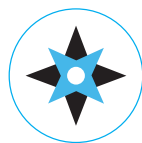
- » **Classroom Practices:** These scenarios cover classroom policies and practices teachers implement during instruction.
- » **Communication:** These scenarios cover teachers talking about student data to different people (other teachers, afterschool instructors, family members, professional researchers, students, etc.) in various settings (grade-level team meetings, public spaces, via email, etc.).
- » **Professional Duties:** These scenarios cover teacher responsibilities beyond classroom instruction.
- » **Social Media:** These scenarios include the use of a social media platform.
- » **Student Data:** These scenarios have an explicit focus on the type of student data described in the scenario, and often discuss unique pieces of student data.
- » **Technology:** These scenarios include the use of an application or other piece of technology.
- » **Virtual Learning:** These scenarios take place in a virtual, remote learning environment, particularly classrooms held through video conferencing platforms.





Additional Information

We began developing these materials early in 2020 before COVID-19 changed the delivery of education in the ensuing months. The transition to virtual and hybrid learning presented new possibilities for scenarios. In some instances, educators face situations similar to those they encounter in person, but in a virtual environment, these situations introduce a host of new data privacy dilemmas. We have therefore included a number of scenarios with a virtual learning and remote learning context, all listed under the virtual learning topic category.



Student Privacy Primer

This primer explains the concepts of student data, including who uses the data and why they use it; data privacy in general; student data privacy; student data privacy risks and harms; how student data privacy relates to data ethics and data equity; key federal privacy laws; key district and school policies; and what it means to foster a culture of privacy. Each of these sections and a concluding section list additional resources to help education stakeholders learn more about student data privacy.



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What Is Student Data?

Student data is student information that is collected and used in an educational context. This information has traditionally included data collected at school, but with increased use of online learning technologies, the educational context now includes data collected beyond the classroom, including from students' devices at home.

Examples of student data collected throughout a student's educational journey include

- » Name, age, gender, race, ethnicity, socioeconomic status, and other demographic data that schools request or require when students register for school;
- » Grades, test scores, attendance, discipline and health records, and college and career goals that schools track to help them follow a student's progression throughout their education career;
- » Recorded observational data, which educators generate throughout the school day, about a student's behavior, motivation, or interests;
- » Students' performance, time on task, and outcomes generated through homework, learning applications, and standardized tests; and
- » Data that helps schools understand and assess students' needs, including internet and device access, transportation access, home circumstances, health needs, and food security.

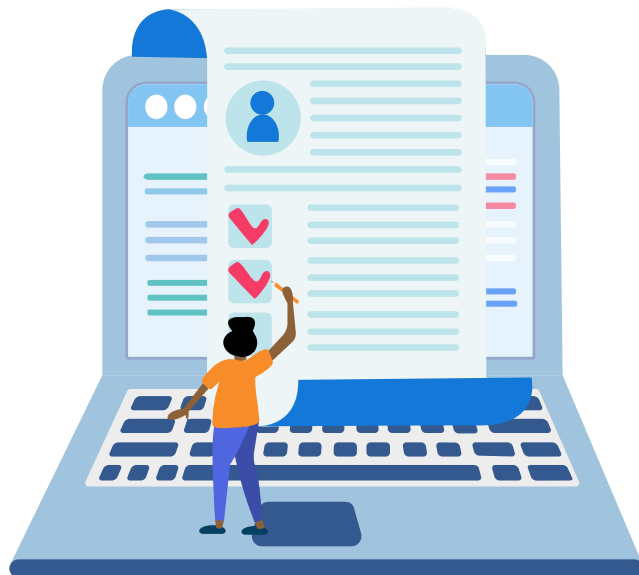
Understanding the different types of student data enables better comprehension of the sensitivity and potential privacy risks associated with each type. This understanding, in turn, informs the data that schools and districts choose to collect, use, and share, as well as how the data is protected.

The types of student data include

- » **Personally Identifiable Information (PII):** Information that is maintained in education records and includes direct identifiers, such as a student's name or identification number, and indirect identifiers, such as a student's date of birth or other information that can be used to distinguish or trace an individual's identity either directly or indirectly through linkages with other information.
- » **Deidentified Data:** Data about individual students that has enough information removed that a student cannot be identified, such as data that has been subjected to statistical techniques to limit disclosure. Deidentified data may be published in reports about student achievement or shared with external researchers.
- » **Aggregate Data:** Data about groups of students, for example, data shared as part of a school's federal reporting requirements on topics such as attendance rates.
- » **Metadata:** Data that describes and gives information about other data, such as indicators on how much time a student spent on a test as opposed to their grade on the test.

TO LEARN MORE:

- » Data Quality Campaign, [What Is Student Data?](#)



Why Use Student Data?

Student data may be collected for a number of purposes, including

- » To improve a student's educational experience, including allowing educators to track student progress and plan appropriate interventions if or when needed;
- » To protect a student's health and safety, including maintaining medical forms, allergy information, and emergency contact information;
- » To fulfill a school's basic administrative functions, including collecting, maintaining, and reporting basic enrollment, attendance, and academic records for students; and
- » To fulfill basic administrative functions of local, state, and federal governments, including tracking school and district performance, assessing how funding is used, and informing the public.

TO LEARN MORE:

- » Data Quality Campaign, [How Data Help Teachers](#)

Who Uses Student Data?

Different types of education stakeholders collect and use student data to fulfill their roles and responsibilities:

- » **Students** use their data to assess their current strengths and weaknesses, to set goals, and to track their progress, thereby taking ownership of their educational journey.
- » **Parents/Caretakers** use student data to follow their children's learning, to partner with educators to provide support at school and at home, and to better advocate for their children.
- » **Teachers** use student data to understand students' learning, to tailor lesson plans to individual students, and to assess student performance and outcomes.
- » **School and District Administrators** use student data to understand the strengths and weaknesses of their education programs and curricula, to assess the resources they may need to drive improvements, and to report student performance and outcomes.
- » **State Departments of Education** use student data to measure how schools and districts meet goals for students, to inform funding needs, and to report high-level data to the public and to federal offices.
- » **The US Department of Education** uses aggregate student data to provide information to the public about performance and to measure how federal funds improve education.
- » **Education Technology Companies** and other third-party service providers hired by schools and districts use student data to help schools and districts support students.
- » **Researchers** use student data to study important educational research questions and to support data-informed decision-making.

TO LEARN MORE:

- » Data Quality Campaign, [Who Uses Student Data?](#)



What Is Data Privacy?

Privacy is an amorphous concept, which people in different contexts define in various ways. One person may think of privacy as being alone in a private space, such as their bedroom. Another person may associate privacy with being free from surveillance, whether by their parents/caretakers, their schools, or the government. Some of the common conceptions of data privacy include

- » Data privacy as a *fundamental right*. Individual privacy rights are recognized in the US Constitution, the UN Declaration of Human Rights, and in over 80 countries around the world. Privacy rights also provide the foundation for other important rights, including self-determination and free expression.
- » Data privacy includes a person's *control* over how their personal information “flows” between them and any third parties (how it is used and shared).
- » Data privacy is *subjective*, as each person has unique privacy preferences and expectations. What feels invasive or creepy to one person may be innovative or cool to another. Many factors influence these preferences and expectations, including a person's familiarity with the entity or person collecting their data, whether a person is from a marginalized community whose data has been used in inequitable ways, their cultural background, and their trust in data-holding organizations.
- » Data privacy is *contextual*. Whether it is appropriate to use or share personal data in a particular manner depends on ever-evolving social and ethical norms and on legal frameworks. To ensure that people understand an education agency's or institution's community norms about data use, the agency or institution must communicate and engage directly with their community members.

Establishing and maintaining privacy, whether by being left alone or avoiding being watched, was relatively straightforward before the advent of digital technologies. Today, technologies such as smartphones, which people carry in their pockets, and the trackers that load invisibly online whenever people open a web page can make it feel like privacy no longer exists.

With the introduction of these technologies and their unprecedented ability to collect and use data, stakeholders have talked about the word “privacy” as a form of fairness and power. The more information that one person or organization has about another, the more that party may influence or exert power over the other. Data privacy protections help individuals and communities maintain their autonomy and freedom when their governments and other organizations use their information. For example, institutions, such as governments and companies, harvest and retain massive data sets on their citizens and users. This data is often collected from individuals without their knowledge or informed consent and can be used for purposes over which they have little to no control. In this context, data privacy helps to establish agreed-upon protections to affirm fairness, including the creation of transparent policies and practices that help correct power imbalances among the individual, the technology, and the institution.

TO LEARN MORE:

- » Future of Privacy Forum, [Nothing to Hide: Tools for Talking \(and Listening\) About Data Privacy for Integrated Data Systems](#)



What Is Student Data Privacy?

Privacy, as a central component of fairness, often comes up in the educational context. **Student data privacy refers to the responsible, ethical, and equitable collection, use, sharing, and protection of student data.** Why is it so important to protect student data? Any type of data collection, use, or sharing entails potential short- and long-term risks. Those who have had a credit card compromised or personal information stolen are aware of the difficult ramifications of data collection and sharing gone awry. Just like toothpaste squeezed from a tube, once sensitive information is released, it is hard, if not impossible, to get it back where it belongs.

Because students—especially younger children—are not fully equipped to weigh the potential benefits and risks of data collection and use, they require special privacy protections. They are also at risk for more-acute harms, such as opportunity loss, that may not fully emerge until later in life. Data privacy protections can support students' success and give them agency over their information and education.

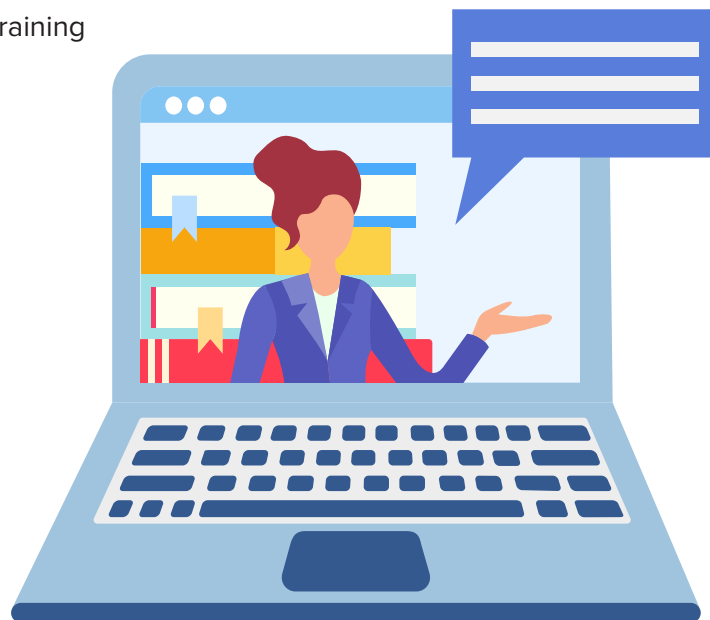
There are a few misconceptions about data privacy. First, seeking to protect data privacy does not mean preventing all others from learning information about an individual. On the contrary, data privacy is about creating conditions in which individuals will share their personal information because they trust that others will protect it. This is particularly important in the educational context, in which students rarely have a choice about whether to share their personal information with their education institution.

In addition, while data privacy and data security are closely related, a perfectly secure data system may still violate individual privacy if authorized users acting within an organization's or system's normal capabilities collect or use personal data in covert, unexpected, inappropriate, or inequitable ways.

Finally, student data privacy is not just another item to be checked off a list to ensure legal compliance, or a bureaucratic barrier to helping students excel in the classroom. Rather, data privacy is integral to data use that informs priorities and supports students in an ethical and equitable manner. School and district leaders should remember that, while student data can be immensely valuable to help improve teaching and learning, the misuse or unauthorized disclosure of student data can also put students and their families at risk.

TO LEARN MORE:

- » Future of Privacy Forum, Student Privacy Training for Educators: [Defining Privacy](#)



What Are Student Data Privacy Risks and Harms?

When proper student data privacy protections are not in place, schools and districts face significant risks to their students, their schools, or districts. These risks fall into three main categories:

- » **Actual Harm:** Students may suffer physical, emotional, or reputational harm due to unauthorized access to their personal information.
- » **Legal Consequences:** Schools and districts may face fines, lawsuits, or even imprisonment for their failure to comply with federal and state student privacy laws.
- » **Public Relations Disaster:** Even if schools and districts avoid data breaches and comply with legal requirements, the perception of unethical or irresponsible practices due to misinformation or lack of communication can result in a public relations disaster.

Actual harms to students can be further categorized into eight types:

- » **Commercialization:** Companies may access and use student data to target advertisements to students and build student profiles.
- » **Equity Concerns:** Students have varying access to devices or internet service, which has implications for the levels of safeguards in place and monitoring that occurs.
- » **Social Harm:** Revealing personal and sensitive student information can result in stigmatization and cyberbullying.
- » **Over-Surveillance:** Over-collection and monitoring of student data and online activity can have chilling effects, such as discouraging students' interest in learning or taking healthy risks.
- » **A Permanent Record:** This regards how long institutions retain records of events, specifically mistakes, potentially tethering students to their past in limiting or harmful ways.
- » **Loss of Opportunity:** Student data can be used to make decisions about students that can result in denials of opportunity.
- » **Age-Inappropriate Content:** Students may access inappropriate websites and online content.
- » **Safety:** Personal or otherwise sensitive information may be revealed that could endanger students' safety.

TO LEARN MORE:

- » Future of Privacy Forum, Student Privacy Training for Educators: [Why Protect Student Data](#)
- » Future of Privacy Forum, Student Privacy Training for Educators: [Understanding and Reducing Risk](#)
- » Danielle Keats Citron and Daniel J. Solove, *Privacy Harms*, (February 9, 2021), GWU Legal Studies Research Paper No. 2021-11, GWU Law School Public Law Research Paper No. 2021-11, Accessed April 29, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3782222.
- » Enterprivacy Consulting Group, [A Taxonomy of Privacy](#).

How Does Student Privacy Relate to Data Ethics and Data Equity?

From a data privacy perspective, responsible data use is more than compliance with laws and regulations and goes beyond basic assumptions of fairness. Student data privacy policies and practices must ensure ethical and equitable uses of data that minimize potential for harm and risk, especially to students from marginalized groups (e.g., students of color, students with disabilities, and students from lower socioeconomic backgrounds).

Data ethics and equity are related but different terms regarding how student data is used. Data ethics are the guiding principles for how stakeholders should govern, use, and protect data to minimize harm and risk. Examples of ethical data use include data governance policies and district practices that convey which data can be collected, how long data can be retained, who has access to data, and the purposes for which data is used. An ethical approach to data use includes policies that clearly distinguish appropriate and inappropriate data practices and communicate standards for data collection, use, protection, and sharing.

Data equity is dependent upon ethical policies and practices. What differentiates data equity from ethics is its focus on using data to understand structural and systemic educational barriers to students' success and to take actions to improve those structures and systems. Equitable data practices include regular audits of data, data systems, and data practices to assess and remediate bias or discrimination (e.g., unequal surveillance and discipline of students of color or noncompliant ADA edtech use) and identifying and addressing achievement, resource, and opportunity gaps (e.g., unequal graduation rates, student access to technology, or teacher shortages). A data equity mindset includes students and their families in the responsible and ethical use of their data. In practice, this includes regular communication to understand students' needs and realities and regularly informing students of their rights related to data collection and use.

It is imperative to think beyond privacy and to incorporate appropriate and ethical data use. Some practices may not violate FERPA, but they may be unethical, inequitable, or inappropriate in some way, such as drawing inappropriate or unfounded conclusions, making inferences based on limited or biased data, using cognitive fallacies in reasoning, cherry picking results, using confirmation bias, and other poor practices. Minimizing harm, bias, and discrimination in systems and practices requires data use that is student-centered and grounded in privacy ethics and equity.

TO LEARN MORE:

- » Urban Institute, [Equitable Data Practice](#)
- » The Education Trust, [Data Equity Walk Toolkit](#)
- » Ellen B. Mandinach and Edith S. Gummer, (Eds.), *The Ethical Use of Data in Education: Promoting Responsible Policies and Practices*, (2021), New York, NY: Teachers College Press.



What Are Key Federal Privacy Laws?

FERPA. Information in a student’s education record is governed by the *Family Educational Rights and Privacy Act*, a federal law enacted in 1974 that guarantees that parents have access to their children’s education records and restricts who can access and use student information. FERPA protects access to and sharing of a student’s education record, which is all information directly related to a student’s education. FERPA gives parents specific rights to their children’s education records, and when a child turns 18, the rights belong directly to the student.

FERPA also permits schools to share information with a) another school system regarding a student’s enrollment or transfer, b) specified officials for audit or evaluation purposes, c) appropriate parties in connection with a student’s financial aid, d) organizations conducting certain studies for or on behalf of the school, e) accrediting organizations.

FERPA’s “school official” exception allows schools to share information with parent volunteers, technology companies, and other vendors but only when these parties use the information for educational purposes directed by the school. Directory Information, another FERPA exception, is student data that a school may make public, for example a sports team roster, yearbook information, or even data that can be provided to third parties, but schools must give parents the opportunity to opt out.

TO LEARN MORE:

- » US Department of Education, [Student Privacy 101: FERPA](#)
- » ConnectSafely and Future of Privacy Forum, [The Educator’s Guide to Student Data Privacy](#)
- » US Department of Education, [FERPA and Virtual Learning](#)
- » US Department of Education, [Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices](#)
- » Future of Privacy Forum, Student Privacy Training for Educators: [Adopting EdTech Privacy Vetting](#)

PPRA. The *Protection of Pupil Rights Amendment* outlines process restrictions for when education institutions may ask students for information as part of federally funded surveys or evaluations. Specifically, PPRA requires parental notification and/or consent before minors can participate in school-administered surveys that reveal sensitive information. For example, schools may want to use surveys to better understand the social and emotional health of their students. They might also seek to understand students’ needs and circumstances regarding issues such as internet and device access or food security. To administer such surveys, schools must be able to show parents the survey materials used, and parents must either opt in or opt out, depending on whether student participation is required and/or the survey addresses certain sensitive categories.

TO LEARN MORE:

- » Future of Privacy Forum, [FAQs: The Protection of Pupil Rights Amendment](#)
- » Future of Privacy Forum, Student Privacy Training for Educators: [Student Surveys](#)
- » US Department of Education, [Protection of Pupil Rights Amendment \(PPRA\) General Guidance](#)



COPPA. The **Children’s Online Privacy Protection Act** regulates information collected from children by companies operating websites, games, and mobile applications directed toward children under 13. COPPA requires companies to have a clear privacy policy, provide direct notice to parents, and obtain parental consent before collecting information from children under 13. Teachers and other school officials are authorized to provide this consent on behalf of parents for use of an educational program but only for use in an educational context. This means a company can collect personal information from students only for a specified educational purpose and no other commercial purpose. Most schools have policies requiring school administrator approval before teachers can allow students to use certain apps and services. When companies collect information with the consent of a school official, the companies may keep the information only as long as necessary to achieve the educational purposes.

TO LEARN MORE:

- » Common Sense Media, [What Is COPPA?](#)
- » Federal Trade Commission, [Complying with COPPA, Frequently Asked Questions](#)
- » Future of Privacy Forum, Student Privacy Training for Educators: [Adopting EdTech Privacy Vetting](#)

IDEA. The **Individuals with Disabilities Education Act** provides for a “free appropriate public education,” including special education and services, for children with disabilities. To receive federal funding under IDEA, states must have systems in place to protect the confidentiality of personally identifiable information and must maintain parents’ right to consent to the exchange of that information. IDEA also grants parents the right to examine records relating to their children’s assessment, eligibility determination, and individualized education plan. In addition to granting parents access and deletion rights that are similar to those of FERPA, IDEA establishes a higher standard of confidentiality for the student records it covers, such as a student’s individualized education plan.

TO LEARN MORE:

- » US Department of Education, [Individual with Disabilities Education Act](#)



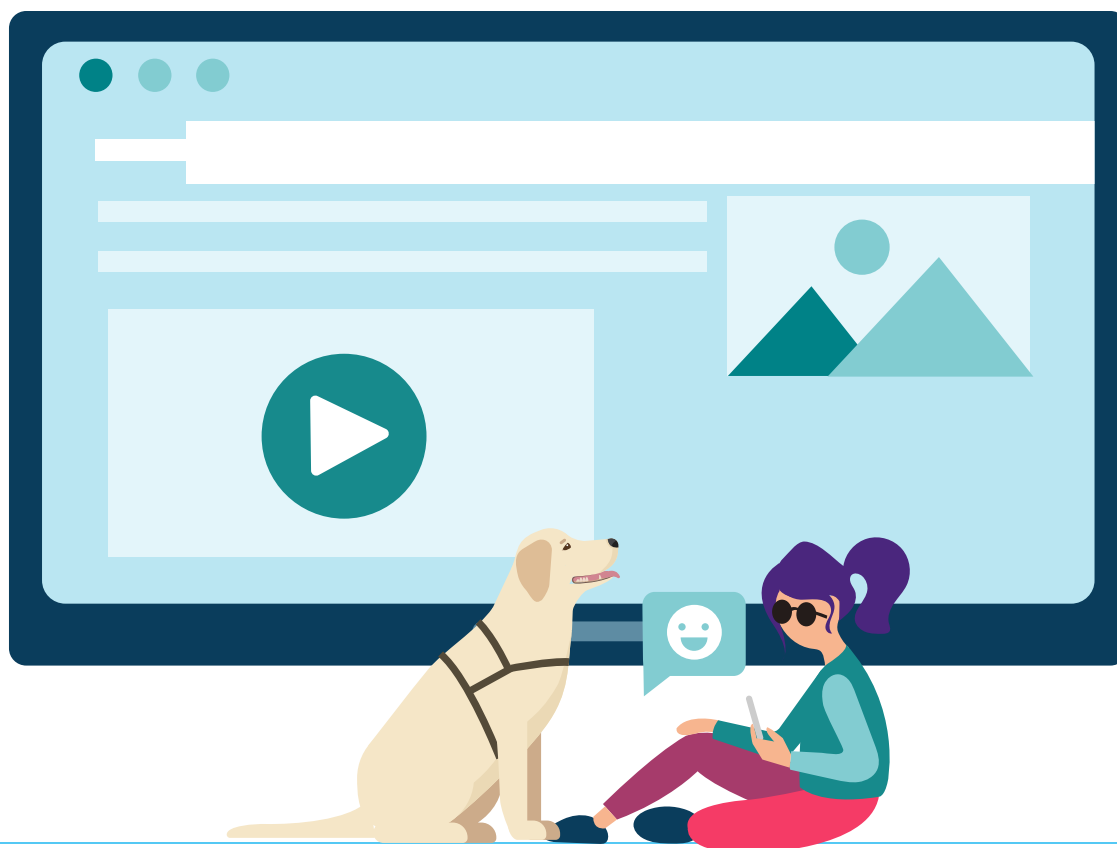
What Are Key District and School Policies?

Schools and districts have a number of policies that protect student data privacy. These policies include information that specifically apply to educators and should inform classroom practice and communication with students and families. The purpose of these policies is to support the school's legal and moral obligation to keep students' data safe. We have listed a number of policies below that your school or district may have. It is highly recommended to be familiar with these policies and consult as needed.

- » Edtech Vetting and Adoption
- » Posting Student Work
- » District and Personal Social Media Use
- » Directory Information
- » Photos and Videos of Students
- » Virtual Learning/Video Classrooms
- » Protection of Pupil Rights Amendment (PPRA)
- » Student and Parent Communication
- » Data Destruction
- » Parental Information Request
- » Data Sharing with Community Organizations
- » Data Breach
- » Researcher Agreements

To learn the most important details about each of these policies and when to consult them, watch the following free video training:

- » Future of Privacy Forum, Student Privacy Training for Educators: [What Are Your School's Policies?](#)



What Is a Culture of Privacy?

School and district leaders are key actors in protecting student data privacy, but they are not alone. Each group of education stakeholders has an important role to play to ensure responsible use and protection of student data. Schools and districts must work together with educators, parents/caretakers, and students to create a culture of privacy in which all parties understand the need to protect student data privacy and act accordingly. Building a culture of privacy requires understanding the legal landscape, a robust data governance program, streamlined vetting of edtech tools, trained educators and staff, and consistent communication.

- » **School and district leaders** can establish robust student data privacy policies, procedures, and practices; properly train educators and staff handling student data; and facilitate meaningful two-way communications with parents/caretakers and students.
- » **Educators** can build their professional capacity by learning about student data privacy; proactively share information with students and their families about the purpose and mechanisms of student data collection and use in the classroom; and take precautions to ensure that the tools they use adequately protect student data privacy.
- » **Parents/Caretakers** can learn about laws that govern the collection and use of student data; understand parental rights related to those laws in order to act as partners in their children's educational journey and protect their children from potential data misuse or harm; advocate for robust student data privacy and data governance programs and training; and have conversations with their children about how to engage safely and responsibly online.
- » **Students** can play an active role in protecting their data by developing skills to become good digital citizens, including managing their digital identities and reputations, engaging in positive, safe, legal, and ethical behavior online, and being aware of how their data is collected and used in the school environment.

TO LEARN MORE:

- » Future of Privacy Forum, Student Privacy Training for Educators: [Advocating for a Culture of Privacy](#)
- » Future of Privacy Forum, [Student Privacy Communications Toolkit: For Schools & Districts](#)

More Resources

- » [Privacy Technical Assistance Center \(PTAC\)](#) is located within the US Department of Education's Student Privacy Policy Office (SPPO). In addition to providing resources regarding student privacy, legal compliance, and best practices, PTAC also operates a [Student Privacy Help Desk](#), offering assistance on complex student privacy issues via phone or email.
- » ConnectSafely and Future of Privacy Forum created [The Educator's Guide to Student Data Privacy](#), which covers student data privacy topics such as how teachers can use technology in the classroom while protecting their students' privacy.
- » Common Sense Media's [Privacy Program](#) evaluates the privacy policies of numerous learning tools, so that educators can make informed choices on the tools they use in the classroom. The Common Sense Privacy Program also provides [training](#) for educators on privacy and security.

Student Data Privacy and Data Ethics Scenarios



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CLASSROOM PRACTICES



These scenarios cover classroom policies and practices teachers implement during instruction.



Celebrating Top Three Scores

A teacher, Ms. Loren likes to motivate her students by recognizing the students who do well. In her class, they celebrate the top three scores on each test. The students come forward, the class applauds, and their scores are shared.

Questions for discussion:

- › Is this an appropriate use of student information?
- › What if Ms. Loren did not share specific scores but still called the top three performing students up?
- › What if Ms. Loren noted the students were in the top 3 or 5 but did not give a rank order?

USER'S MANUAL: Celebrating Top Three Scores

Here's how we see it:

- › The teacher should not share the specific scores of the students as this could violate FERPA and other state level privacy laws. The teacher could consider sharing the name of the top 3 students in no particular order and without sharing their specific scores.
- › There is also the possibility that this has the opposite intended impact, and reduces motivation of students who never get a top three score, or outcasts the students who are praised.
- › In general, a good rule to follow is to avoid sharing information about student performance when possible.

For further discussion:

- › What are helpful and ethical ways to celebrate student learning without divulging student performance and data?
- › What if Ms. Loren gave incentives that were not public?
- › What happens to students who do not enjoy such recognition?

Unintended consequences:

- › A system that ranks students will inevitably lead to students who are never recognized, hurting self-esteem, confidence, and motivation.
- › This practice can lead to social harm of both students who are recognized and who are not recognized.
- › This is a potential violation of FERPA and state privacy laws.



Confirmation Bias

Mr. Chester teaches an advanced math class. Mr. Chester prefers to give open response questions in his exams so that students have to explain their work. He often does not create a rubric for how he will score these questions until only after starting to review students' responses and then scores with an informal, flexible rubric. As Mr. Chester predicts, his Asian and male students have the strongest responses in the open-ended questions, while his Black and female students have the least proficient responses.

Questions for discussion:

- › What is the impact of using a flexible, informal rubric to grade student responses?
- › How valid or invalid is Mr. Chester's scoring?



USER'S GUIDE: Confirmation Bias

Here's how we see it:

- › There is value in assessing students through open-ended questions, though there is risk in the subjectivity of how they are scored. In this case, there is a significant risk since Mr. Chester does not create a rubric until after viewing student work. And this rubric is “flexible”, meaning there is significant discretion employed when scoring students.
- › Significant confirmation bias is at play in this practice, meaning Mr. Chester is interpreting results in a way that confirms one's own biases, biases that have been socialized through racist stereotypes.
- › Mr. Chester should create a well-defined rubric before even administering the exam to students to ensure there is consistency with how students are graded.

For further discussion:

- › What do you think of Mr. Chester's predictions?
- › Do you think the predictions are fair and accurate?
- › Is this a case of confirmation bias? How would you describe this phenomenon?

Unintended consequences:

- › The inconsistency of how students are scored will result in unfair grades, with either students undeservingly receiving a higher grade or poorer grade. Such practice perpetuates inequities that exist for the most marginalized students.



Diagnostic

Mrs. Ginny is an experienced teacher at Cody Elementary School. She has been working with one student, Randy, and is concerned about his reading skills. Based on her experience and her observations of Randy as he is reading, Mrs. Ginny strongly suspects that Randy has dyslexia. Mrs. Ginny lacks definitive evidence of a diagnosis and wants to get a formal diagnosis. However, she doesn't know with whom she can share Randy's information and she is concerned that, in asking for help, that she may improperly disclose information about Randy.

Questions for discussion:

- › What should Mrs. Ginny do?
- › What data or evidence does Mrs. Ginny need?
- › Is her experience sufficient evidence? Why or why not?



USER'S GUIDE: Diagnostic

Here's how we see it:

- › Mrs. Ginny's observations combined with her experience are enough to warrant further testing. However, Mrs. Ginny is not formally trained in diagnosing dyslexia and needs to contact the professional on her school's staff that is responsible for these diagnoses.
- › The school nurse or counselor should be consulted first. They will be aware of procedures that Mrs. Ginny should follow such that she can recommend an evaluation but not violate Randy's privacy. There is a legitimate educational interest here, but Mrs. Ginny must confirm the staff member she should speak with regarding this situation.
- › There are procedures for gathering evidence from testing practices that need to be undertaken to make the determination and diagnosis.

For further discussion:

- › Is professional intuition a valid source of evidence?
- › Are Mrs. Ginny's observations valid evidence?
- › With whom should Mrs. Ginny share her observations and suspicions? With Randy's parents/caretakers? Other educators?
- › Should Mrs. Ginny discuss with Randy what she has observed to provide him some student agency?

Unintended consequences:

- › Discussing this matter informally and without following proper protocol can significantly harm Mrs. Ginny's relationship with Randy and his family, especially if her suspicions turn out to be incorrect, potentially breaking trust, hurting Randy's confidence, and leaving the family and Randy feeling inappropriately misjudged.



Documentary Project

Ms. Long assigns a documentary project to her students, which requires them to film what a typical day for them is like. Ms. Long asks students when they are done, to upload the recordings so they can be shared during class and so she can grade the projects. Ms. Long finds that a few of her students have expressed they do not want to complete this project and have asked for an alternative project.

Questions for discussion:

- › What are some reasons students may have concerns with completing this documentary project?
- › Should students be forced to share their documentary project with the class?
- › What if students from other classes, such as siblings or friends, are included in these documentary projects?

USER'S GUIDE: Documentary Project

Here's how we see it:

- › Students may not feel comfortable filming their day, including their housing situation, the neighborhood they live in, or their family structure. Additionally, not all students may have access to a device where they can record and complete this project.
- › Ms. Long should not require that students share their documentary project. As this project is supposed to film a typical day in the life for students, it may reveal extremely personal and sensitive information that is not appropriate for peers to see and can prove extremely embarrassing to students. Students may also not be aware of the personal information they are revealing in their project prior to submission.
- › Students may end up recording family members, friends, or other people as they film their day. Ms. Long needs to caution students not to include anyone in the recording without proper communication or consent. Ms. Long should also ensure students are uploading these recordings on district-approved and owned platforms to minimize potential for breaches.
- › Additionally, some students may not have the means to do such filming and may feel embarrassed to admit this to Ms. Long as a reason for their reluctance.

For further discussion:

- › Do the benefits of this project outweigh the risks and concerns?
- › What if some students do not have the technology to support the assignment?

Unintended consequences:

- › This project can result in students revealing incredibly intimate details about their lives and result in stigmatization, bullying, or just pure discomfort at having to share.
- › Students who lack recording devices could receive a failing or poor grade, simply due to lack of access.
- › Other people, without proper consent or communication, could be included in these recordings including personal details about their lives.



Emoji Student Check-ins

Mr. Kelly wants a quick way to check in with students and see how they are feeling at the beginning of virtual class. Therefore, at the beginning of virtual class, Mr. Kelly asks students to submit an emoji that reflects how they're feeling - happy face, neutral face, or sad face - in the chat. Students are also encouraged to write a sentence or two on how they feel.

Questions for discussion:

- › Should student check-in responses be sent privately to only Mr. Kelly or shared in the general chat to everyone in the class?
- › Is there a difference between asking students to submit an emoji versus asking students to type out how they feel?

USER'S GUIDE: Emoji Student Check-ins

Here's how we see it:

- › Asking students to share their emojis in the general chat to everyone can foster a deeper sense of community among students. But the main purpose of these check-ins appears to be for Mr. Kelly to get a quick pulse on his students. Mr. Kelly should consider giving students the option to submit their emoji check-in either in the general chat or just to him privately. This option may result in more honest answers from students who may not want to send a sad face in the group chat for other students to see.
- › There is a significant difference between asking students to submit an emoji versus typing out how they feel. When asking students to submit an emoji, there are a limited number of options available—happy face, neutral face, or sad face. When asking students to type out a sentence or two, it is unknown what type of responses students may send. If students reveal certain sensitive information about themselves, such as considering self-harm, the teacher will be required to report this to the relevant department of family and child services and will most likely need to bring in their administrator and counselor. Additionally, when surveys are administered in a school, there are certain requirements under PPRA that must be followed: school staff must receive parental consent if student responses include sensitive information, including mental problems or self-incriminating behaviors. If this type of check-in garners responses that include sensitive information, this poses legal issues regarding parental consent.

For further discussion:

- › What are other ways to have quick check-ins with students that would not lead to students revealing sensitive information?

Unintended consequences:

- › If students reveal sensitive information about themselves and depending on the type of information, the teacher may have to report to the department of family and child services and/or could pose legal issues in terms of parental consent.



Erratic Behavior

Ms. Randolph teaches at Calypso Middle School. She has been teaching for many years. There is one student, Cujo, who has been diligent and motivated, but lately, Cujo seems off. He has been having difficulty concentrating, has an increase in absences, and is turning in incomplete assignments. Another teacher mentions that she thinks Cujo has some sort of medical issue that requires medication, so Ms. Randolph decides to ask the school nurse.

Questions for discussion:

- › What if the teacher's statements about Cujo are inaccurate?
- › Is the nurse the correct person for Ms. Randolph to seek further information from?
- › What information can Ms. Randolph expect from the nurse?



USER'S GUIDE: Erratic Behavior

Here's how we see it:

- › Generally, medical information kept by schools about a student is subject to the same rules as any other student personal information, so the nurse could (but does not have to) disclose to the teacher what medical conditions the student has, so long as the teacher has a legitimate educational interest in the information.
- › However, some states may have stricter laws that limit who can have access to medical information, and nurses, in particular, may be subject to licensing requirements or laws that restrict what they can share (as opposed to a school administrator who has access to student medical information).
- › Ethically, information should be disclosed when it needs to be and it is in the best interest of the student. Ms. Randolph likely doesn't need to know exactly what is happening with Cujo to help, but it is valuable for her to raise an alert with school administrators, perhaps the nurse, and perhaps Cujo's parents/caretakers so they are aware of the change in Cujo's behavior and academic performance.

For further discussion:

- › Would it have been a good idea for Ms. Randolph to discuss this issue with Cujo and his family?

Unintended consequences:

- › Erratic behavior may be a sign of a deeper issue the student is going through. Left unaddressed can lead to various harms, academically, socially, and more.
- › If the teacher's judgments were inaccurate—that Cujo's behavior is a result of a medical issue—this could lead to false interpretations, bias, further inaccurate conversations about Cujo, and a huge breach of trust with Cujo's family if they hear about it.



Hanging Up Graded Work

Ms. Henry arrives at Mr. Tigger's room. Condi is Ms. Henry's third-grade daughter and Mr. Tigger is Condi's teacher. As part of the conference, Ms. Henry and Mr. Tigger walk around the room to see student work hanging on the wall. Mr. Tigger says that he chooses artwork from students to hang up for everyone to see and that he is careful to choose work that shows success — either through a high grade or through notable improvement. Mr. Tigger says it is part of the class culture to recognize students for work they should be proud of. Further, Mr. Tigger says he believes it motivates students to do well.

Questions for discussion:

- How do you view Mr. Tigger's practice of hanging up exemplary student work?
- What if Mr. Tigger puts all student work up, regardless of quality?

USER'S GUIDE: Hanging up Graded Work

Here's how we see it:

- › We are wary about hanging up graded work (although we recognize school policies still exist that allow teachers to hang up student work). When hanging up student work, teachers must consider what information is displayed and who will see it. Student graded assignments are FERPA-protected and therefore should not be shared without parental consent. On the other hand, teachers can post “successful work” of students, if their school classifies successful work as directory information. Successful work can include exemplary student work, and the names of honor roll students and students who earn exemplary GPAs. Teachers should also consider when parents, families, and other non-staff are in the school buildings or classrooms and may see the FERPA-protected information on display, such as during parent teacher conferences.
- › In terms of both student privacy and ethics, the teacher needs to take a reasonable approach, carefully considering the nature of the work, and the information that will be disclosed by hanging it up - for example, a landscape painting done in art class is unlikely to violate the privacy (and the trust between that student and the teacher) of students, while essays or poems that touch on personal issues easily could. In general, we believe teachers should not hang up student work like this unless they are sure no students will be harmed by doing so. Ask students and families for permission to hang up their assignments in the classroom. Be transparent with students and parents/caretakers about your practice of sharing students' successful work as a way to potentially preempt issues or concerns and be responsive if they have complaints regarding the display of work.
- › Some schools may require teachers to hang student work in their classrooms and the hallway. If that is required in your school and the work has grades or comments, be sure to ask for parent permission before doing so.

For further discussion:

- › What if student names are removed from the work?
- › What if the papers had student grades and comments on them?

Unintended consequences:

- › There is a concern for students whose work is not represented here as being excellent or having made progress. This could disincentive student motivation and lead to unhealthy comparison and stigmatization.
- › Although there are school policies that allow teachers to hang up graded school work, there remains a concern about the ramifications of having named and grade work on display and the potential impact it has on students' confidence and self-esteem.



Observing Students During Virtual Class

As a result of the pandemic, Mr. Bucky's school is conducting classes via videoconferencing platforms. Mr. Bucky is leading his virtual class through some activities. The students seem pretty engaged. Mr. Bucky scans the views of his students and notices that one student, Edith, is literally asleep at the computer. Mr. Bucky also notices that another student seems disheveled. Sandy's clothes are dirty and her hair apparently has not been washed in a while.

Questions for discussion:

- › What should Mr. Bucky do about both Edith's and Sandy's situations?
- › Is making these observations any different virtually as opposed to if Mr. Bucky observed the same things in his classroom?



USER'S GUIDE: Observing Students During Virtual Class

Here's how we see it:

- › The virtual platform gives teachers some views that they likely would not have in the classroom, while other observations would be the same. For example, Mr. Bucky would have noticed if a student came to school with dirty clothes or fell asleep in class.
- › Mr. Bucky should consider addressing these situations (falling asleep and appearing disheveled) privately with the students themselves to check in on how they are doing. If concerns continue, Mr. Bucky should discuss with appropriate administrators and counselors and share his concerns. It is appropriate for him to share this information with administrators out of concern for the well-being of his students.
- › There is a gray area between negligence and financial and economic circumstances. It is better to do more investigation before taking next and formal steps, such as speaking with the school counselors or the student's parents/caretaker.

For further discussion:

- › What differences are there between classroom observations and those made in virtual classrooms? Are there any boundary differences?
- › Are there any privacy concerns about having a view into a student's home situation?
- › What if Mr. Bucky is overreacting to what he has seen, by interpreting some sort of negligence on the part of the parent or guardian?

Unintended consequences:

- › A student who is dirty, unkempt, or falling asleep may be an indication of some sort of neglect in the home environment. To miss or ignore potential neglect could do harm to Edith and Sandy. On the other hand, these signs could also be an indication of tough financial times for these students and their families. Reporting for such circumstances could lead to negative consequences, especially because it often involves social workers or even police officers getting involved.
- › Other students could have observed Edith and Sandy which could lead to teasing or taunting.



Passing Out Papers

Ms. Kepo teaches at Gryffin Middle School. When she hands back student work, she hands them out in order of performance, with students scoring the highest receiving their papers back first. All the students are aware of this practice. Niko, Ace, Dixie, and Chance are beaming. They got their papers early. However, Charlie and Delores receive their papers much later.

Questions for discussion:

- › What do you think about Ms. Kepo's practice?
- › How is this practice appropriate or inappropriate?



USER'S GUIDE: Passing Out Papers

Here's how we see it:

- Passing out graded papers in this manner is a de facto admission of the rank ordering of grades and performance. It is inappropriate.
- Although specific scores are not being released, the explicit awareness of the rank ordering is a factor here.

For further discussion:

- What if Ms. Kepo passes the papers out in groups rather than individually?
- Would it be better to randomly hand out the papers?

Unintended consequences:

- Students know who did well and who did not. There is great potential for adverse impact for the students who receive their papers last, indicating poor performance.
- This is not a motivational strategy. Students can be mocked for poor performance. They can suffer from motivational or self-esteem issues.



Physical Education Performance Posting

Mr. Moses is a physical education teacher at Rembrandt High School. He likes to motivate his students through a competitive process by publicly posting performance metrics like batting averages, free-throw percentages, number of laps swam, number of sit-ups, and soccer goals scored.

One student, Max, is a multi-sport athlete. He regularly comes out on top, regardless of the sport. He loves seeing his name on the lists. Another student, Lou, is always at the bottom of the list. He does not like the public listing practice. Mr. Moses believes that if students can see the trajectory of their performance, they will be motivated to improve, especially because other students can see the results as well. Thus, he believes both Max and Lou benefit from this practice.

Questions for discussion:

- › Is this an appropriate practice?
- › Does it make a difference if Mr. Moses were a coach instead of a PE teacher?



USER'S GUIDE: Physical Education Performance Posting

Here's how we see it:

- › We are wary about posting individual student performance metrics as these are most likely defined as education records and are therefore FERPA-protected. Parental consent may be needed before posting these metrics. Teachers should also consider when parents, families, and other non-staff are in the school buildings or classrooms and may see the FERPA-protected information on display, such as during parent-teacher conferences.
- › In terms of both student privacy and ethics, the teacher needs to take a reasonable approach, carefully considering the nature of the work and the information that will be disclosed by hanging it up. In general, we believe teachers should not hang up student work like this unless they are sure no students will be harmed by doing so. Mr. Moses can also consider posting class averages of the performance metrics to motivate and show growth, without publicly displaying individual student performance.
- › It doesn't matter if Mr. Moses were a coach instead of a P.E. teacher. Both are classified the same way under federal student privacy law.

For further discussion:

- › What are the potential consequences of posting these data for students who do not want their results shared (e.g., bullying)?
- › What are other ways Mr. Moses could use competition to promote student performance and learning without compromising privacy or sharing student data?

Unintended consequences:

- › There is a concern for students whose performance is not represented here as being excellent or having made progress. This could disincentive student motivation and lead to unhealthy comparison and stigmatization.
- › There is also the legal violation of sharing FERPA-protected information without parental consent.



Plagiarism

Ms. Martha is a teacher in an honors English course. She begins reading Caesar's paper and notices that some wording seems really familiar. She also notes that some sentences have much different structures, such as a lack of punctuation or the use of certain wording. Ms. Martha starts to check the document for appropriate attributions and discovers that some parts of the paper are lifted directly from original sources or are closely paraphrased. It seems like basic plagiarism.

Ms. Martha goes to discuss the paper similarities with a colleague, Mrs. Rachel, to seek advice. Ms. Martha says she wants to make the situation a learning opportunity for the students. Ms. Martha shares the papers with Mrs. Rachel. Mrs. Rachel realizes that Ms. Martha is not going to report the cheating to the administration.

Questions for discussion:

- › Should Ms. Martha be collecting more information about the situation?
- › With whom can she discuss her suspicions?
- › What obligation does Ms. Rachel have to report the incident?



USER'S GUIDE: Plagiarism

Here's how we see it:

- › Plagiarism is serious and should definitely be addressed.
- › A concern first is to determine if Caesar understands what he did is wrong. The situation may be one of not understanding the concept. In that case, it is a teachable moment.
- › If the situation happens again, then Ms. Martha must take action. It is clearly not an innocent mistake.
- › Ms. Martha is allowed to share this information with any staff who have a legitimate educational interest in the situation. A teacher consulting with another teacher for advice in order to better serve a student, such as discussing that student in their professional learning network group, could count as that other teacher having a legitimate educational interest. Teachers should talk with their school administrators to find out whether that is covered as a “legitimate educational interest” in the opinion of the district’s attorney. However, as a best practice, student personal information should be kept confidential when it doesn’t need to be disclosed - and, in this situation, Ms. Martha could get the same advice from Mrs. Rachel without disclosing which student has plagiarized.
- › As another teacher, Mrs. Rachel will be subject to the same confidentiality requirements as Ms. Martha, and can similarly share personal information when there is a legitimate educational interest in sharing it. In this case, informing the school administration about plagiarism would count. However, it is important to ask not only whether Mrs. Rachel is legally allowed to disclose the information, but whether she ethically should. Many students may not know what does and does not count as plagiarism, and Ms. Martha is in a better position to make the final decision on whether or not the incident needs to be reported. However, the school may have a zero-tolerance policy that requires staff to report plagiarism; in that case, Mrs. Rachel may feel obliged to report it.

For further discussion:

- › What might be the root cause of Caesar’s actions? Could it be laziness? Lack of understanding of proper attribution and citation? Lack of understanding of what it means to plagiarize?
- › What are the ramifications of Mrs. Rachel being too tough or too lenient about the possible plagiarism?
- › What if Mrs. Rachel is concerned that if she reports this, it will ruin Caesar’s college opportunities?

Unintended consequences:

- › A student could be wrongly accused of plagiarism. Incidents of plagiarism on a student’s permanent record can result in loss of opportunity, including college rejections or loss of scholarship.



Plagiarism Detected by Software

The Harley School District has put in place software that can detect plagiarism in students' work products. Mr. Levi gives an essay assignment to his ninth grade English class and runs his students' essays through the software. Two students' papers are flagged as questionable. Mr. Levi approaches Lucas and Dante.

Questions for discussion:

- How should Mr. Levi approach suspected students?
- Does Mr. Levi have to inform the students that he is using the detection software?
- What actions should Mr. Levi take?



USER'S GUIDE: Plagiarism Detected by Software

Here's how we see it:

- › Plagiarism is serious and should definitely be addressed.
- › A concern first is to determine if Lucas and Dante understand what they did is wrong. The situation may be one of not understanding the concept. In that case, it is a teachable moment.
- › The software output should be combined with Mr. Levi's knowledge of the students. It may not be 100 percent accurate, but it can point to irregularities.

For further discussion:

- › What happens if the software output differs from what Mr. Levi suspects?
- › What if the software flags language that Mr. Levi thought was cited and used appropriately?

Unintended consequences:

- › A student could be wrongly accused of plagiarism. Incidents of plagiarism on a student's permanent record can result in loss of opportunity, including college rejections or loss of scholarship.



Posting Fitness Performance

Physical Education teacher Ms. Moore is seeking ways to motivate her students for their annual fitness test. The fitness test goal is for students to be in the Healthy Fitness Zone. She decides to post all students' scores on the pushup section on the gym wall. During class, while celebrating the top three students, she notices that Joseph is visibly upset. The next day the principal asks to talk to her. The principal lets her know that Joseph's parents had called saying that their son was deeply upset by seeing that he was not in the Health Fitness Zone and did not want to participate in Physical Education.

Questions for discussion:

- › What are the privacy implications with sharing data publicly?
- › What are other options Ms. Moore could have used to motivate her students without sharing the fitness data publicly?

USER'S GUIDE: Posting Fitness Performance

Here's how we see it:

- › Public display of student test results with names and scores attached, whether it's academic or physical fitness, is not best practice. Publicly sharing student Personally Identifiable Information can be a violation of FERPA - and showing students' scores on the wall during class would likely qualify. Ms. Moore could just highlight the top three students without sharing their specific scores; sharing information about academic or extracurricular honors or activities is generally okay. However, those top students could prefer not to be highlighted, so the teacher should carefully consider whether to highlight any individual students (or just ask the permission of those top students to share their performance). Ms. Moore could also just show overall class trends instead of individual scores, which could still motivate student performance without identifying the performance of any one student.

For further discussion:

- › How can we publicly celebrate individual achievement without sharing data?
- › What are the issues beyond shame and embarrassment for low performers when data is shared publicly?

Unintended consequences:

- › Publicly showing any student test results, academic or physical, high or low performing, has the potential to shame and embarrass students. Public displays of individual scores can cause loss of motivation, embarrassment, and decreased performance.



Potential Hidden Message in Student Artwork

Ms. Jones shows her 3rd grade art students how to use an embedded simple paint software on their school issued laptops. She assigns them the drawing prompt: how I spent the weekend. Students turn in their images through the school's learning management system. When she reviews Juan's assignment, she sees that he has drawn a disturbing image of a big person punching a smaller person.

Questions for discussion:

- › What should Ms. Jones do?
- › Whom should she contact?
- › Should she do more investigating or should she report the issue to child protective services?

USER'S GUIDE: Potential Hidden Message in Student Artwork

Here's how we see it:

- › Ms. Jones could follow up with Juan to discuss what this photo is reflecting. It could be something harmless, such as a drawing of a movie he watched, or it could be much more serious and reflect himself getting harmed. In this case, Ms. Jones should discuss with the school counselor or principal.
- › Ms. Jones could consider raising the issue with Juan's parents/caretakers after consulting with school authorities.
- › If through her discussions Ms. Jones suspects child abuse, as a mandatory reporter she should contact the relevant department of family and child services.

For further discussion:

- › What issues are raised if the students could see each other's uploaded images, and therefore saw Juan's image?

Unintended consequences:

- › By asking about students' weekend, Juan may have drawn a very sensitive and dangerous incident that he experienced, if the drawing does indeed reflect child abuse. Ms. Jones must be prepared to seek out more information and respond appropriately.
- › Reporting this incident to family and child services can result in a social worker or even police officer visiting the home. This would be incredibly harmful if the image Juan drew was harmless and misinterpreted by Ms. Jones.



Recording Virtual Class with Student Misbehavior

At Bellamy Elementary School, teachers have been recording their classes so that they can review the videos to better understand how to improve their virtual instruction and virtual classroom management techniques. Ms. Sunny is recording her class and notices that one of her students, Simon, is behaving erratically. He is throwing things and cursing. She also notices another student, Bijou, who has moved away from the computer. She is refusing to pay attention to the lesson.

Questions for discussion:

- › Are there any privacy issues involved here because Ms. Sunny has observed the students' misbehavior not only virtually, but on a recording?
- › What actions should Ms. Sunny take to address the kinds of misbehavior Simon and Bijou are exhibiting?



USER'S GUIDE: Recording Virtual Class with Student Misbehavior

Here's how we see it:

- Ms. Sunny should check with school or district policy and administrators to make sure it is okay for her to record virtual classes.
- Ms. Sunny should consult her administrator to see how best to handle misbehavior caught virtually or through recording as this may constitute a disciplinary incident and therefore be FERPA-protected.
- Differences in the disciplinary incident occurring in person versus a virtual classroom, is that the incident is recorded, and this recording is stored and retained. It is best practice to store these recordings on district-approved platforms. Ms. Sunny should also consult school policy on how long these recordings should be retained and at what point they should be deleted.

For further discussion:

- How might the move from in-person to virtual differ in terms of handling misbehavior?
- Is filming versus real-time discernment of misbehavior any different?

Unintended consequences:

- The potential harm here is that all student behavior is being recorded and therefore educators must be aware when a recording will be FERPA-protected, relevant to this specific scenario this means when there is a disciplinary incident.
- Depending on how long this recording is retained, it could also become a part of a student's permanent record and result in loss of opportunity, for example negatively impact which classes students are placed in the future.



Recording Virtual Classes

Mrs. Garcia will use a district-approved video conferencing tool to conduct her social studies class during distance learning. From student and family communication, Mrs. Garcia knows that it will be difficult for all of her students to join the class every day and so decides to record her classes to offer asynchronous learning and more equitable access for her students.

Questions for discussion:

- › Is it okay for Mrs. Garcia to record the virtual classes?
- › Is there anything Mrs. Garcia should be cautious of?



USER'S GUIDE: Recording Virtual Classes

Here's how we see it:

- › It is laudable that Mrs. Garcia took the time to understand the needs of her students during distance learning and used their needs to inform her decision to record her classes. With regard to whether Mrs. Garcia is allowed to record her classes, she should look to school or district guidance in this legally gray area.
- › If her school and district say it is permissible to record classes, Mrs. Garcia should only use district-approved video conferencing platforms when conducting and recording classes. Mrs. Garcia should also seek school or district guidance on where to store these recordings, to ensure these recordings are privacy protected from breaches or otherwise unwanted access.
- › Mrs. Garcia should also carefully consider how long she will retain these recordings. They should not be retained indefinitely and not retained longer than needed.
- › Mrs. Garcia should also communicate her recording practices to students and families so they are aware and so they have the opportunity to raise any questions or concerns.
- › Mrs. Garcia should consider which parts of classes should be recorded. For example, students may feel much differently about lectures being recorded versus student-led classroom discussions.

For further discussion:

- › What communication should Mrs. Garcia provide to her students regarding recording of the classes?
- › What are some concerns students and families may have in learning the classes will be recorded?

Unintended consequences:

- › If not properly stored, these recordings can be hacked into and leaked.
- › Students may feel a breach of trust with Mrs. Garcia and a breach of privacy, especially if they are not made aware in advance of being recorded during live instruction.
- › Recording student discussion can have chilling effects - meaning students are less willing to participate and voice their opinions because they know they are being recorded.



Requiring Student Cameras On

Mr. Lopez has just started his online learning math class that begins at 9 am. After the first week, Mr. Lopez decides he will require students to have their cameras turned on during the entire class. This way, he can better track attendance and monitor student participation and engagement. After Mr. Lopez announces that everyone's cameras must be turned on, a few of his students continue to attend class with their cameras turned off. Mr. Lopez considers whether he should make this requirement a part of student grades to increase compliance.

Questions for discussion:

- › What are some reasons why students might not have or want their cameras on during class?
- › What should Mr. Lopez do about the students who are not turning on their cameras?
- › Should Mr. Lopez require students to have their cameras on during class?



USER'S GUIDE: Requiring Student Cameras On

Here's how we see it:

- › Mr. Lopez should seek guidance from administration and district policy on implementing this video mandate policy in his classroom.
- › There are many reasons why students may not want their cameras on, not necessarily for mischievous reasons. Students' devices and internet connectivity may work much better with their cameras turned off. Students may not feel comfortable allowing their teacher and peers to see into their living space through the background. Requiring cameras on may also place increased pressure on students to worry about their appearance when showing up to class.
- › There are privacy risks to requiring students to keep their cameras on. This requirement can force students to show details about their lives which they are not comfortable sharing, such as their living situation (living in a motel, experiencing homelessness, being evicted), which can lead to social harm and bullying. It can also be unclear what the expectations are for what students can show in their background. For example, can a student get in trouble for a school-inappropriate poster that is hung up on their wall or for a toy gun placed on a shelf?

For further discussion:

- › What are other ways Mr. Lopez can track attendance and monitor engagement and participation, aside from requiring student cameras to be turned on?

Unintended consequences:

- › Students may feel uncomfortable having their video on and showing their living situation. A video requirement could lead to stigmatization, bullying, increased stress for students, and force students to reveal intimate details about their lives.
- › Video mandates can also imply lack of trust and cause students to feel surveilled.
- › Video requirements may lead to worsened internet connectivity for some students.



Sending Kids into Breakout Rooms

While teaching science online, Mr. Riley has students working in small groups to develop an experiment. In class he sends each small group into breakout rooms. The breakout rooms are difficult to monitor as the platform does not allow recording of the rooms and students have unlimited access to screen sharing and chat functions. When students come back from working in the breakout room Mr. Riley receives a direct message from Jacob saying that Kimberly shared her screen during the breakout room and showed a pornographic website. Jacob felt very uncomfortable and said he was going to talk to his parents.

Questions for discussion:

- › What are the next steps for Mr. Riley?
- › Who should Mr. Riley talk to?
- › What are the safety and privacy implications for Jacob and Kimberly?

USER'S GUIDE: Sending Kids into Breakout Rooms

Here's how we see it:

- Online breakout rooms for students without monitoring present a challenge for teachers for classroom management, student safety, and student privacy. Mr. Riley must develop a plan for monitoring breakout rooms in a systematic manner, reteach classroom expectations for breakout rooms, and contact the parents/caretakers of both students to explain what happened and discuss the next steps. Mr. Riley should also seek out guidance from administration to determine if and what disciplinary action may take place.
- The data privacy concerns are minimal in this case study. On the other hand, the personal privacy concerns regarding the possibility of students being exposed to unwanted content in an unmonitored chat room are more complex.

For further discussion:

- How can Mr. Riley incorporate breakout rooms into his lessons while protecting student safety and privacy?
- Are online breakout rooms the same as small group discussions in classrooms?
- What if this had happened in a classroom with a student showing pornographic images on a phone in a small group? What are the differences?

Unintended consequences:

- Breakout rooms without direct adult supervision have the potential to expose students to speech, images, and language that would have more protection in a monitored situation.



Shared Document

Mr. Clive is teaching English at Brandy High School. He is using Google Docs as a platform for his students to collaborate on writing assignments. Students work together on essays and other group projects. It is usually a team effort. One group consists of Camille, Daisy, Tonya, Lee, and Otto. A document thread has begun and students add text and comments. Mr. Clive notices that one of the students, Otto, has made some really nasty comments. There is evidence of Otto bullying the other students in the group.

Questions for discussion:

- What should Mr. Clive do, given that he has observed this behavior?
- Would Mr. Clive's actions differ if Camille, one of the students, brings the harassment to his attention, rather than having seen it first-hand?



USER'S GUIDE: Shared Document

Here's how we see it:

- Addressing this bullying incident and Otto's actions is absolutely in Mr. Clive's purview, as this is happening on a school document for a school purpose. Mr. Clive should address the comments with Otto and also ensure expectations for the different functionalities of different apps and tools have been covered with the class.
- When using newer apps and tools (that have been vetted and approved by the school/district), teachers should be sure to understand all the different possible functionalities to discuss expectations with students regarding their use.

For further discussion:

- Would Mr. Clive's options be any different if he observed the harassment first-hand rather than in the Google Doc?

Unintended consequences:

- Students may abuse different aspects of newer apps and tools and this abuse can happen unsupervised if a teacher is not aware of these features.



Student Possibly Cheating During Virtual Quiz

Mr. Eli has asked his high school social studies class to take a pop quiz in the midst of a virtual class session. The students start working on the quiz that he sent them. Mr. Eli notices one student, Millie, starting to move away from the camera. She turns on the mute function. From Mr. Eli's view, he cannot tell what Millie is actually doing. Her diverted gaze indicates that she is not looking at the computer screen and the quiz but may be doing something else, such as rifling through papers, asking someone at home a question, or potentially looking up answers. Mr. Eli suspects that Millie may be cheating on the quiz.

Questions for discussion:

- › What should Mr. Eli do?
- › How should Mr. Eli speak to Millie about this situation?



USER'S GUIDE: Student Possibly Cheating During Virtual Quiz

Here's how we see it:

- Suspected cheating must be addressed. It is possible that Millie was doing something totally innocent. Mr. Eli should give her a chance to explain.
- Observing students taking a test has its differences between an in-person setting and a virtual one. Gestures, eye gaze, and other movements are only a proxy to understanding student behavior, engagement, and participation, which can be harder to understand virtually. This is again why it is important for Mr. Eli to discuss the situation with Ellie.
- Mr. Eli must make it clear to Millie and to the other students the boundary conditions and expectations for appropriate behavior for virtual quizzes and tests.

For further discussion:

- If indeed Millie was cheating, what actions should Mr. Eli take?
- If Millie's actions were innocent, what should Mr. Eli do then?

Unintended consequences:

- Using a student's eye gaze and physical movements are not always an accurate indication of behavior, participation, or engagement, especially in a virtual environment.



Students Grading Students

Mrs. Sarah teaches math at Winchester Middle School. One practice Mrs. Sarah uses is peer grading, where students exchange papers with other students to grade. In this way, the students have a sense of what is good performance and not so good. Mrs. Sarah sees this as a learning opportunity for the students. Students, Beau, Oliver, Leo, and Bella all exchange papers to grade and to see each other's work.

Questions for discussion:

- › What are the benefits of this activity?
- › Is it legal and appropriate for students to grade each other's work?



USER'S GUIDE: Students Grading Students

Here's how we see it:

- › This is an allowable practice for both individual and group work. However, students must be instructed how to properly use, discuss, and exchange information.
- › Mrs. Sarah has instituted this sharing policy, but it has parameters. Students cannot talk about other students' performance recklessly and beyond the scope of the learning experience.

For further discussion:

- › What if the assignment being peer graded was asking students to write about something they might not want shared with their fellow students (for example, a student might disclose that they had an eating disorder in response to a prompt about a challenge they have overcome)?
- › What if the students were not working in groups? Does this make any difference? Why or why not?

Unintended consequences:

- › Students could potentially be harmed by other students seeing their work and making fun of them.
- › Students could be harsh in their evaluation of other students and unfair, causing issues around self-esteem.



Taking a Screenshot of a Virtual Class

Ms. Hazel is conducting instruction online due to the pandemic. All of her students have their cameras on so she can interact with them, make eye contact, and visually observe their engagement and behavior. At some point during a lesson, Ms. Hazel takes a screenshot of the entire class to capture their reaction to a question. She does not share the photo with anyone else and retains it on her computer.

Questions for Discussion:

- › Is it appropriate to take such a screenshot without students being aware?
- › Does Ms. Hazel need permission to take the screenshot?



USER'S GUIDE: Taking a Screenshot of a Virtual Class

Here's how we see it:

- › There are many legal and privacy considerations Ms. Hazel must consider. First, is whether this screenshot might be considered directly related to students and where the screenshot will be stored. This is important because if it is deemed to be directly related to students and maintained by the school, it is an education record and is protected under FERPA. If the purpose of the screenshot is to inform Ms. Hazel's teaching practice, then it may fall under the sole possession exception, which means it would not fall under FERPA. Because this is a gray area, it would be best to treat it as FERPA protected.
- › Ms. Hazel should also consider that just because you can do something with technology doesn't mean you should and should weigh the benefits against the risks. It is hard to imagine Ms. Hazel would take a picture during an in person class to capture students' reactions.
- › Ms. Hazel should also consider the perspective of parents/caretakers and if they would be comfortable with in time reaction screenshots being taken of their child during class and that they may question the necessity of this action.
- › It is best practice for Ms. Hazel to communicate to students when a screenshot is being taken of them, especially since video conferencing platforms do not tend to indicate when this happens. It is also best practice to inform students what the screenshots will be used for, to store this screenshot on district-approved devices and platforms, and to delete the screenshot as soon as it is no longer needed.

For further discussion:

- › Would it make a difference if Hazel took the screenshot of only one student?
- › Would it make a difference if a student took the screenshot instead of the teacher?
- › Does intention make a difference here? What if the screenshot was not going to be used for educational purposes?

Unintended consequences:

- › A screenshot might capture a student doing something wrong. Depending on how long this photo is kept and who it is shown to, this student could be punished for their behavior and this photo could even become part of their permanent record.
- › There is the potential for this photo to be leaked or breached, especially if it is not properly stored, and therefore someone might see the screenshot who should not have access to it leading to privacy or safety concerns.
- › If the screenshot becomes public, students could access it which could lead to bullying and stigmatization, especially if the screenshot caught students doing something embarrassing or showed intimate parts of student living situations through the use of cameras.



Teacher Keeping Class Recordings

Mr. Robert regularly records his classes so he can refer back to them to better understand his students' responses to questions. It helps him to remember and to be more diagnostic to modify future instructional activities. Mr. Robert has not explicitly informed his classes of this practice. He simply has invoked it as part of virtual practice.

Questions for discussion:

- › Does such recording without student awareness violate student privacy?
- › Is this an ethical issue or a privacy issue or both?

USER'S GUIDE: Teacher Keeping Class Recordings

Here's how we see it:

- Mr. Robert must check his school and district policies to ensure he is able to record his classes. Mr. Robert must also carefully consider where he is storing these recordings. It is best practice to store recordings on a district-approved platform to minimize risk of breaches or hacks. Mr. Robert should also carefully consider how long he will retain these recordings. They should not be retained indefinitely.
- Informing students about the practice and the purpose is a best practice and helps improve transparency.
- Since Mr. Robert's is using the classroom recordings to improve his own instruction and teaching practice, this most likely falls under the sole possession record and there is likely no FERPA violation here.

For further discussion:

- What should Mr. Robert do if a student is uncomfortable with the classes being recorded?
- Do you think that such recordings can negatively impact students?

Unintended consequences:

- If used as Mr. Robert intends, his review of the videos may actually benefit the students rather than harm them because he can be retrospective and introspective about things he may have missed in real-time. This would help Mr. Robert be more responsive to student needs.
- However, if students are unaware, they may feel violated and result in a breach of trust.



Worrying Signs in Student Essay

Mrs. Sammy is an AP teacher at Kapuki High School. Mrs. Sammy prides herself in knowing her students academically and personally. She takes a real personal interest in her students and helps them prepare for the college application process. Mrs. Sammy is working with Niko, who is a very promising student. Niko writes an essay for Mrs. Sammy's AP English class in which he describes how his parents are putting extreme pressure on him to apply to and get accepted by the most prestigious and competitive universities. In the essay, there are subtle cues that Niko might do something harmful to himself because of the pressure. Mrs. Sammy is unsure but does not have a good feeling about it. Mrs. Sammy knows that Niko already has several extracurricular activities, works a job, tutors other students, and still manages excellent grades.

Questions for discussion:

- › What data would be helpful and what data does Mrs. Sammy have access to that might help her to better understand the situation?
- › Is an essay a sufficient form of data to take action about Niko?
- › Who should Mrs. Sammy consider sharing her concerns with?



USER'S GUIDE: Worrying Signs in Student Essay

Here's how we see it:

- If there is credible evidence that Niko is buckling under the pressure and may be in imminent danger of harming himself, Mrs. Sammy must report it. Each school has different policies about how to report potential self-harm or a mental health crisis, and she can ask school administrators to provide those policies.
- However, students confide sensitive information to their teachers all the time when they trust them, and it can be a valuable way for those students to relieve stress in a safe, structured way. Mrs. Sammy should carefully consider what Niko has disclosed in the essay, and determine whether it warrants reporting (and her potentially losing Niko's trust if he thinks about "doing something" in the future) - or whether it is better for her to have a conversation directly with Niko about her concerns. Mrs. Sammy could also seek to have an indirect intervention in collaboration with school counselors or a school crisis intervention team, where perhaps time is spent teaching students stress-management skills that could relieve Niko's pressure.
- Referring Niko to a school counselor might be a way to get him the help he needs without making him think that he can't safely disclose information to Mrs. Sammy directly or indirectly.
- Mrs. Sammy may also want to consider disclosing information to Niko's parents/caretakers, but should take this step in consultation with other school officials, like a school counselor. If Niko is over the age of 18, then Niko may have to give consent to disclose this information to his parents. Mrs. Sammy should seek guidance from administration here. In this situation, at least some of the pressure is caused by his parents. Sometimes, reporting that their child is overwhelmed can cause parents to be more understanding, but it can also lead to more pressure or abuse.
- There is no crystal ball with the right answer in these situations. All a teacher can do is carefully consider the context and the likely urgency of the situation, and then act on those observations. School counselors and administrators are often invaluable in helping teachers make these difficult decisions.

For further discussion:

- What sorts of evidence can you imagine may be warning signs about a student who may be at risk?

Unintended consequences:

- Sharing Niko's essay and Mrs. Sammy's concerns with other people (administration, counselor, Niko's parents) may break Niko's trust with his teacher and make him feel as though he has no one to confide in.
- Schools have protocols and policies to ensure the safety of students. But reporting concerns with the essay may result in a disproportionate and harmful response by the school.



COMMUNICATION



These scenarios cover teachers talking about student data to different people (other teachers, afterschool instructors, family members, professional researchers, students, etc.) in various settings (grade-level team meetings, public spaces, via email, etc.).



App Mistranslation

During a virtual English as a Second Language class, Mr. Sendo works with two students Rafat and Niema. They are both new immigrants whose native language is Arabic but Rafat is from Morocco and Niema is from Egypt. Mr. Sendo is sharing his screen and using Google translate. Mr. Sendo asks the students to describe their country. The students use Google Translate to help them formulate their sentences in their own language, translate the sentence into English and then read it to the class. Niema writes: “Egypt is a beautiful country, but Morocco does not have a good smell”. Rafat becomes extremely upset and starts yelling at Niema in Arabic. Niema looks confused and Mr. Sendo realizes there may have been a mistranslation.

Questions for discussion:

- › What should Mr. Sendo’s next steps be?
- › How can Mr. Sendo rebuild the relationship between the students in a virtual setting?



USER'S GUIDE: App Mistranslation

Here's how we see it:

- › Tools such as Google Translate are powerful tools for bridging language barriers and divides. They also come with the risk of bad translations, misinterpretation, and cross-cultural insults.
- › Teachers should make sure translation apps are approved by their school and verify the accuracy of translations to help prevent social harm.
- › Mr. Sendo should address the insults with both students and their parents/caretakers.

For further discussion:

- › How would this situation be different if it was in a physical classroom?
- › What could Mr. Sendo do to prevent this type of situation from happening in other classes?

Unintended consequences:

- › Online tools such as Google Translate are useful but come with concerns about social harm and safety when statements are mistranslated, used for harm, or to insult.



CC'ing Parent Email Addresses

Sydney Middle School has a Gifted and Talented program. Ms. Anderson writes an email to all the parents (and caretakers) of the program. When sending the email, she puts all the parent emails on the same line, with none of them as a blind carbon copy (BCC). Parents can therefore see other parents' email addresses — and thus, possibly identify other students in the Gifted and Talented program.

Questions for discussion:

- › Does the school need to put parents' email addresses in a BCC?
- › What are the ramifications of parents finding out who the other Gifted and Talented students are?



USER'S GUIDE: CC'ing Parent Email Addresses

Here's how we see it:

- › The school should not allow these addresses to be visible to other parents. This is not necessarily a violation of privacy laws because it is directory information in most states, but it could be if, for instance, certain parents have opted out of disclosing email addresses.
- › The issue is more about best practice - in exposing email addresses, the school has unintentionally identified the Gifted and Talented status of many students. Regardless of any privacy laws, the school is ethically bound to do a better job protecting caregivers' email addresses.

For further discussion:

- › Gifted and Talented status is positive, so why does it matter if people know?
- › Is the answer different for a Gifted and Talented identification than for Special Education identification?
- › Would it be okay for parents to be able to communicate with one another based on the school email?

Unintended consequences:

- › The inadvertent disclosure of email addresses can lead to unwanted emails, spam, solicitations, or even hate mail. Even though there might be a close knit group of parents for this class, the protection of their email addresses is proper practice. If one parent wants the email of another parent, then there can be an agreed upon exchange of information, but it should not come from the teacher or the school.
- › There is the possibility that parents can glean which students are not in the program, leading to stigmatization.



Communicating about Student Data in Various Settings

Teachers communicate about data all the time. How teachers communicate, with whom, and about what data is a complicated issue because of laws and regulations. We present several kinds of communication situations here.

- › Mr. Malachi speaks to each of his students individually about their own performance data.
- › Mr. Malachi speaks to a group of students collectively about group data and about individual student performance.
- › Mr. Malachi speaks to Jonah's parent/guardian about Jonah's performance. Jonah is an elementary school student.
- › Mr. Malachi speaks to Jonah's parent/guardian about Jonah's performance. Jonah just turned 18.
- › Mr. Malachi speaks to other teachers about Jonah's performance while working in a data team setting.
- › Mr. Malachi is in the teachers' room and gets into a conversation with other teachers about students in his algebra class. He discusses the performance of his class in general, but also mentions Jonah by name.
- › Mr. Malachi is discussing Jonah's data with colleagues.

Questions for discussion:

- › For each, is Mr. Malachi's practice okay?
- › Are there any data that Mr. Malachi should avoid discussing?
- › What are the important differences?

USER'S GUIDE: Communicating about Student Data in Various Settings

Here's how we see it:

- › Teachers may speak to a student about their specific performance, but not a group of students about each other's individual performances.
- › A teacher can generally talk to a parent or guardian about student performance, unless the student is independent of the parent (e.g., the student is 18 and paperwork has not been filed proving that they are a dependent of the parent).
- › Educators can discuss student performance with one another, if each has a legitimate educational interest. However, it is best that teachers take a measured approach when sharing student information.

For further discussion:

- › What situations may arise if a teacher talks about student performance with someone who is not authorized?

Unintended consequences:

- › Communication about a student could prove harmful if the communication is negative and is overheard by individuals who do not have a need to know or violate the boundaries of that communication.
- › If teachers discuss student performance with unauthorized individuals, it could also lead to legal consequences for the school, and potentially the teacher.



Comparing Cousins to Family Member

Mr. Jax is a teacher at Reina Middle School. He has twins in his class, Margie and Franny. He also has their cousin, Lucy in the same class. During the parent-teacher conference, Mr. Jax is discussing the performance of the twins with the parents, the Roseberys. In the course of the discussion, Mr. Jax compares Lucy's performance to that of Margie and Franny.

Questions for discussion:

- › What do you think of Mr. Jax's discussion in the conference?
- › Should Mr. Jax be discussing Lucy with her aunt and uncle?



USER'S GUIDE: Comparing Cousins to Family Member

Here's how we see it:

- › Despite the fact that Lucy is a relative, Mr. Jax had no business talking to the Rosebery's about their niece. They do not have the right to learn about Lucy's performance.
- › Mr. Jax violated FERPA and Lucy's general privacy as no consent was obtained from Lucy's parents/caretakers.

For further discussion:

- › Would it have been okay for Mr. Jax to discuss all three students if both sets of parents were present?

Unintended consequences:

- › Comparing students is always risky, even if they are siblings or related. It could cause rivalries or negatively impact relationships.
- › Mr. Jax is making a huge assumption on the comfort level of Lucy's parents/caretakers with their daughter's academic performance being shared with Lucy's aunt and uncle. This can result in a breach of trust.
- › Mr. Jax has violated the parental rights under FERPA.



Comparing Siblings

Allister and Duchess are twins who attend Brady Elementary School. Allister is in Ms. Bozley's class and Duchess is in Mr. Snow's class. In the teachers' room, Ms. Bozley and Mr. Snow compare how the twins are doing and discuss who is better at math.

Questions for discussion:

- › Is this an acceptable practice?
- › Does it matter whether or not the two students being discussed are related?



USER'S GUIDE: Comparing Siblings

Here's how we see it:

- › The comparison of two students, regardless of their relationship, should not occur unless there is an educational necessity, which does not appear to be the case here but rather comparing because they are twins.
- › This seems like informal sharing of student information.

For further discussion:

- › Does it depend on the kind of information Mr. Snow and Ms. Bozely share with one another?

Unintended consequences:

- › Comparison of the students in this way is not in the best interest of the student and could lead to negative views and bias of the educators as they teach the students. Others could also overhear these comparisons, including the students themselves.



Facebook Discussion

Ms. Sophia is a middle school parent and asks a question on the Facebook page for Ava Middle School. In the comments, a teacher, Ms. Mazie, asks, “Are you Maggie’s mom?” Ms. Sophia responds yes, and Ms. Mazie responds with a smiling emoticon, “I have her in my class.” Ms. Sophia responds that Maggie likes Ms. Mazie a lot. Other parents chime in with comments of how much their kids like Ms. Mazie.

Questions for discussion:

- › Was it okay for Ms. Mazie to say on Facebook that Maggie is in her class?
- › Was it proper to have this kind of communication via social media?



USER'S GUIDE: Facebook Discussion

Here's how we see it:

- › This is potentially a violation of FERPA, as rosters can be classified as educational records, which are protected information under FERPA. It is also not a recommended best practice. Some parents or students would not like to be mentioned in this way. Further, it is possible that a teacher might accidentally divulge more information than just naming a student in their class. In general, it is best to keep student names and identification off of social media if at all possible.
- › Teachers should consult their district's social media policy for teacher/parent interaction.

For further discussion:

- › Ava Middle School is a public school and Maggie walks into Ms. Mazie's class every day. Why does it matter that Ms. Mazie identified Maggie?
- › Would it be any different if another parent would have said something negative about Ms. Mazie or her class?

Unintended consequences:

- › One source of potential harm is if someone sees the post that should not have and becomes aware of the location of a certain student. This is particularly sensitive when there is a restraining order or some such information block to a particular individual. It generally is prudent to be cautious because one can never know who has access to such information.
- › Disclosure of this information could potentially be a violation of FERPA and/or school social media policy.



Grading Tests in Teams

Teachers at Sunshine Middle School often work in data teams to discuss student work and consult on how to help various students. Mr. Fritz, one of the teachers, shared a recent assignment with the rest of his data team. Mr. Fritz passes around his students' submitted papers. The papers have the names of the students on them as well as their grades.

Questions for discussion:

- › Is this an acceptable practice?
- › What are the boundaries involved in sharing student work while in a data team or professional learning community?

USER'S GUIDE: Grading Tests in Teams

Here's how we see it:

- › Sharing papers is not a violation. It is often necessary for teachers to collaborate on student progress and challenges, and teachers must be able to do so for the good of the student.
- › However, ethically, teachers should always consider whether it is necessary to share personal information.
- › If the teacher has concerns about allowing the other team members to see student work, the teacher may wish to consider masking student names or take other precautions.

For further discussion:

- › What other protections could Mr. Fritz have taken?
- › Does the subject of the paper written by the students matter?

Unintended consequences:

- › The sharing of information is potentially harmful if any of the teachers involved share the student information beyond the scope of the data team.



Math Professional Learning Community

Several math teachers at Ponyboy Middle School are doing their weekly meeting to discuss curriculum. Each teacher has been teaching fractions this month.

During the discussion, one teacher, Mr. Wildcat, says, “across the board, my students are having trouble creating common denominators to add fractions. What methods have you used to teach this?” The teachers talk about their various methods and note that this is a common area where students sometimes struggle.

As that portion of the conversation wraps up, another teacher, Ms. Belle, says, “I have one particular student who has trouble dividing fractions. The rest of the class seems to understand, but the student continues to struggle. I think I need another perspective for this student. Does anyone have any different ways of explaining this?” The teachers brainstorm ideas.

Another teacher, Ms. Puck says, “I wanted to ask you all about Katy, who is really having trouble reducing fractions correctly. I know Mr. McGregor and Ms. Digit have had Katy in class and you both had success teaching her. What suggestions do you have for me that might help her?” Mr. McGregor and Ms. Digit share their knowledge about Katy and suggest practices.

Questions for discussion:

- › Evaluate each teacher’s statements and actions—did they violate any privacy laws?
 - Mr. Wildcat.
 - Ms. Belle.
 - Ms. Puck.



USER'S GUIDE: Math Professional Learning Community

Here's how we see it:

- › Each of these teachers shared student data ethically and in compliance with student privacy laws, even Ms. Puck, who named a specific student. All the teachers in this session have dealt with that student before and may have particular insight on how this individual learns. Teachers collaborating like this would certainly be considered a “job function.” Therefore, it could be argued that having access to student PII during this particular meeting is necessary for them to support their students.
- › While this is true for academic information, it is possible that some forms of data, such as health histories and disciplinary information, may not be shareable in such a meeting. In those cases, the teachers should consult their school administration to determine which policies pertain to these data.

For further discussion:

- › What responsibility do Mr. McGregor and Ms. Digit have?
- › The teachers acted appropriately in their group meeting. What are some actions or discussions that would not be allowed?

Unintended consequences:

- › A potential harm here is if teachers move the discussion about students academically struggling beyond professional boundaries, such as in a gossiping manner, rather than with the motivation and intention to address student learning issues.



Sharing Student Data with Afterschool Instructor

Mr. Miller's student, Mia, has just enrolled in the afterschool program offered at the school. After her first week attending the program, one of the afterschool instructors approaches Mr. Miller and asks if he can share Mia's reading scores with her. The instructor notifies Mr. Miller that they will be focusing specifically on reading skills for the rest of the semester.

Questions for discussion:

- Should Mr. Miller share Mia's reading scores with the afterschool instructor? Why or why not?
- Should Mr. Miller seek guidance or permission from anyone before sharing Mia's reading scores? If so, who?

USER'S GUIDE: Sharing Student Data with Afterschool Instructor

Here's how we see it:

- › Teachers should be intentional about who they share student data with by only sharing with those who are allowed to access the information. Mr. Miller should clarify with his administration whether he can share Mia's reading score with the afterschool instructor because it will depend on the details of the program, including if there is a contract in place and if it is affiliated with the school. It is a best practice to get explicit consent from the parent/caretaker if it is unclear or when there is no agreement with the school.
- › In addition to clarifying if the afterschool instructors are allowed to access reading score information, it is also important to think of the best interest of the student. If the school says the afterschool program can access reading score information, Mr. Miller should still consider the best interest of the student. In this particular instance, the afterschool instructor may not necessarily need to know, but it may be in the best interest of Mia for Mr. Miller to share her reading scores with the afterschool instructor. Mia's family may have intentionally placed her in the afterschool program to strengthen her reading skills, and the afterschool instructors will be able to provide better support to Mia with an understanding of where she currently stands.
- › If allowed to share reading score information, Mr. Miller should be intentional about what specific reading scores and information to share with the instructor and about the method of sharing this data.

For further discussion:

- › Is there any student information that should not be shared with afterschool instructors?

Unintended consequences:

- › Sharing student information with unauthorized persons is a violation of student privacy and can harm student and family trust.



Sharing Student Information with a Professional Researcher Without Formal Agreement

Dr. Rogers is a university researcher whose sister-in-law works at Macaroni High School. Dr. Rogers would like to eventually build relationships and do a formal study at the high school. She is a former teacher who understands the profession and builds an easy rapport with teachers. When Dr. Rogers visits Macaroni High School she often asks about aspects of school life. Recognizing Dr. Roger's comfort with school culture, teachers often share freely. They describe student situations and often cite examples of events that happen in the classroom. In the course of doing so, student information is often divulged, such as achievement and home situations. These visits are informal, meaning there are no formal agreements with the school in place.

Questions for discussion:

- › How much information are teachers allowed to share with Dr. Rogers?
- › Would it be any different if there were a formal agreement in place?

USER'S GUIDE: Sharing Student Information with a Professional Researcher Without Formal Agreement

Here's how we see it:

- When the researcher feels like “one of them” and has a personal relationship with another staff member, it can be tempting for a teacher to let their guard down and talk to Dr. Rogers as another teacher.
- Dr. Rogers must obtain permission from the Institutional Review Board but even just completing that is insufficient. Dr. Rogers must also go through district review processes which will require signed parental permissions or a written agreement to adhere to FERPA's studies exception or FERPA's audit and evaluation exception (the two exceptions that would allow a researcher to access student data without parental consent). These agreements are required to be specific, and specify the purpose, scope, and duration of the study and what information the researcher will be given. There may also be additional requirements and limitations for research in state student privacy laws. Once the agreement is completed, both Dr. Rogers and the school (and the school's teachers) must stick to it, and not provide more information than allowed by the agreement or expand the purpose, scope, or duration of the study without a new agreement.
- In general, schools and districts should not allow researchers to come into a classroom and sit down with a teacher to discuss students and their data. We believe this puts too much pressure on teachers to fully understand which data are permissible to disclose. In this case, the teacher should go to the appropriate school administrators and ask them to send the researcher through the proper school/district vetting channels.
- Teachers should be aware of situations where they may be considered “researchers,” such as when they partake in graduate program work. When teachers are in these situations, they should be careful not to share data about students that could identify individual students unless proper parental consents are in place.

For further discussion:

- Whose responsibility is it to ensure that the teachers know how much they can share? The teacher? Administrators? The researcher?
- What if a teacher themselves is completing a research project as part of their graduate program, and Dr. Rogers is supervising the project?

Unintended consequences:

- If no parental consent is received and there is no formal agreement, sharing student information with Dr. Rogers violates FERPA. Easy rapport and comfortable relationships may lead to oversharing information that should not be shared with external stakeholders and could lead to a breach of trust with parents/caretakers.



Sharing Student Information with Professional Researcher Beyond Written Agreement

Dr. Vincent is a university researcher conducting a study to improve math instruction at Porchie Middle School. Dr. Vincent has a written agreement with the school that adheres to the requirements of FERPA's studies exception. The principal instructed teachers in a staff meeting to participate in interviews with Dr. Vincent, allow him to sit in on occasional classes, and provide him with student homework and test results throughout the year. As Dr. Vincent continues to visit the school, he develops a rapport with individual teachers beyond the math department. They talk to him as one of them, freely sharing observations and information about individual students.

Questions for discussion:

- › Are the instructions to teachers from the principal clear?
- › Are the teachers within their boundaries to share data in this way?

USER'S GUIDE: Sharing Student Information with Professional Researcher Beyond Written Agreement

Here's how we see it:

- Information shared with researchers is governed by written agreements in order to adhere to FERPA's studies exception or FERPA's audit and evaluation exception (the two exceptions that would allow a researcher to access student data without parental consent). These agreements are required to be specific, and specify the purpose, scope, and duration of the study and what information the researcher will be given. There may also be additional requirements and limitations for research in state student privacy laws. Once the agreement is completed, both Dr. Vincent and the school (and the school's teachers) must stick to it, and not provide more information than allowed by the agreement or expand the purpose, scope, or duration of the study without a new agreement.
- The principal's verbal instruction in a staff meeting that teachers should give Dr. Vincent such broad access without more specific—ideally written—limitations will very likely lead to teachers sharing more information than they are allowed to under FERPA without parental consent. Teachers should know what the agreement covers and share no more information than is allowed by these agreements.
- From the information we have above, the agreement is only evaluating math instruction, and teachers outside of the math department sharing personal information about students is likely not allowed.
- Teachers should consult with administrators to determine whether parents/caretakers should be notified that the study is taking place, even though parental consent is not required. It is best practice to inform parents so that they know there is an ongoing and approved study occurring.
- Remember, it is the school's obligation to comply with FERPA, not the researcher. Thus, it is vital that schools utilizing this exception have appropriate safeguards in place to ensure that no more information is shared than allowed under the applicable exception, and agreement.

For further discussion:

- Whose responsibility is it to ensure that the teachers know how much they can share? The teacher? Administrators? The researcher? Everyone's?

Unintended consequences:

- One source of potential harm is if Dr. Vincent starts sharing his observations with the teachers or even colleagues that go beyond the scope of his agreements and information is inadvertently discussed that could be detrimental to a teacher or to some of the students. It places in jeopardy the research-practice agreements and violates trust.



Student Confiding in Teacher

Mr. Houdini is a teacher at Javier High School. He has just finished conducting an online class and one of his students, Winston, requests some extra time after class to talk to Mr. Houdini. Winston has had a close mentoring relationship with Mr. Houdini. He trusts him. Winston confesses that he is coming out and is concerned that he will be bullied and taunted by other students. Winston asks for Mr. Houdini's guidance. As Winston and Mr. Houdini are completing their very sensitive conversation, they notice that someone else has broken into the call.

Questions for discussion:

- Should Winston be discussing such a private matter with Mr. Houdini and through the virtual portal?
- What should Mr. Houdini do, now that he realizes someone else may have heard the discussion?



USER'S GUIDE: Student Confiding in Teacher

Here's how we see it:

- › Protecting Winston's privacy here is essential. He has confided in a trusted teacher about sensitive information. This information is private and should remain shared between the two of them.
- › Mr. Houdini did not know the seriousness of the conversation in advance, and so did not have the proper privacy protections in place for the call. For future serious conversations, or when it is clear that the conversation is serious and private, Mr. Houdini should create a virtual room that will not allow others to join without explicit permission, such as through a waiting room or a link that only the specific people were given.
- › If indeed someone hacked into the call or another student had remained online unbeknownst to them, then Mr. Houdini must seek out that individual, if possible, to ensure that what was heard, remains confidential, with possible ramifications if rumors were to be spread. Mr. Houdini should seek guidance from administration, without necessarily sharing the exact details of what Winston shared, only that it was personal and sensitive.
- › A virtual setting has been particularly difficult for students to seek out support and confide in trusted school community members, such as teachers. Students and teachers do not have the opportunity to check-in via hallway chats or for students to stay behind after class to chat.

For further discussion:

- › Would it make any difference had this conversation taken place in person?

Unintended consequences:

- › Mr. Houdini should be concerned that someone could use the overheard information in a way to harm Winston. He could be bullied, taunted, and outcast.
- › Winston most likely feels violated and this incident may have harmed his relationship with Mr. Houdini and his willingness to reach out for support.



Teacher Attempting to Make a Diagnosis

Teachers at Noodleman Elementary School are talking in a professional learning community (PLC) about a particular student, Cassie. One of the teachers believes Cassie may qualify for a diagnosis of autism. Mr. Duffy comments that Cassie may be on the spectrum.

Questions for discussion:

- › Are there any privacy issues with using this language?
- › Is Mr. Duffy showing insensitivity to Cassie?

USER'S GUIDE: Teacher Attempting to Make a Diagnosis

Here's how we see it:

- › While the phrase “on the spectrum” is descriptive and teachers might find the shortcut useful, we believe an informal term like this could lead to misunderstandings or be used pejoratively.
- › Mr. Duffy is not necessarily being intentionally insensitive toward Cassie, but there are many who may interpret the remark as insensitive, so it is good to avoid such language.
- › Instead, we believe this is a time to speak strictly of the data. Mr. Duffy needs to note the actual designation or actual measure that assessed the student.

For further discussion:

- › What if someone beyond the PLC hears Mr. Duffy's remark:
 - An administrator?
 - A teacher outside the PLC?
 - A parent?
 - Cassie or someone from her family?

Unintended consequences:

- › Classifying a student as being on the spectrum, or even assuming that the student is, has ramifications. Staff must be very careful to not throw out clinical terminology about a student without proper procedure or evidence.



Teacher Jokes over Text

A class from Sherman Elementary School is getting ready to go on a field trip. As they are loading the bus, two teachers joke back and forth through personal texts about how dangerous it will be to go through a particular neighborhood on the way there. Some students on the trip live in that neighborhood.

Questions for discussion:

- › Are these texts appropriate? If not, how?
- › The teachers were joking about the neighborhood — would it matter if the teachers were also joking about specific students who live in that neighborhood?

USER'S GUIDE: Teacher Jokes over Text

Here's how we see it:

- › These texts are not ethical. Teachers should consider the possibility that students live in that neighborhood or have ties to that neighborhood, even if they are not aware if any students do. It is even worse if they joke about specific students.
- › There are no violations to privacy laws, though again there is ethical harm and significant implications for teacher-student trust and relationship.

For further discussion:

- › The teachers might argue that this isn't too bad, since it was just between them and nobody else could see. What do you think of this?
- › Would it make any difference if another teacher saw the texts? A student?

Unintended consequences:

- › Students would be significantly harmed if they were to see or overhear the content of these text messages.
- › If teachers discuss individual students in their messages, tying them to that neighborhood, individuals who do not or should not know where a student lives could potentially overhear the conversation.



Teacher Sharing Student Information with a Preservice Observer

A college student, Lucy, is assigned to observe a teacher, Mr. Francis. Lucy is a teacher candidate and will visit Mr. Francis's class every other day for two weeks. Lucy and Mr. Francis have the opportunity to talk alone each day. Eager to help Lucy learn the details of school life, Mr. Francis is open to talking about teaching practice and this conversation extends to students. When they are alone, Mr. Francis talks openly to Lucy about individual students as situations arise throughout the day. These discussions include information about student achievement, student home situations, and special education accommodations.

Questions for discussion:

- Is it okay for Mr. Francis to talk to Lucy in detail about his students?
- Would the circumstance be different if Lucy officially were doing clinical practice in Mr. Francis's classroom?



USER'S GUIDE: Teacher Sharing Student Information with a Preservice Observer

Here's how we see it:

- It is admirable that the teacher wants to be such a good mentor and, in some situations, a preservice teacher may be considered a school official by the school, which would allow them to receive information, as necessary, to do whatever job they are doing for the school (in this case, assisting Mr. Francis). If this is the case, it would be completely permissible for Mr. Francis to have these discussions with Lucy.
- However, as a best practice, Mr. Francis should limit discussions to what Lucy needs to know. While it may be common for college students to sign a confidentiality agreement, teacher candidates are often not familiar with school culture. Through no fault of their own, they may not be prepared to protect student data as is required of in-service teachers. Since student home situations and special education information are particularly sensitive information that could potentially harm a student if released, Mr. Francis should carefully consider whether that information is necessary for Lucy to know. If so, he may want to also instruct Lucy about how that information could harm students if released and tell Lucy to keep it confidential.
- The school may have specific policies for disclosure of information to teacher candidate observers. Teachers should consult their school administration to determine which policies may pertain to these types of situations.

For further discussion:

- Would the circumstance be different if Lucy were:
 - serving as a teacher aide?
 - a first-year teacher that Mr. Francis is mentoring?

Unintended consequences:

- Lucy is still learning and may not understand her role in safeguarding student information; privacy protections must extend to teacher candidates as well. Lucy must be cautioned about the boundaries of discussing students, with whom, and when it is not appropriate. Without proper training, Lucy may share student information with others outside of school staff that are unauthorized to access this information.



Teachers Talking about Students in Public

Two teachers at Founder High School, Ms. Luanne and Mr. Dudley, are at the grocery store. They carpool to and from school. On one trip, they needed to run into the store and get a few things. Ms. Luanne is a reading teacher; Mr. Dudley is a math teacher. They are on the same 7th grade team, so they share students. In the car, they had been discussing some troubles that one of their students, Leda, has been having academically and behaviorally. This conversation continues as they walk in from the parking lot, as they shop, and as they stand in line to pay. At all points, the conversation includes details about Leda, her academic and behavioral issues, and they call her by name.

Here's how we see it:

- › Are there any problems with this conversation? If so, what?

USER'S GUIDE: Teachers Talking about Students in Public

Here's how we see it:

- › The teachers in this scenario should have been more discreet in how and where they spoke about this student. Teachers, and staff in general, should only discuss student information with those who have a legitimate need to know the information, and such conversations should only take place in confidential settings.

For further discussion:

- › What are the practical benefits and harm of this conversation?
- › What are the chances that someone in the grocery store actually knows the student?
- › What if the grocery store is a long way from the school, well out of the school's boundaries?
- › In the end, aren't the teachers just helping the student? And isn't it well worth what small chance there is of someone recognizing the name?

Unintended consequences:

- › It is quite possible that anyone in the store or in the parking lot could overhear the conversation where student information is being openly discussed. Such information should not be discussed as there could be people at the grocery store who know Leda, including another student, a family friend, or even the parent or student themselves. This could result in stigmatization, bullying, and a break in trust.



Teaching Siblings Over the Years

Mr. Fraser is a teacher at Derby High School. Derby serves a pretty small community. Everyone knows everyone and siblings are likely to have had the same teachers. Mr. Fraser has had brothers from the same family, first Leo, then Frank, and now Ted. As Ted comes into class, Mr. Fraser says, “Oh, you are Leo’s brother. He was a fantastic student, always top grades. Let me show you some of his work. I expect that from you too.”

Questions for discussion:

- › What do you think about what Mr. Fraser said to Ted?
- › How is this practice appropriate or inappropriate?



USER'S GUIDE: Teaching Siblings Over the Years

Here's how we see it:

- › It is okay for Mr. Fraser to generally discuss what a great student Leo was. But sharing Leo's graded work is potentially a violation of FERPA, even sharing with a sibling. There is no educational interest here in sharing Leo's work with Ted.

For further discussion:

- › What if Mr. Fraser's comment was about some other unrelated student? What difference would that make?
- › What if Mr. Fraser had said that Leo had been a horrible student or had all sorts of behavioral issues? Would that make any difference?

Unintended consequences:

- › Although Mr. Fraser is trying to motivate Ted, the fact that he is comparing him to his brother could cause all sorts of problems, such as motivation, self-esteem, and more.
- › Mr. Fraser has no idea what kind of relationship Ted has with Leo. Such a comment could impact that relationship.



Virtual Private Conversations

In Mrs. Wood's class, one student, Jordan, has an IEP that requires modifications to his assignments. Mrs. Wood has had to reference Jordan's modified assignment to answer questions or prompt Jordan. In an in person setting, Mrs. Wood was able to do this discreetly, by walking over to his desk or having him go to her desk. In a virtual setting, being able to have private chats with Jordan has become extremely difficult.

Questions for discussion:

- › What are the risks to referring to Jordan's modified work in front of the entire class?
- › What are some strategies to having safe, virtual private conversations?

USER'S GUIDE: Virtual Private Conversations

Here's how we see it:

- › The rest of Jordan's classmates do not need to know and should not know about modifications being given to Jordan as part of his IEP requirements. Not only does this not comply with law, but it also can lead to stigmatization and bullying of Jordan.
- › Mrs. Wood should check the features of the video conferencing tool they are using to see if there is a private chat and breakout room features. Mrs. Wood could communicate with Jordan through private messaging, host office hours, or schedule phone calls with Jordan before classes to answer any questions and provide any guidance Jordan needs.

For further discussion:

- › What are other reasons teachers have private conversations with students? Can similar strategies be used?

Unintended consequences:

- › In a virtual setting, there are many obstacles to having one-on-one chats with students as everyone can hear the speaker in a video conference call. Discussing Jordan's modifications in front of the entire class breaks confidentiality and can lead to stigmatization and bullying.



PROFESSIONAL DUTIES



These scenarios cover teacher responsibilities beyond classroom instruction.



Asthma Attack

Bruno is a student in Ms. Roxy's class. Instruction is being conducted virtually. In the course of one class period, Ms. Roxy notices that Bruno is struggling to breathe. She is aware that Bruno has a medical condition and it is apparent he is having an asthma attack.

Questions for discussion:

- › How should Ms. Roxy respond?



USER'S GUIDE: Asthma Attack

Here's how we see it:

- Bruno has a disclosed medical condition and he is at risk. Ms. Roxy should try to talk to Bruno alone, then try to reach out to his parents or guardian. If unable to gain timely access, Ms. Roxy should dial 911 if Bruno continues to suffer.
- The same course of action should be taken even if Bruno's condition is undisclosed. He is at risk.

For further discussion:

- Would Ms. Roxy's decision be any different if Bruno's attack had taken place in person?

Unintended consequences:

- If Ms. Roxy does not act, Bruno could suffer harm in terms of his personal health.



Calling for Student Pick-up

Ms. Checkers has weekly bus duty at Shiloh Elementary School. A few times during the week, she notices that Autumn, age 12, has not been picked up in a timely manner. Some days the pickup is a few minutes late, some days very late. It is Friday, and it is 45 minutes after all students should have been picked up. Autumn is still there, all alone, and Ms. Checkers is getting concerned.

Ms. Checkers accesses Autumn's student file and makes a call. Someone answers and says that they cannot pick up Autumn but gives Ms. Checkers another number to call to see if that person can pick her up. That phone number is not listed in Autumn's student file.

Questions for discussion:

- › Should Ms. Checkers call the new number she was given? Why or why not?
- › What other actions can Ms. Checkers take?
- › Could Ms. Checkers ask Autumn whom to call?

USER'S GUIDE: Calling for Student Pick-up

Here's how we see it:

- › Ms. Checkers should ask who this number is for and check the student file for whether this person is a “parent who has legal custody”. If the person is a parent who has legal custody according to the contact sheet, Ms. Checkers can likely call them. It is the school's responsibility to maintain up-to-date contact sheets, and they must be diligent in their keeping of these records. In this case, if a bad actor (e.g., a family member who meant Autumn harm) called the school and requested that they be added to the emergency contact form, there is the serious potential for harm if the school fails to authenticate this information.
- › There needs to be clear delineation of procedures that both protect the student's privacy and ensures the student is not placed in harm. Ms. Checkers should seek guidance from administration on how to proceed as schools and districts have differing policies. Some schools may allow the release of a student, without written parent consent, to a stepparent with whom the child resides. Some schools may allow release of the child to contacts on an Emergency Care Information form. Again, Ms. Checkers should seek guidance from her administration and should not ask the student or rely on information from the student.

For further discussion:

- › How do you balance helping the student and having the needed information?
- › Should she talk to Autumn to see if there are some issues at home?

Unintended consequences:

- › Ms. Checkers has no idea whose number she was given and what relationship the person has to the student. Calling this number and asking them to pick up Autumn could put Autumn in danger and could also break trust with Autumn's legal guardian.



Contagious?

Mrs. Boss is a teacher at Grey Elementary School. She sees symptoms in one of her students, Opie, that she thinks may be the measles. Mrs. Boss knows that some parents in the school have chosen not to have their children vaccinated, so she thinks it may be possible that Opie has not been vaccinated. She wants to find out, but she doesn't have access to Opie's vaccination records. Further, Mrs. Boss knows she doesn't have any medical training and she might be wrong.

Questions for discussion:

- › What should Mrs. Boss do?
- › What data can she access about Opie's health?

USER'S GUIDE: Contagious?

Here's how we see it:

- Mrs. Boss should consult with the school nurse about this issue. Nurses generally have access to student vaccination records and, based on an initial diagnosis, could then recommend a course of action to the family. Depending on state law and district policy, Mrs. Boss may or may not be able to access these records. In this case, Mrs. Boss doesn't really need access to the records; all she needs to do is to flag for the school nurse and/or school administrators if she thinks a student may have measles symptoms.
- The nurse or school administrators may not be legally able to tell Mrs. Boss whether the student has been vaccinated and may not be able to tell her the final resolution with the family but can then keep her updated as much as legally possible.
- Mrs. Boss could also consult with the family. It is within her rights to call the student's caregiver if she has any concerns about the student. However, she does not have enough medical information and the conversation may not go as well as it might with the nurse.

For further discussion:

- What do you think would happen if Mrs. Boss went straight to the student's parent or guardian with his concern?

Unintended consequences:

- If left unattended, the entire school population would be at risk for contracting measles.
- Mrs. Boss should not disclose her suspicion to anyone but the necessary personnel, as this can lead to gossiping, further false information, and harm the student and the family.



Disposing of Student Work

Ms. Dallas has a stack of a variety of homework assignments that students have handed in. She wants to dispose of them.

Questions for discussion:

- › What are Ms. Dallas's options for disposing of the assignments?
- › What harm could come to the students if Ms. Dallas incorrectly disposes of the assignments?



USER'S GUIDE: Disposing of Student Work

Here's how we see it:

- Ms. Dallas could give them back to the students. It is valuable for students to see feedback about their work. Ms. Dallas needs to be careful that students are not handed another student's work.
- Ms. Dallas should not simply dispose of student work with their names on it. Precautions must be taken. Ms. Dallas should not put them in a recycling or trash bin, either at school or at home. Doing so could allow anyone to access the students' work. Assuming there is not a need to give them back to the students, Ms. Dallas could shred these papers in a cross-cut shredder. This is a safe way to dispose of student work.
- Teachers should ask their school administration if the school has recommended methods available to help teachers and staff safely dispose of assignments and other protected materials. Most states have laws that define "confidential destruction".
- These graded assignments are part of the student's education record and are legally protected by FERPA. Thus, teachers must ensure that they are not exposing students' graded work to others.

For further discussion:

- Does it matter if the assignments:
 - Are high stakes tests such as state achievement tests?
 - Are teacher-written?
 - Have grades written on them?
 - Have student names on them?
 - Are from elementary, middle, or high school?

Unintended consequences:

- There is potential harm if Ms. Dallas disposes of student papers with their names on them in a public location where students, other educators, or almost anyone might find them. The fact that there are names on the papers is a problematic issue. Disposal must be done properly with appropriate protections.
- The potential harm to the students involves someone else seeing their work. This may not matter to some students or in certain situations but in others, it could cause shame or embarrassment. For example, a student may be embarrassed by their grade and not want other students to see it. Another example might be that the student work is passed around or shared on social media leading to bullying or stigmatization.
- Unauthorized disclosure of student education records is a violation of FERPA.



Free Lunch Eligibility

Mr. Dusty is a teacher working cafeteria duty and notices that Rex has not had any lunch all week long. Rex just sits at the table while his classmates eat. Sometimes some of the students may share their food with Rex. He does not look happy. Based on a conversation with the food services director, Mr. Caleb, Mr. Dusty finds out that Rex's family qualifies for free and reduced lunch, yet they have not applied.

Questions for discussion:

- › Does Mr. Dusty have legal access to free and reduced lunch data rosters?
- › Should Mr. Caleb have discussed Rex's lunch status with Mr. Dusty?



USER'S GUIDE: Free Lunch Eligibility

Here's how we see it:

- › Under the National School Lunch Act (NSLA), only people who need to know a student's free and reduced lunch status to administer or enforce the program can receive that information without parental consent. The NSLA is much stricter than FERPA in terms of who information can be shared with and has severe penalties that apply when information is shared inappropriately. Mr. Dusty did not need to know this information as part of his cafeteria duty, and therefore he should not have access to that information, and Mr. Caleb should not have discussed Rex's status with Mr. Dusty.
- › However, there is nothing stopping Mr. Dusty from reporting his observations about Rex to Mr. Caleb or other school administrators who legitimately have access to free and reduced price lunch status information, and then they could have discovered that Rex's family is eligible to apply.

For further discussion:

- › What are the ethical and privacy implications beyond the requirements of the NSLA of Mr. Caleb sharing Rex's status?
- › How could having this information be more widely available to school staff harm student privacy?

Unintended consequences:

- › Sharing student's free and reduced lunch status to unauthorized persons violates NSLA and can result in severe penalties.



Mandated Reporter

While teaching her virtual class one day, Mrs. Jilly hears two adults yelling in the background of Zoey's home, one of her students. As Mrs. Jilly goes to mute this student's audio, she sees through the student's camera an adult hit another adult who Mrs. Jilly believes to be the parents.

Questions for discussion:

- How should Mrs. Jilly respond?



USER'S GUIDE: Mandated Reporter

Here's how we see it:

- › All teachers are mandated reporters meaning teachers are required by law to report suspicions of child physical or sexual abuse or neglect. Mandated reporters must report when they know or suspect that a child is being exposed to domestic violence, or other dangerous situations such as being abused or neglected. Mrs. Jilly must report this incident to the school's relevant department of family and child services. It is also advised she speak with her counselor and administrator about the situation.
- › Mrs. Jilly should be sure to include all relevant information, including important context. This includes that the observation was made through a virtual class environment and that she is not certain if the two adults in the incident are Zoe's parents.
- › With the use of video classrooms, Mrs. Jilly is able to see more intimate details of students' home situations and day to day lives that were not always revealed during in person learning. Schools, teachers, parents/caretakers, and students need to be aware that school staff are mandated reporters under law and have to report suspicions of child physical or sexual abuse or neglect, even when these suspicions arise from what teachers can see during virtual classrooms.

For further discussion:

- › What if Zoey's camera were off, and Mrs. Jilly could only hear yelling but not see what was happening?
- › Does it make a difference that Mrs. Jilly sees the abuse to an adult as opposed to Zoey?

Unintended consequences:

- › Zoey appears to be living in a household with domestic abuse.
- › Most likely, the entire class has seen this incident through the virtual class.



Mentor Teacher Virtual Classroom Observation

Chapparral High School has a mentor teacher program, where veteran teachers of the high school provide feedback and assistance to first year teachers. In a virtual setting, the mentor teachers pop into the virtual classes to “observe” their respective mentee teachers or they review virtual recordings of classes. Ms. Hershey, a mentor teacher, sends a request to her mentee teacher Mrs. Rodriguez to debrief about her math lesson earlier that week. Mrs. Rodriguez had not noticed that Ms. Hershey had entered into her virtual classroom during that lesson. Mrs. Rodriguez was surprised and felt somewhat threatened.

Questions for discussion:

- › What are the privacy concerns for Mrs. Rodriguez to consider here?
- › What are the privacy concerns for Ms. Hershey?
- › Are there differences in terms of privacy concerns if the mentor teacher popped into in person classes as opposed to viewing virtual recordings?



USER'S GUIDE: Mentor Teacher Virtual Classroom Observation

Here's how we see it:

- › Teacher mentor programs are an important training practice for schools and teacher development and can still be incredibly useful during virtual learning. Because Mrs. Rodriguez was not aware of the informal observation taking place, this can feel like an intrusion and a violation of the sanctity of her classroom. It also has the possibility of hurting their mentor-mentee relationship. In a real classroom, teachers can see when others come in and observe. For future informal observations, Ms. Hershey should consider scheduling them with Mrs. Rodriguez, give communication prior to joining the lesson, or at the very least introduce herself when joining.

For further discussion:

- › Would the situation be different if Ms. Hershey had informed Mrs. Rodriguez of her impending arrival prior to their entrance into the virtual class?
- › Are there any violations to FERPA?
- › Are there threats to student privacy here?
- › Does this feel like legitimate observations or micromanaging of teachers?

Unintended consequences:

- › The teachers may feel violated by not being aware they are being observed.



Potential Hidden Message in Student Artwork

Ms. Jones shows her 3rd grade art students how to use an embedded simple paint software on their school issued laptops. She assigns them the drawing prompt: how I spent the weekend. Students turn in their images through the school's learning management system. When she reviews Juan's assignment, she sees that he has drawn a disturbing image of a big person punching a smaller person.

Questions for discussion:

- › What should Ms. Jones do?
- › Whom should she contact?
- › Should she do more investigating or should she report the issue to child protective services?

USER'S GUIDE: Potential Hidden Message in Student Artwork

Here's how we see it:

- › Ms. Jones could follow up with Juan to discuss what this photo is reflecting. It could be something harmless, such as a drawing of a movie he watched, or it could be much more serious and reflect himself getting harmed. In this case, Ms. Jones should discuss with the school counselor or principal.
- › Ms. Jones could consider raising the issue with Juan's parents/caretakers after consulting with school authorities.
- › If through her discussions Ms. Jones suspects child abuse, as a mandatory reporter she should contact the relevant department of family and child services.

For further discussion:

- › What issues are raised if the students could see each other's uploaded images, and therefore saw Juan's image?

Unintended consequences:

- › By asking about students' weekend, Juan may have drawn a very sensitive and dangerous incident that he experienced, if the drawing does indeed reflect child abuse. Ms. Jones must be prepared to seek out more information and respond appropriately.
- › Reporting this incident to family and child services can result in a social worker or even police officer visiting the home. This would be incredibly harmful if the image Juan drew was harmless and misinterpreted by Ms. Jones.



Recording Attendance at End of Day

Teachers at Frazier High School are required to report daily attendance data for homeroom and class periods each week. Many of the teachers find that taking attendance is a tedious practice. They know it is necessary. Mrs. Houdi is an administrator and has seen some teachers filling in a day's worth of data at the end of the day or even the next day rather. Some of the Frazier parents/caretakers have challenged the accuracy of the attendance data, insisting that their children have not been absent when the records show they were.

Questions for discussion:

- › What are the risks of teachers delaying the collection of attendance data?
- › Are the teachers within their rights to do this data collection in a delayed manner?
- › What are the consequences for parents and students if attendance is not reported accurately?



USER'S GUIDE: Recording Attendance at End of Day

Here's how we see it:

- › Reporting of attendance data is complicated as noted in the National Center for Education Statistics (NCES) Forum Guide about attendance data. Absence and attendance can have varying definitions depending on the reporting.
- › It is essential that the recording and reporting of attendance be done with accuracy in a timely manner. Under FERPA, parents have the right to inspect and correct attendance records with the appropriate documentation, as these are defined as education records.
- › There are consequences for the students whose attendance is not reported accurately.

For further discussion:

- › Can teachers rely on their memories to report these data?
- › Why is having accurate data so important here?
- › What happens if a student comes late after attendance is taken? Or if a student leaves after attendance is taken?
- › How does tardiness factor in there?
- › What counts as attendance?

Unintended consequences:

- › Students can be negatively impacted by not having their attendance and absences recorded accurately. Their permanent records will be impacted in negative ways.
- › There are very real consequences for having such inaccuracies in the data for the student, parent, and school.
- › There are also legal consequences for such inaccuracies.



Stranded Student

Mr. Remi is a teacher at Frazier Middle School. He notices that Sophie has not been picked up and it is getting late. He first calls Sophie's mother, who is the primary contact number, but there is no answer. Mr. Remi calls the second number, Sophie's father, who answers. They make arrangements for Sophie's mother to pick her up. Later, Mr. Remi learns that there is a restraining order against Sophie's father. The school was aware of this restraining order, but Mr. Remi did not have access to that information. Further, the contact sheet he had did not reflect that status.

Questions for discussion:

- Did Mr. Remi act appropriately?
- Should there be changes made as a result of this situation? If so, what?



USER'S GUIDE: Stranded Student

Here's how we see it:

- Mr. Remi did nothing wrong. The school is responsible for situations such as this one. In this case, the school failed to note the restraining order and gave Mr. Remi the incorrect information. This situation turned out well, but even if Sophie's father had violated the restraining order by picking her up, Mr. Remi still would not be responsible.
- There needs to be a determination of responsibility for communicating important information to relevant staff. School officials need to ensure that staff interacting with a student such as Sophie have the needed information to protect her.

For further discussion:

- This situation ended well. How might it have gone poorly? And who would have been responsible?

Unintended consequences:

- Out of date contact lists can result in unauthorized persons picking up students.
- When there is a restraining order, the student in question can be placed in imminent danger.



Substitute Teacher Access

Mr. Hutch is a substitute teacher at Beauregard High School. He is given teachers' lesson plans for the classes in which he is a substitute. He is also given passwords and access to teachers' computers so that he can take attendance and log student performance in electronic grade books.

Questions for discussion:

- › Is it okay for the school and the teacher to provide access to the lesson plans?
- › Is it appropriate for Mr. Hutch to have access to the teachers' computers and files?



USER'S GUIDE: Substitute Teacher Access

Here's how we see it:

- › Substitutes are proxies for regular teachers and therefore have a legitimate educational interest for accessing lesson plans, reporting attendance, and logging student performance. It is up to the district to determine whether a substitute has access to this information and provide appropriate security controls.
- › Generally, teachers should not provide their login credentials to others, including substitute teachers, because this would give access to much more data than just those named in the scenario.

For further discussion:

- › As a teacher, do you feel it is important for substitutes to have access to grades and other sensitive information?

Unintended consequences:

- › There is harm if Mr. Hutch has access to much more data and information than the teacher intends. Mr. Hutch could accidentally or purposefully alter, delete, or even share student information.



Teacher Evaluation

At Hennessey Middle School, the principal, Ms. Violet, makes an appointment with one of her teachers, Mrs. Rose, to conduct her quarterly evaluation. Mrs. Rose, like many teachers, has been challenged by conducting instruction virtually. It is even more challenging for Mrs. Rose because she teaches science which typically has hands-on activities. Mrs. Rose has struggled to modify her lesson plans and instruction to adapt to the virtual environment. She is very concerned that she will not look good in front of Ms. Violet and that her typically stellar evaluation ratings will suffer.

Questions for discussion:

- › Are there any issues with this situation?
- › Are there any reasons to be concerned about the protection of privacy for the students and for Mrs. Rose?

USER'S GUIDE: Teacher Evaluation

Here's how we see it:

- › Classroom observations are standard practice and schools are continuing this practice in a virtual setting. However, with virtual learning, Ms. Violet may observe things about students previously not possible in an in-person setting. The school will decide how administration will interact with students during a classroom observation.
- › Ms. Violet has also provided advance notice to Mrs. Rose about the forthcoming observation to aid Mrs. Rose in her preparations for the observation.

For further discussion:

- › What if Ms. Violet did not alert Mrs. Rose to the forthcoming observation? Would that make any difference?
- › What if Ms. Violet observes some things that students were doing at home that were problematic or were beyond the scope of the evaluation?



Tracking Attendance During Remote Learning

The Shea School District instituted new policies in the wake of the pandemic to collect attendance data. All educators have been struggling to obtain accurate data about student attendance while conducting virtual instruction. Mr. Bartlett and Ms. Tatum have been worried about getting accurate counts of their students. Some students have their cameras on and others do not. Some students may be “in attendance” for the entire class time, whereas others may go missing at various points in time. The school has advised teachers to use student login data from the learning management system (LMS) to track attendance. Yet there is no real way for teachers like Mr. Bartlett and Ms. Tatum to know if it is actually the specific students who are logged into the LMS and not someone else.

Questions for discussion:

- › Can a LMS provide accurate attendance data?
- › Is the use of time in the LMS not only a valid indicator of attendance but also an appropriate use of the data?
- › Are there privacy concerns about using LMS data or on-camera data for attendance indicators?



USER'S GUIDE: Tracking Attendance During Remote Learning

Here's how we see it:

- Having accurate attendance data is a part of compliance and accountability data for a district. Getting it right is important.
- The district is making an assumption that the student on the LMS is the student of record. This assumption has the potential of being inaccurate as it is possible that when students first log into their LMS, they remain logged in for a long period of time. There also needs to be protections so that students are only able to log into their own account in the LMS.
- Furthermore, an LMS may not track student logins from phone or tablet devices. This would mean students using these types of devices would have absences falsely reported.

For further discussion:

- What if someone else is on the LMS and not the student?
- How can the teacher ensure or determine if it is the real student who is logged into the LMS?
- What are the ramifications if it is the wrong student?

Unintended consequences:

- Potential harm can occur if a student's attendance is not accurately recorded. In this situation, using LMS login data to track attendance will disproportionately harm students who are using a table or phone device.
- There is potential harm for the school and district as well for inaccurate attendance data.
- The validity of attendance as a data element is in question and could be impactful for district funding if recorded inaccurately.



Virtual IEP Meetings

Nugget Elementary School has been holding IEP meetings virtually to carry out normal school activities during the COVID-19 lockdown. Such meetings involve bringing various educational specialists together with a student's parents or guardians to make determinations about the IEP status and processes. As in an in-person meeting, the goal of an IEP meeting is to determine best practices for the particular student. In one meeting, however, the special education teacher, Mr. Sammy notices that there is an unknown individual out of camera range in the parent's home. Keeping in mind that the information being discussed is sensitive in nature, Mr. Sammy asks who the person is. As it turns out, the person is a family friend.

Questions for discussion:

- What should Mr. Sammy or the IEP team do, given that there is someone else within earshot of the conversation?
- Should the meeting continue and not worry about the additional presence or should the team request that the individual be asked to leave the room?



USER'S GUIDE: Virtual IEP Meetings

Here's how we see it:

- › Discussing sensitive content such as those in an IEP should only be done with the relevant parties there, not with extraneous persons, even if they are a family friend.
- › IEP teams have strict guidelines about the data they review and the composition of team members.
- › The IEP team should request that only the legal guardians be present for this meeting.

For further discussion:

- › What if the extra person was a family member? Would that make any difference?
- › What if the extra person had professional training and was there to support the parents or guardian as an advocate?

Unintended consequences:

- › IEP teams often cover highly sensitive material about a student that should not be discussed in public. There are strict requirements on who is allowed in the room during IEP meetings to protect the student's privacy and autonomy.



Worrying Signs in Student Essay

Mrs. Sammy is an AP teacher at Kapuki High School. Mrs. Sammy prides herself in knowing her students academically and personally. She takes a real personal interest in her students and helps them prepare for the college application process. Mrs. Sammy is working with Niko, who is a very promising student. Niko writes an essay for Mrs. Sammy's AP English class in which he describes how his parents are putting extreme pressure on him to apply to and get accepted by the most prestigious and competitive universities. In the essay, there are subtle cues that Niko might do something harmful to himself because of the pressure. Mrs. Sammy is unsure but does not have a good feeling about it. Mrs. Sammy knows that Niko already has several extracurricular activities, works a job, tutors other students, and still manages excellent grades.

Questions for discussion:

- › What data would be helpful and what data does Mrs. Sammy have access to that might help her to better understand the situation?
- › Is an essay a sufficient form of data to take action about Niko?
- › Who should Mrs. Sammy consider sharing her concerns with?



USER'S GUIDE: Worrying Signs in Student Essay

Here's how we see it:

- If there is credible evidence that Niko is buckling under the pressure and may be in imminent danger of harming himself, Mrs. Sammy must report it. Each school has different policies about how to report potential self-harm or a mental health crisis, and she can ask school administrators to provide those policies.
- However, students confide sensitive information to their teachers all the time when they trust them, and it can be a valuable way for those students to relieve stress in a safe, structured way. Mrs. Sammy should carefully consider what Niko has disclosed in the essay, and determine whether it warrants reporting (and her potentially losing Niko's trust if he thinks about "doing something" in the future) - or whether it is better for her to have a conversation directly with Niko about her concerns. Mrs. Sammy could also seek to have an indirect intervention in collaboration with school counselors or a school crisis intervention team, where perhaps time is spent teaching students stress-management skills that could relieve Niko's pressure.
- Referring Niko to a school counselor might be a way to get him the help he needs without making him think that he can't safely disclose information to Mrs. Sammy directly or indirectly.
- Mrs. Sammy may also want to consider disclosing information to Niko's parents/caretakers, but should take this step in consultation with other school officials, like a school counselor. If Niko is over the age of 18, then Niko may have to give consent to disclose this information to his parents. Mrs. Sammy should seek guidance from administration here. In this situation, at least some of the pressure is caused by his parents. Sometimes, reporting that their child is overwhelmed can cause parents to be more understanding, but it can also lead to more pressure or abuse.
- There is no crystal ball with the right answer in these situations. All a teacher can do is carefully consider the context and the likely urgency of the situation, and then act on those observations. School counselors and administrators are often invaluable in helping teachers make these difficult decisions.

For further discussion:

- What sorts of evidence can you imagine may be warning signs about a student who may be at risk?

Unintended consequences:

- Sharing Niko's essay and Mrs. Sammy's concerns with other people (administration, counselor, Niko's parents) may break Niko's trust with his teacher and make him feel as though he has no one to confide in.
- Schools have protocols and policies to ensure the safety of students. But reporting concerns with the essay may result in a disproportionate and harmful response by the school.



SOCIAL MEDIA



These scenarios include the use of a social media platform.



Allowing Students to Use Teacher Social Media

Mr. Speckles is a teacher at Brady Middle School. In an effort to establish rapport with the students, Mr. Speckles sometimes shows them his social media sites and even allows two students, Clarice and Einie, to use Instagram on his mobile device.

Questions for discussion:

- › Is it appropriate for Mr. Speckles to allow social media use in this way?
- › Are there any problems with Mr. Speckles allowing students to use his mobile device?

USER'S GUIDE: Allowing Students to Use Teacher Social Media

Here's how we see it:

- › Use of social media in school, by both educators and students, is likely covered under district policy, and Mr. Speckles and the students should adhere to that policy. Mr. Speckles could be violating school social media policy by allowing his students to view and engage on his account. For example, there is the possibility that school policy prohibits educators and students from “following” one another on social media. In the rare case where it is not covered under district policy, consent to use is platform-specific, i.e., governed by the various social media platforms.
- › Regardless of whether and how it is covered under district policy, educators need to be careful about the content that students can see on the educator's device. Even if student access to an educator's personal phone is allowed, there may be messages, pictures, and other content that are inappropriate for students to see.
- › Mr. Speckles should also consider the perspective of these students' parents/caretakers and if they would be okay with this behavior.

For further discussion:

- › What are the potential problems that could arise from this situation?
- › What happens if the students see something inappropriate on a teacher's device such as lewd pictures or texts?
- › How does such action open the teacher up for potential problems?

Unintended consequences:

- › Both the teacher and students could be harmed if students discover pictures or texts of inappropriate behavior (drinking, partying, sex). Students could spread this information to others resulting in severe consequences to the teacher's career and reputation.
- › Parents/caretakers may feel this practice is inappropriate and unsafe for their child.



Cyberbullying

Mrs. Alice is a teacher at Dunkin Middle School who keeps in touch with her students using social media. Jax is one of her students. As Mrs. Alice scrolls through student posts, she notices a post by Jax in response to some pretty nasty exchanges from other students. Clearly Jax is being bullied online.

Questions for discussion:

- › What should Mrs. Alice do? What data should Mrs. Alice use to confirm her suspicions and observations?
- › Would it be different if:
 - Jax has not said anything to anyone about this situation?
 - Jax comes to Mrs. Alice about the posts that he is receiving from classmates?
 - Another student reports to Mrs. Alice that Jax is being cyberbullied?
 - Mrs. Alice inadvertently sees something on a student's device that potentially indicates that Jax is being cyberbullied?
- › What are the data needs and restrictions here?

USER'S GUIDE: Cyberbullying

Here's how we see it:

- › Mrs. Alice should seek guidance from administration on how to address this situation as many schools have a policy on social media use and cyberbullying that may take place on these platforms.
- › This policy could also include whether teachers are allowed to friend and/or follow students on social media.
- › If risk or evidence of cyberbullying is brought to a teacher's attention, it should be addressed and discussed with the appropriate school officials and parents/caretakers.
- › Even though cyberbullying takes place off of school grounds, as it is in a virtual environment, and can take place outside of school hours, parents/caretakers typically expect schools to address cyberbullying issues, especially when it involves students from school. This is why many schools have adopted social media use and cyberbullying policies.

For further discussion:

- › To whom should Alice speak? To Jax? To his parents/guardians? To school officials?
- › If cyberbullying occurs during school vacations, weekends, and off campus, does that matter?

Unintended consequences:

- › Cyberbullying results in significant harm to students and can lead to serious safety issues.



Cyberbullying Screenshot

Ms. Wilson is a teacher at Hope School. Harry is one of her students. Harry brings to Ms. Wilson a screenshot taken from a non-district social media post of comments students are saying about another student, Homer. The screenshot clearly shows that Homer is being bullied.

Questions for discussion:

- Given that a student has discovered through social media evidence of bullying, what should Ms. Wilson do?
- Does it matter that the student saw the post? What if Ms. Wilson had directly seen the post?

USER'S GUIDE: Cyberbullying Screenshot

Here's how we see it:

- › Ms. Wilson should seek guidance from administration on how to address this situation as many schools have a policy on social media use and cyberbullying that may take place on these platforms.
- › Even though cyberbullying takes place off of school grounds, as it is in a virtual environment, and can take place outside of school hours, parents and families typically expect schools to address cyberbullying issues, especially when it involves students from school. This is why many schools have adopted social media use and cyberbullying policies.

For further discussion:

- › To whom should Ms. Wilson speak? To his parents/guardians? To school officials?
- › Is the screenshot usable evidence, even though it came from a student?

Unintended consequences:

- › Cyberbullying results in significant harm to students and can lead to serious safety issues.



Facebook Discussion

Ms. Sophia is a middle school parent and asks a question on the Facebook page for Ava Middle School. In the comments, a teacher, Ms. Mazie, asks, “Are you Maggie’s mom?” Ms. Sophia responds yes, and Ms. Mazie responds with a smiling emoticon, “I have her in my class.” Ms. Sophia responds that Maggie likes Ms. Mazie a lot. Other parents chime in with comments of how much their kids like Ms. Mazie.

Questions for discussion:

- › Was it okay for Ms. Mazie to say on Facebook that Maggie is in her class?
- › Was it proper to have this kind of communication via social media?



USER'S GUIDE: Facebook Discussion

Here's how we see it:

- › This is potentially a violation of FERPA, as rosters can be classified as educational records, which are protected information under FERPA. It is also not a recommended best practice. Some parents or students would not like to be mentioned in this way. Further, it is possible that a teacher might accidentally divulge more information than just naming a student in their class. In general, it is best to keep student names and identification off of social media if at all possible.
- › Teachers should consult their district's social media policy for teacher/parent interaction.

For further discussion:

- › Ava Middle School is a public school and Maggie walks into Ms. Mazie's class every day. Why does it matter that Ms. Mazie identified Maggie?
- › Would it be any different if another parent would have said something negative about Ms. Mazie or her class?

Unintended consequences:

- › One source of potential harm is if someone sees the post that should not have and becomes aware of the location of a certain student. This is particularly sensitive when there is a restraining order or some such information block to a particular individual. It generally is prudent to be cautious because one can never know who has access to such information.
- › Disclosure of this information could potentially be a violation of FERPA and/or school social media policy.



Field Trip Pictures

Ms. Daisy takes her science class on a field trip to a local museum. The students are really excited and they start taking pictures of the exhibits for their projects. Some of the photos include their fellow students, without those students knowing that their picture was taken. Three students, Razoo, Sally, and Cacey, post some of the pictures to social media. Ms. Daisy also takes pictures and posts them to her classroom website and to her personal social media account to promote the exciting trip her students just took.

Questions for discussion:

- Is it ok for Ms. Daisy to post pictures to her classroom website? To her social media account?
- Is it ok that students posted some of their pictures to social media?

USER'S GUIDE: Field Trip Pictures

Here's how we see it:

- › Whether the photos can or cannot be posted legally on Ms. Daisy's class website or social media account can depend on a number of complex factors, and teachers should be at minimum familiar with the existence of these laws and, and familiar with the content of relevant policies. Teachers should consult school policies and/or their school administrators on appropriate use of these photos. Another consideration is whether any of Ms. Daisy's students have opted out of the sharing of their directory information as it is likely these photos are likely to be considered directory information.
- › Students posting pictures on their own social media is something a school probably cannot control and would likely fall outside of FERPA. However, it is crucial for Ms. Daisy to explain to the students the need for caution, especially if they are taking pictures of other students, some of whom may not want their picture posted online. This may also fall under a school's Acceptable Use policy or codes of conduct that discuss respect for others' privacy.

For further discussion:

- › What is other content Ms. Daisy can post to her class website from the field trip that does not include photos of students?

Unintended consequences:

- › Depending on district and school policy, Ms. Daisy could face punitive action for posting the picture on social media.
- › This could also lead to a break in trust with parents/caretakers who do not want their child's face on social media.
- › Some students may feel the photo shows them doing something embarrassing or is just a photo they do not want on social media. The photo can also lead to bullying and stigmatization. There is also potential harm in how long this photo will stay up on social media and who can comment on the photo.
- › Potential harm also lies in the extreme, but possible situation of someone seeing the location of a particular student, and that student's safety being put at risk. For example, a parent where there is a restraining order.



Friending Students on Social Media

A popular high school teacher, Ms. Lola, is friends with her students on Instagram and Snapchat. Besides being fun, Ms. Lola finds benefit in it because it gives her a window into their lives beyond what she sees at school, allowing her to better connect and understand them and their needs. Ultimately, Ms. Lola believes this extra information helps her teach her students better.

Questions for discussion:

- › Is it acceptable for Ms. Lola to friend her students on social media? Why or why not?
- › What are the specific benefits? What are the potential problems?

USER'S GUIDE: Friending Students on Social Media

Here's how we see it:

- This does not likely violate any federal privacy laws — with both Instagram and Snapchat, the user is responsible for controlling who sees their information and who does not.
- However, it might violate district policy or even state laws about how teachers are allowed to friend or contact students on social media. Teachers should ask administrators if their school has a specific policy or rules for this.
- Ms. Lola should consider the ethical implication of this practice:
 - Understanding more about your students could help teach them.
 - It is possible Ms. Lola may share information with them about her personal life that she may later regret.
 - Even though students are posting information available publicly, they may feel that it is creepy or a violation of trust for teachers to look at their social media posts.
 - What is Ms. Lola posting on her social media accounts? When deciding to follow or friend students on social media, consider using a professional social media account instead of a personal one. Teachers may want to create a professional account for even just looking at student posts, since some social media networks will proactively notify users when another user is looking at their profile or posts, and students may then be able to find their personal account. Having a professional account can help to safeguard personal privacy while still allowing teachers to connect with students.
 - An age-old unanswered question in teaching is: how close do you get to your students?
 - Parents/caregivers may feel uncomfortable with teachers following/friending their kids.

For further discussion:

- What if Lola sees posts on social media and talks to other teachers about it?
- What if Lola sees posts on social media and talks to students about it?

Unintended consequences:

- One potential source of harm is if one student accuses Lola of favoritism to another student or even accuses her of inappropriate behavior. Lola must also consider if her students' parents/ caretakers are okay with their children's teacher connecting with them on social media, breaking trust and possibly leading to other legal ramifications.
- Another potential harm is if Lola somehow crosses the line of professionalism with one of her students.
- This practice may violate state law and/or district social media policy.
- Students may feel overly surveilled with a teacher following them on their social media account and feel restricted on what they can post about.



Posting Screenshot of Virtual Class

Ms. Pujols is a middle school science teacher who has just started her virtual classes. Once a week, Ms. Pujols has virtual class on her district's approved video conferencing tool with groups of 15 students. During the first week, she shares screenshots of the grid of students to Facebook, Twitter, and Instagram. The screenshots show the students and their names. She shares these because she is excited about the meetings and because she believes it can create buy-in from parents/caretakers and students.

Questions for discussion:

- › Is it okay for Ms. Pujols to share screenshots of the students in this way? Why or why not?
- › Would it matter if it were just student pictures but not names?
- › Does it matter if she shares only to Facebook, Twitter, or Instagram — but not all?

USER'S GUIDE: Posting Screenshot of Virtual Class

Here's how we see it:

- › Sharing student images and names may be a violation of student privacy laws. Whether it is a violation depends on school policies regarding directory information and whether parents have opted in or out of such sharing.
- › In any case, this is not recommended best practice. Especially while students are learning remotely and video is a window into their homes, students may see this as a violation of trust and their privacy. For everyone's protection and to respect their students' privacy, teachers should avoid sharing student images and names whenever possible without express consent from students and parents/caretakers as applicable.
- › Virtual learning, especially under challenging circumstances, is setting new standards as it adapts to crisis situations. The protection of privacy becomes even more important.

For further discussion:

- › What if some students in the class agree to be posted and others do not?
- › If student names and faces were blurred out, how would that impact the ethics of sharing the screenshot?

Unintended consequences:

- › Potential harm could ensue if a blocked parent somehow determines where the child might be, leading to possible physical harm or abuse to the child or parent with custody.
- › Another potential harm is break of trust with parents/caretakers who may not have social media or do not approve of their child's name and face being posted on social media.
- › Depending on Ms. Pujol's school and district policy, she may be in violation and have to face punitive measures.



Using Student Social Media to Explain Absence

Dora is a student in Ms. Kitty's ninth grade science class. Dora has been absent a lot lately and Ms. Kitty is concerned about her. Two of Dora's friends and classmates, Dickey and Pearl, show Ms. Kitty some social media posts. The posts indicate that Dora may not be sick at all. They show that she is out doing social stuff rather than going to school. Looking at the posts, it is hard to interpret them any other way than that Dora is skipping school.

Questions for discussion:

- › Is Ms. Kitty right to look at the posts? Who or why not?
- › Can Ms. Kitty use the information to take action? Why or why not?
- › To whom should she or can she speak?
- › Is it permissible to use second-hand information? Why or why not?



USER'S GUIDE: Using Student Social Media to Explain Absence

Here's how we see it:

- › A main part of this issue is whether it is permissible to use second-hand information and whether Ms. Kitty has appropriate access to that information. Ms. Wilson should seek out her school's social media use policy on whether viewing a student's social media account through other students is permissible.
- › Social media posts are not a reliable source of information to make assumptions about Dora's absences. Ms. Kitty should rely on reaching out to Dora and/or her parents/caretakers or speaking with the student counselor if the absences become excessive.

For further discussion:

- › Should Ms. Kitty talk to Dora about what she has discovered?
- › Should she talk to Dora's parent or guardian?
- › Does Ms. Kitty have rightful access to this information?

Unintended consequences:

- › If the interpretation is inaccurate, Dora can be harmed by a false accusation.
- › Dora's privacy was violated by the teacher viewing her social media posts without her knowledge which could negatively impact her relationship with Ms. Kitty.



Viewing Student's Social Media

Through the course of scanning through her students' Instagram posts, Ms. Annie notices something potentially disturbing about one student, Jake. It might be nothing but then again, there could be a potentially difficult or even dangerous home situation.

Questions for discussion:

- What should Ms. Annie do with this information?
- Is it ok for Ms. Annie to get student information from social media? Why or why not?



USER'S GUIDE: Viewing Student's Social Media

Here's how we see it:

- › If Ms. Annie sees something where she has significant confidence that a student is in harm, then she should consult appropriate school authorities. Teachers are mandatory reporters and therefore have an obligation to report potential harm. This includes possibly contacting child protective services or law enforcement outside of school hours.
- › If Ms. Annie is unsure, she should consider seeking out more information if possible.
- › Ms. Annie needs to be familiar with her school's social media policy as it will have important information on what type of behavior is allowed. For example, there is the possibility that educators are not allowed to "friend" or "follow" students from their personal social media accounts.

For further discussion:

- › Should she talk to the student, Jake?
- › Should she talk to Jake's parent or guardian?
- › Should she talk to Jake's friends who know him better?
- › Should she contact school authorities to tell them what she saw?
- › Is it ok for Ms. Annie to follow her students' social media accounts?

Unintended consequences:

- › Ms. Annie could be violating district social media policy by friending/following her students.
- › Reporting this event could lead to a harmful and disproportionate response by school officials, child protective services, or law enforcement.
- › Failure to report what was seen could lead to possible harm.
- › Jake may feel violated or inappropriately surveilled.



STUDENT DATA



These scenarios have an explicit focus on the type of student data described in the scenario, and often discuss unique pieces of student data.



Accidentally Disclosing Student's Grade

Mr. Cane is teaching high school band in a virtual environment. He uses the SmartMusic platform to share music scores with students, have them record parts of their practice, and to provide two-way feedback. SmartMusic is approved for use by his school. The platform is very helpful with connecting with students, therefore, he also uses SmartMusic when working with youth through his own private trumpet classes, completely separate from his school classes. While he is returning comments and scores a school student has received for class, he accidentally sends the comments and a copy of the score to a private student he coaches, Jennifer, with the same name. The parents of the private trumpet student, Jennifer, are very upset about the comments.

Questions for discussion:

- › How should Mr. Cane respond?
- › What could Mr. Cane have done to prevent this problem?



USER'S GUIDE: Accidentally Disclosing Student's Grade

Here's how we see it:

- › The student's whose score was shared had their privacy violated by sharing their education record. This is problematic from a FERPA perspective and will most likely be seen as a violation since there was most likely no parental consent. Mr. Cane should consult administration to discuss this accidental disclosure of student education records.
- › Mr. Cane should use separate accounts and ideally different computers for school and private students.
- › School licensed software should only be used for school projects.
- › Mr. Cane must also now ensure that these comments are deleted from Jennifer's device and are not shared with anyone else.

For further discussion:

- › What are the privacy concerns for students?
- › Should teachers keep personal and private accounts for software platforms?

Unintended consequences:

- › The private student who received the negative comments was harmed because the feedback was unwarranted as it was not for her score.
- › The student and their family whose scores and comments were shared can feel a breach of trust and confidentiality. Jennifer may know the student and therefore can lead to social harm, such as stigmatization and bullying.



Administering Social-Emotional Wellbeing Student Surveys

Ms. Wang is concerned about how her students are coping with the rapid transition to online learning and in light of other major current events. She decides to learn about her students' social-emotional wellbeing by sending out individual student surveys to them.

Questions for discussion:

- › What steps should Ms. Wang take in administering this survey?

USER'S GUIDE: Administering Social-Emotional Wellbeing Student Surveys

Here's how we see it:

- It is understandable for Ms. Wang to want to check in on her students' social-emotional wellbeing and try to glean information through surveys. It is very important that before Ms. Wang administers or even develops the survey, she seeks out her administrators' support and guidance. A survey that asks questions about the social-emotional wellbeing of students will reveal sensitive student information.
- Under federal law, the Protection of Pupil Rights Amendment (PPRA), schools and teachers are required to obtain consent from parents for any surveys that reveal certain sensitive information. There will be other PPRA obligations Ms. Wang must comply with, including the type of consent to be obtained (opt-in or opt-out) depending on if student participation is required and providing parents an opportunity to review the tool. In addition, many districts do their own surveys of social and emotional issues and are often picky about what is included. Teachers should check with their administrators on this issue also.

Unintended consequences:

- The surveys could ask questions and illicit responses that parents/caretakers are uncomfortable with or do not want asked of their children.



Annual Testing

Annual testing is coming up at Founder High School. Several students are struggling. Mr. Houdi is a teacher and he recognizes that his school and district face consequences if the aggregate scores are not satisfactory. Mr. Houdi has a discussion with other teachers whom he trusts about the poor prior performance of several of his students. He mentions the students by name to his colleagues, but he does not divulge his possible plan. He wants to do the best for himself, his school, and his district, so he decides to ask Ethel, Grady, Bradley, Millie, Bogie, and Mindy to stay home on testing day. They do, and his class scores are great. He knows these scores would have been much worse if those students had taken the test.

Questions for discussion:

- Was it appropriate for Mr. Houdi to ask these students to stay home? Why or why not?
- Was it appropriate for Mr. Houdi to discuss with other teachers the students' poor performance and identify those students? Why or why not?



USER'S GUIDE: Annual Testing

Here's how we see it:

- › Mr. Houdi's actions were highly inappropriate. While he had the best interests of his school and district in mind, it is illegal and unethical to intentionally exclude students who may not score well. All students should have the right to exhibit their performance through testing.

For further discussion:

- › High-stakes testing is often stressful to students who don't expect to perform well. Might Mr. Houdi have been doing those students a favor?
- › Suppose those and other students took the test and their poor performance helped put the school and district into sanctions. Does that make you feel any differently about Mr. Houdi's actions?

Unintended consequences:

- › Mr. Houdi has co-opted the ethics of the testing process and by talking to other teachers, placed them at risk by bringing them into the discussion as they may be considered co-conspirators to his plan and be penalized for not bringing this to the awareness of administration.
- › Mr. Houdi could have negatively impacted the self-esteem of the students he requested to miss the testing and has demonstrated low expectations in their capabilities.



Choosing College Major

Over the next few weeks, Ms. Cole's 11th-grade students have individual meetings with the guidance counselor, Mr. Freeman, to discuss what major they would like to pursue in higher education. One of her students, Quinton, comes back from his meeting visibly upset. Ms. Cole finds a time to talk with Quinton and learns that Mr. Freeman recommended this student pursue business instead of biology, dashing his hopes of becoming a biology professor. Ms. Cole decides to speak with the guidance counselor to learn more.

Mr. Freeman tells Ms. Cole that the school has recently acquired a new analytics-based advising tool to determine what career path is best for each student. This tool creates real-time, formative, and predictive assessments based on demonstrated interest, demographics, performance, and historical individual and institutional data points. The counselor lets Ms. Cole know that, based on the advising tool's assessment, Quinton is shown to be at risk of dropping out of higher ed if he were to pursue his major of choice, while he has a greater chance of success with the major Mr. Freeman has recommended.

Questions for discussion:

- › How should Ms. Cole respond to this explanation? Should she support the recommendation made by Mr. Freeman and this new tool?
- › What conversation should Ms. Cole have with Quinton? Should she have a conversation with his family as well?



USER'S GUIDE: Choosing College Major

Here's how we see it:

- Advising tools like those used by Mr. Freeman can provide valuable insight into a student's skills, strengths, and interests. However, it is important to remember that data is prone to bias, and any insight generated from these tools should be the start of a conversation, not the end. An important decision such as choosing a college major should not be decided by a black box of information with limited transparency on what data is being used to inform that decision and how this data is collected. Quinton, and his family, should have agency to challenge the tool's recommendation and make sure the decision is also informed by assessments from Quinton's teachers and with Quinton's interests and desires. Ms. Cole should ask how Mr. Freeman recommended the specific major to Quinton and what additional data, beyond the tool, he may have incorporated into the process.
- Quinton and his family should be a part of the conversation to craft his future options, not merely recipients of a recommendation. Quinton's teachers, family, and Quinton himself should work together to create a plan to help Quinton work towards his goals.

For further discussion:

- What are potential advantages and harms that come from using predictive analytics data?
- If you were in Ms. Cole's or Mr. Freeman's position, what other data would you incorporate into your decision making? How would you position/frame that decision to Quinton? His family?

Unintended consequences:

- Predictive assessment tools can lead to unfair and biased outcomes. There is severe potential harm to Quinton's future, and other students' futures, if the recommendation of this tool is taken without any other factors or considerations.



Concerns about Teachers Making Judgements on Student

Ms. Izzy teaches honors science classes at Murray High School. She has one particular student, Percy, who is outstanding. He has already aced honors biology and honor chemistry at his young age. As the end of the school year approaches, Ms. Izzy is concerned how his next year's teachers will see him. This is because she believes Percy looks older than he is and often comes to school with clothes that no longer fit him and have not been washed for some time. Ms. Izzy suspects that Percy is homeless. She has also noticed other colleagues say he often looks angry, though she knows that's just how his face looks when he's not actively smiling. Ms. Izzy somehow wants to convey to Percy's new teachers, Mr. Quincy, Mr. Cosmos, and Ms. Phoenix, not to make false assumptions about Percy and to convey his motivation and ability.

Questions for discussion:

- › What should Ms. Izzy do?
- › What can Ms. Izzy say to Mr. Quincy, Mr. Cosmos, and Ms. Phoenix?
- › Can she tell the new teachers what she suspects about Percy's home circumstances?



USER'S GUIDE: Concerns about Teachers Making Judgements on Student

Here's how we see it:

- Ms. Izzy should not share her suspicions with regards to Percy's home situation. These are purely suspicions, and disclosing such information could cause those teachers to unintentionally stigmatize Percy or assume that he cannot achieve as much as other students based on their own biases.
- Even if Ms. Izzy did know that Percy was experiencing homelessness, she still should not share this information with the teachers, as this could run into legal trouble under FERPA and the McKinney-Vento Act. A student's homeless status is a protected educational record. There is an exception under FERPA that allows sharing educational records with school officials who have a legitimate educational interest. Therefore it must be considered if the teacher has a legitimate educational interest in this. It is best practice to only share homeless status on a need-to-know basis and informing parents/caretakers and youth prior to sharing. Note that it is rare for a student's homeless status to be disclosed to a teacher.
- Ms. Izzy must also consider whether the information being shared and how it is being shared are in Percy's best interest. There are several approaches she could take that would achieve this goal without providing too much sensitive information. Ms. Izzy could just have an informal conversation with the teachers to say that they shouldn't assume anything based on Percy's appearance because he is an excellent student.
- It is also important to consider how Percy (and his family) might feel about the information being disclosed. No one likes being talked about behind their back, especially when the information may not be true. Percy may feel discouraged, like he needs to better hide his home situation, or like he can't talk safely with his teachers. Instead of talking about Percy in this situation, Ms. Izzy could instead introduce Percy to Mr. Quincy, Mr. Cosmos, and Ms. Phoenix in-person or via email, letting them know that Percy is one of her best students.
- Regardless of what Ms. Izzy decides to do, she should consider avoiding putting sensitive information, such as speculations about a student's home situation, in writing (such as an email) unless she is reporting something formally, for example to school administrators. Emails could be considered student records (which students and parents have a right to access) or be disclosed as part of open records laws and could be subject to a data breach.

For further discussion:

- What responsibilities do Ms. Izzy and others at the school have toward Percy's situation?

Unintended consequences:

- Teacher judgements and subconscious bias could negatively affect how they see and treat Percy.
- Ms. Izzy should take care not to disclose information in a way that violates the trust between Percy and her, and respects Percy's privacy.
- Disclosing a student's homelessness status (with no legitimate educational interest) is a legal violation of FERPA and the Mc-Kinney Vento Act.



Confirmation Bias

Mr. Chester teaches an advanced math class. Mr. Chester prefers to give open response questions in his exams so that students have to explain their work. He often does not create a rubric for how he will score these questions until only after starting to review students' responses and then scores with an informal, flexible rubric. As Mr. Chester predicts, his Asian and male students have the strongest responses in the open-ended questions, while his Black and female students have the least proficient responses.

Questions for discussion:

- › What is the impact of using a flexible, informal rubric to grade student responses?
- › How valid or invalid is Mr. Chester's scoring?

USER'S GUIDE: Confirmation Bias

Here's how we see it:

- › There is value in assessing students through open-ended questions, though there is risk in the subjectivity of how they are scored. In this case, there is a significant risk since Mr. Chester does not create a rubric until after viewing student work. And this rubric is “flexible”, meaning there is significant discretion employed when scoring students.
- › Significant confirmation bias is at play in this practice, meaning Mr. Chester is interpreting results in a way that confirms one's own biases, biases that have been socialized through racist stereotypes.
- › Mr. Chester should create a well-defined rubric before even administering the exam to students to ensure there is consistency with how students are graded.

For further discussion:

- › What do you think of Mr. Chester's predictions?
- › Do you think the predictions are fair and accurate?
- › Is this a case of confirmation bias? How would you describe this phenomenon?

Unintended consequences:

- › The inconsistency of how students are scored will result in unfair grades, with either students undeservingly receiving a higher grade or poorer grade. Such practice perpetuates inequities that exist for the most marginalized students.



Contagious?

Mrs. Boss is a teacher at Grey Elementary School. She sees symptoms in one of her students, Opie, that she thinks may be the measles. Mrs. Boss knows that some parents in the school have chosen not to have their children vaccinated, so she thinks it may be possible that Opie has not been vaccinated. She wants to find out, but she doesn't have access to Opie's vaccination records. Further, Mrs. Boss knows she doesn't have any medical training and she might be wrong.

Questions for discussion:

- › What should Mrs. Boss do?
- › What data can she access about Opie's health?

USER'S GUIDE: Contagious?

Here's how we see it:

- Mrs. Boss should consult with the school nurse about this issue. Nurses generally have access to student vaccination records and, based on an initial diagnosis, could then recommend a course of action to the family. Depending on state law and district policy, Mrs. Boss may or may not be able to access these records. In this case, Mrs. Boss doesn't really need access to the records; all she needs to do is to flag for the school nurse and/or school administrators if she thinks a student may have measles symptoms.
- The nurse or school administrators may not be legally able to tell Mrs. Boss whether the student has been vaccinated and may not be able to tell her the final resolution with the family but can then keep her updated as much as legally possible.
- Mrs. Boss could also consult with the family. It is within her rights to call the student's caregiver if she has any concerns about the student. However, she does not have enough medical information and the conversation may not go as well as it might with the nurse.

For further discussion:

- What do you think would happen if Mrs. Boss went straight to the student's parent or guardian with his concern?

Unintended consequences:

- If left unattended, the entire school population would be at risk for contracting measles.
- Mrs. Boss should not disclose her suspicion to anyone but the necessary personnel, as this can lead to gossiping, further false information, and harm the student and the family.



Deployment

Ralphie is a student in Ms. Turbo's advanced math class. Recently, Ms. Turbo notices that Ralphie is especially reserved and withdrawn. His performance is not what it usually is. Ralphie's behavior is of concern to Ms. Turbo. In the quest to understand what is going on, Ms. Turbo talks to some of Ralphie's friends and classmates, Izzy, Jilli, Winnie, and Cali, to see if he can gain any insights into what is up with Ralphie. One student, Winnie, says that she thinks that Ralphie's father is deployed in military service. Winnie reports that Ralphie is anxious about the fact that his father may be in harm's way. Finally, Ms. Turbo talks directly to Ralphie to hear from him what the situation is.

Questions for discussion:

- › How would you have handled this situation if you were Ms. Turbo?
- › Was it okay for Ms. Turbo to have talked to the other students? Why or why not?

USER'S GUIDE: Deployment

Here's how we see it:

- › Ms. Turbo should determine if the district has a military status indicator that will provide information about whether Ralphie comes from a military family.
- › If the district does not have such an indicator, and many do not, then one source of information could be the guidance office or the administration office, rather than speaking to students.
- › Speaking to students could violate privacy law if the teacher divulges personal information about Ralphie to the students and could be unethical or break trust between Ralphie and Ms. Turbo.

For further discussion:

- › Does the district have a data element that is a military status indicator?
- › Does the teacher have access to this indicator?
- › Should Ms. Turbo have contacted Ralphie's parents as a potentially critical conversation?
- › Is making known military status, as an indicator, a violation of Ralphie's privacy?

Unintended consequences:

- › The conversations could be considered prying or inappropriate, especially from the perspective of Ralphie's parents/caretakers.
- › Ralphie could feel as though trust was breached by his teacher speaking with his friends first rather than speaking with him directly. Ralphie may have shared different or no information at all with this teacher.
- › There is the potential that Ms. Turbo received misinformation from the other students.



Diagnostic

Mrs. Ginny is an experienced teacher at Cody Elementary School. She has been working with one student, Randy, and is concerned about his reading skills. Based on her experience and her observations of Randy as he is reading, Mrs. Ginny strongly suspects that Randy has dyslexia. Mrs. Ginny lacks definitive evidence of a diagnosis and wants to get a formal diagnosis. However, she doesn't know with whom she can share Randy's information and she is concerned that, in asking for help, that she may improperly disclose information about Randy.

Questions for discussion:

- › What should Mrs. Ginny do?
- › What data or evidence does Mrs. Ginny need?
- › Is her experience sufficient evidence? Why or why not?



USER'S GUIDE: Diagnostic

Here's how we see it:

- › Mrs. Ginny's observations combined with her experience are enough to warrant further testing. However, Mrs. Ginny is not formally trained in diagnosing dyslexia and needs to contact the professional on her school's staff that is responsible for these diagnoses.
- › The school nurse or counselor should be consulted first. They will be aware of procedures that Mrs. Ginny should follow such that she can recommend an evaluation but not violate Randy's privacy. There is a legitimate educational interest here, but Mrs. Ginny must confirm the staff member she should speak with regarding this situation.
- › There are procedures for gathering evidence from testing practices that need to be undertaken to make the determination and diagnosis.

For further discussion:

- › Is professional intuition a valid source of evidence?
- › Are Mrs. Ginny's observations valid evidence?
- › With whom should Mrs. Ginny share her observations and suspicions? With Randy's parents/caretakers? Other educators?
- › Should Mrs. Ginny discuss with Randy what she has observed to provide him some student agency?

Unintended consequences:

- › Discussing this matter informally and without following proper protocol can significantly harm Mrs. Ginny's relationship with Randy and his family, especially if her suspicions turn out to be incorrect, potentially breaking trust, hurting Randy's confidence, and leaving the family and Randy feeling inappropriately misjudged.



Erratic Behavior

Ms. Randolph teaches at Calypso Middle School. She has been teaching for many years. There is one student, Cujo, who has been diligent and motivated, but lately, Cujo seems off. He has been having difficulty concentrating, has an increase in absences, and is turning in incomplete assignments. Another teacher mentions that she thinks Cujo has some sort of medical issue that requires medication, so Ms. Randolph decides to ask the school nurse.

Questions for discussion:

- › What if the teacher's statements about Cujo are inaccurate?
- › Is the nurse the correct person for Ms. Randolph to seek further information from?
- › What information can Ms. Randolph expect from the nurse?



USER'S GUIDE: Erratic Behavior

Here's how we see it:

- › Generally, medical information kept by schools about a student is subject to the same rules as any other student personal information, so the nurse could (but does not have to) disclose to the teacher what medical conditions the student has, so long as the teacher has a legitimate educational interest in the information.
- › However, some states may have stricter laws that limit who can have access to medical information, and nurses, in particular, may be subject to licensing requirements or laws that restrict what they can share (as opposed to a school administrator who has access to student medical information).
- › Ethically, information should be disclosed when it needs to be and it is in the best interest of the student. Ms. Randolph likely doesn't need to know exactly what is happening with Cujo to help them, but it is valuable for her to raise an alert with school administrators, perhaps the nurse, and perhaps Cujo's parents/caretakers so they are aware of the change in Cujo's behavior and academic performance.

For further discussion:

- › Would it have been a good idea for Ms. Randolph to discuss this issue with Cujo and his family?

Unintended consequences:

- › Erratic behavior may be a sign of a deeper issue the student is going through. Left unaddressed can lead to various harms, academically, socially, and more.
- › If the teacher's judgments were inaccurate—that Cujo's behavior is a result of a medical issue—this could lead to false interpretations, bias, further inaccurate conversations about Cujo, and a huge breach of trust with Cujo's family if they hear about it.



Free Lunch Eligibility

Mr. Dusty is a teacher working cafeteria duty and notices that Rex has not had any lunch all week long. Rex just sits at the table while his classmates eat. Sometimes some of the students may share their food with Rex. He does not look happy. Based on a conversation with the food services director, Mr. Caleb, Mr. Dusty finds out that Rex's family qualifies for free and reduced lunch, yet they have not applied.

Questions for discussion:

- › Does Mr. Dusty have legal access to free and reduced lunch data rosters?
- › Should Mr. Caleb have discussed Rex's lunch status with Mr. Dusty?



USER'S GUIDE: Free Lunch Eligibility

Here's how we see it:

- › Under the National School Lunch Act (NSLA), only people who need to know a student's free and reduced lunch status to administer or enforce the program can receive that information without parental consent. The NSLA is much stricter than FERPA in terms of who information can be shared with and has severe penalties that apply when information is shared inappropriately. Mr. Dusty did not need to know this information as part of his cafeteria duty, and therefore he should not have access to that information, and Mr. Caleb should not have discussed Rex's status with Mr. Dusty.
- › However, there is nothing stopping Mr. Dusty from reporting his observations about Rex to Mr. Caleb or other school administrators who legitimately have access to free and reduced price lunch status information, and then they could have discovered that Rex's family is eligible to apply.

For further discussion:

- › What are the ethical and privacy implications beyond the requirements of the NSLA of Mr. Caleb sharing Rex's status?
- › How could having this information be more widely available to school staff harm student privacy?

Unintended consequences:

- › Sharing student's free and reduced lunch status to unauthorized persons violates NSLA and can result in severe penalties.



High-Stakes Testing

Students at Sedona Elementary School are taking the state achievement test. The district has put in a performance pay structure that evaluates teacher performance in part through student performance on these tests. As he is watching his students take the test, Mr. Atticus fields an occasional question from students about the test. He considers his answers and he wonders how much help he should give them. The rules are that teachers are not allowed to answer questions. But Mr. Atticus knows his students, he knows that sometimes even just a simple answer could help, and he is afraid without such support, student scores won't be representative of their actual learning. Further, student performance reflects on his teaching performance and is tied to his bonus pay.

Questions for discussion:

- A student, Chai, says he does not understand a sentence. Chai is reading two words in the wrong order and Mr. Atticus knows Chai is prone to this. Can Mr. Atticus point that out?
- A student, Ruth, asks a question about a fraction problem and Mr. Atticus can see that Ruth has made a mistake with common denominators. Mr. Atticus knows it is a common mistake for Ruth, one that he and Ruth have joked about sometimes. Can he hint that she's done this before?
- The proctor, Ms. Otis, has not picked up the student tests yet. Mr. Atticus knows he has time to change some wrong answers to right answers and nobody will ever know. Is it ok for Mr. Atticus to change a few answers so he can get that bonus?



USER'S GUIDE: High-Stakes Testing

Here's how we see it:

- We are sympathetic to Mr. Atticus' desire to help his students do their best. We also agree that he knows his students very well. Regardless of what one thinks about high stakes tests, the fact is that they are conducted under very concrete rules and penalties. Violation of these rules puts Mr. Atticus and his students in jeopardy. He needs to stick to the procedure and not answer any of the questions.
- There are strict test administration boundaries that Mr. Atticus would be violating if he answers these questions, tantamount to cheating.
- We acknowledge that there are issues around the ability of state summative tests to measure student knowledge and link that knowledge to demonstrated performance in classrooms.

For further discussion:

- A student, Katy, says she does not know the meaning of a word. This is a word they had on a quiz just a week earlier and Mr. Atticus remembers Katy getting it right on the quiz. Can he remind her?
- A student, Shlomo, does not understand a paragraph in a reading passage, and if it is not solved, the student will miss the entire block of questions. Mr. Atticus knows that Shlomo could do well on the rest of the test if Mr. Atticus were to explain that paragraph. Can he explain this to Shlomo?
- What if Mr. Atticus firmly thinks that the state test should be a learning opportunity for the students, rather than one only for accountability, and he wants his students to gain deeper insights into the questions being asked and how to solve them? Do the testing procedures outlined above conflict with Mr. Atticus' responsibility as a teacher?
- Do the testing procedures outlined above conflict with Mr. Atticus' responsibility as a father and husband?
- What if the situation were some other sort of test, rather than state accountability test? Would there be any differences in what kind of help Mr. Atticus might provide to the students?

Unintended consequences:

- Accountability pressures, especially when they are tied to teacher evaluations and compensation, can sometimes elicit inappropriate behavior. Teachers must uphold the integrity of the test. If Mr. Atticus violates rules, penalties could include loss of his job and even punitive repercussions for students, such as a failing test score, suspension, or stigmatization.



Of Age

Charlie's parents have reached out to Mr. Green asking to see his grades in the class. Charlie turned 18 two months ago.

Questions for discussion:

- › Can Mr. Green share Charlie's grades with his parents? Why or why not?

USER'S GUIDE: Of Age

Here's how we see it:

- › Under FERPA, all rights to inspect education records pass from the parent to the student when the student turns 18 (or enters higher education). There are certain exceptions under FERPA, the parents *may* still be allowed access to the child's education records. It is recommended for Mr. Green to check with administration for guidance.
- › Mr. Green would have to communicate that consent is now needed from Charlie in order for his parents to access his grades.

For further discussion:

- › What if Charlie was under the age of 18 and concurrently enrolled in the local community college?

Unintended consequences:

- › It is a legal violation to grant access to Charlie's education records to his parents without Charlie's consent.



Posting Student Videos on YouTube

Ms. Kowalski is putting together a virtual mini theater performance with her middle school theater class. She has each student record a short video of them performing their lines of the play and send them to her. Once she has all the videos, she edits them together and posts them on her school district YouTube channel as a public video to make it easier for students and parents to find. She also shares it with parents/caretakers and staff members via email. The next day, she receives an angry email from Jacob's mother saying she was very upset that his likeness was on YouTube. Jacob's mother says she had not consented to have him appear in video format. Ms. Kowalski reviews the school's video and photo release data and realizes that Jacob's mother is correct, she had only agreed to photographic representations.

Questions for discussion:

- › What should Ms. Kowalski have done to prevent this problem?
- › How can she remedy a solution?
- › Would it be different if it was Ms. Kowalski's personal YouTube account rather than the school's account?



USER'S GUIDE: Posting Student Videos on YouTube

Here's how we see it:

- › When using student likeness in any public setting teachers must verify what permissions parents have given for each student.
- › Ms. Kowalski should immediately take the video down to edit out the video of Jacob. Ms. Kowalski should also seek guidance from administration to amend the breach of trust and harm that was done.
- › The harm would have been worse had it been from Ms. Kowalski's personal account.
- › The main point of harm is the platform that the video was shared on. Anything posted on YouTube, be it privacy or unlisted, would still be considered public. There would be different implications if the video had been posted to an internal district drive or learning management system, which has much stronger access limitations.

For further discussion:

- › Would sharing a student likeness within a physical class for a project have different requirements?
- › If Ms. Kowalski had posted the video as Unlisted or Private on her YouTube channel would this change the issues?

Unintended consequences:

- › There is potential for student likeness posted on YouTube to be shared infinitely, even if it is a school account, especially if the settings are public. Anyone can watch these public videos, it can be reshared on social media accounts, and people can comment on the video.
- › There is potential for legal and personal harm to Jacob as his parents did not authorize the use of his image on video.



Recording Attendance at End of Day

Teachers at Frazier High School are required to report daily attendance data for homeroom and class periods each week. Many of the teachers find that taking attendance is a tedious practice. They know it is necessary. Mrs. Houdi is an administrator and has seen some teachers filling in a day's worth of data at the end of the day or even the next day rather. Some of the Frazier parents/caretakers have challenged the accuracy of the attendance data, insisting that their children have not been absent when the records show they were.

Questions for discussion:

- › What are the risks of teachers delaying the collection of attendance data?
- › Are the teachers within their rights to do this data collection in a delayed manner?
- › What are the consequences for parents and students if attendance is not reported accurately?

USER'S GUIDE: Recording Attendance at End of Day

Here's how we see it:

- › Reporting of attendance data is complicated as noted in the National Center for Education Statistics (NCES) Forum Guide about attendance data. Absence and attendance can have varying definitions depending on the reporting.
- › It is essential that the recording and reporting of attendance be done with accuracy in a timely manner. Under FERPA, parents have the right to inspect and correct attendance records with the appropriate documentation, as these are defined as education records.
- › There are consequences for the students whose attendance is not reported accurately.

For further discussion:

- › Can teachers rely on their memories to report these data?
- › Why is having accurate data so important here?
- › What happens if a student comes late after attendance is taken? Or if a student leaves after attendance is taken?
- › How does tardiness factor in there?
- › What counts as attendance?

Unintended consequences:

- › Students can be negatively impacted by not having their attendance and absences recorded accurately. Their permanent records will be impacted in negative ways.
- › There are very real consequences for having such inaccuracies in the data for the student, parent, and school.
- › There are also legal consequences for such inaccuracies.



Students Experiencing Homelessness

Ms. Clark has noticed that the pandemic has put unprecedented financial strain on many of her students' families, including loss of income and having to take care of other family members. Ms. Clark is worried about any students in the school who may be experiencing homelessness. She requests a list of all students experiencing homelessness in the school from her administration with the thought of providing resources and gift baskets for the upcoming holiday.

Questions for discussion:

- › Can Ms. Clark request a list of student names who are experiencing homelessness? Why or why not?
- › What are the risks of creating and distributing such a list?
- › What if Ms. Clark was asking for a list of students experiencing homelessness only in her classroom?

USER'S GUIDE: Students Experiencing Homelessness

Here's how we see it:

- › Even with the kind intent that Ms. Clark has in making this request, asking for an entire list of students experiencing homelessness in the school is very likely to run into legal trouble, specifically with FERPA and the McKinney-Vento Act. A student's homeless status is a protected educational record. There is an exception under FERPA that allows sharing educational records with school officials who have a legitimate educational interest. Therefore, school officials must decide if Ms. Clark's request is a legitimate educational interest—and it is unlikely that providing a gift basket would qualify. It is best practice to only share homeless status on a need-to-know basis and informing parents/caretakers and youth prior to sharing.
- › Ms. Clark should also consider the perspective of families experiencing homelessness and if they would want this personal and sensitive information revealed for this purpose.
- › It does not matter whether Ms. Clark is requesting a list of all students experiencing homelessness, or just those students in her classroom as the sharing of this information solely depends on whether there is a legitimate educational interest in the records.

For further discussion:

- › Why would a teacher need to know homelessness status of a student?
- › How could a teacher's awareness of homelessness status benefit delivery of education for the student?

Unintended consequences:

- › There is the potential the student names on this list could be leaked outside of Ms. Clark, to other teachers and even students. This could result in legal violations, huge breaches in trust and confidentiality with students and families, and bullying and stigmatization.
- › Knowing that a student is homeless, could lead to implicit bias on the part of the educator, in terms of how the student is seen and treated.



Working on Public Transportation

Ms. Elena is a teacher at Einstein Middle School. She uses public transportation to get to and from school. This requires taking a fairly long train ride from home. She uses the time in the morning to prepare for school and then uses the ride home to grade student assignments, quizzes, and projects. Sometimes the documents are in electronic format and other times they are paper versions. Public transportation typically is crowded, so strangers may be able to see some of the student products.

Questions for discussion:

- Are there any problems with Ms. Elena grading student work on public transportation?

USER'S GUIDE: Working on Public Transportation

Here's how we see it:

- › Credit to Ms. Elena for her work ethic to maximize her time and effectiveness. Even so, there are problems with Ms. Elena having students' work out in public as it can be a violation of student privacy law, specifically FERPA. Elena should find a way to shield the student work from public view because of the potential harm, or find other schoolwork that doesn't involve student personal information, such as lesson planning.
- › There have been instances of grading in public places, where people have seen the grades and posted announcements on social media about the student and their grade. This kind of inadvertent disclosure is possible given the public nature of social media. Care must be taken.

For further discussion:

- › What further steps can Elena take to protect student privacy while working and grading on the train?
- › What is the potential harm that could come from this situation?

Unintended consequences:

- › In a real case, a professor was grading student work on a plane and someone saw the grades and then proceeded to blast a student's failure all over social media. This is beyond harmful to the student in question.



TECHNOLOGY



These scenarios include the use of an application or other piece of technology.



Accidental Sharing of a Tab

Ms. Emma is using a video conferencing tool to conduct a virtual lesson to her science class. Like many people during the pandemic, she has a number of different websites and tabs open on her browser. One tab contains an email she was drafting to a colleague about a student, Olivia, that contains personal information and student performance data. Inadvertently, Ms. Emma switches from tab to tab and the email is visible on the screen for the entire class to see.

Questions for discussion:

- › What precautions should Ms. Emma take to protect documents and windows on her computer while teaching class?
- › What risk did Ms. Emma take by not closing extraneous tabs?



USER'S GUIDE: Accidental Sharing of a Tab

Here's how we see it:

- › Extreme care around technology must be taken so that no information is inadvertently shown to students.
- › Ms. Emma should use fresh windows with no tabs when sharing her screen to others to minimize the risk of sharing student data or other tabs that should not be shared.
- › Ms. Emma should seek guidance from administration on how to proceed as the inadvertent disclosure of information could potentially be problematic under FERPA, especially depending on the sensitivity of the email content.

For further discussion:

- › Does it make a difference if the content of the email is positive or negative?

Unintended consequences:

- › Other students now have seen that Emma is communicating about Olivia to other educators. They could taunt Olivia and impact her self-esteem if the data and information were negative.
- › If the data were positive, the students could still unnecessarily tease Olivia because she could be considered the teacher's pet.
- › Depending on the information that was shared, this could be a potential violation of FERPA.



Accidentally Disclosing Student's Grade

Mr. Cane is teaching high school band in a virtual environment. He uses the SmartMusic platform to share music scores with students, have them record parts of their practice, and to provide two-way feedback. SmartMusic is approved for use by his school. The platform is very helpful with connecting with students, therefore, he also uses SmartMusic when working with youth through his own private trumpet classes, completely separate from his school classes. While he is returning comments and scores a school student has received for class, he accidentally sends the comments and a copy of the score to a private student he coaches, Jennifer, with the same name. The parents of the private trumpet student, Jennifer, are very upset about the comments.

Questions for discussion:

- › How should Mr. Cane respond?
- › What could Mr. Cane have done to prevent this problem?

USER'S GUIDE: Accidentally Disclosing Student's Grade

Here's how we see it:

- › The student's whose score was shared had their privacy violated by sharing their education record. This is problematic from a FERPA perspective and will most likely be seen as a violation since there was most likely no parental consent. Mr. Cane should consult administration to discuss this accidental disclosure of student education records.
- › Mr. Cane should use separate accounts and ideally different computers for school and private students.
- › School licensed software should only be used for school projects.
- › Mr. Cane must also now ensure that these comments are deleted from Jennifer's device and are not shared with anyone else.

For further discussion:

- › What are the privacy concerns for students?
- › Should teachers keep personal and private accounts for software platforms?

Unintended consequences:

- › The private student who received the negative comments was harmed because the feedback was unwarranted as it was not for her score.
- › The student and their family whose scores and comments were shared can feel a breach of trust and confidentiality. Jennifer may know the student and therefore can lead to social harm, such as stigmatization and bullying.



App Mistranslation

During a virtual English as a Second Language class, Mr. Sendo works with two students Rafat and Niema. They are both new immigrants whose native language is Arabic but Rafat is from Morocco and Niema is from Egypt. Mr. Sendo is sharing his screen and using Google translate. Mr. Sendo asks the students to describe their country. The students use Google Translate to help them formulate their sentences in their own language, translate the sentence into English and then read it to the class. Niema writes: “Egypt is a beautiful country, but Morocco does not have a good smell”. Rafat becomes extremely upset and starts yelling at Niema in Arabic. Niema looks confused and Mr. Sendo realizes there may have been a mistranslation.

Questions for discussion:

- › What should Mr. Sendo’s next steps be?
- › How can Mr. Sendo rebuild the relationship between the students in a virtual setting?



USER'S GUIDE: App Mistranslation

Here's how we see it:

- › Tools such as Google Translate are powerful tools for bridging language barriers and divides. They also come with the risk of bad translations, misinterpretation, and cross-cultural insults.
- › Teachers should make sure translation apps are approved by their school and verify the accuracy of translations to help prevent social harm.
- › Mr. Sendo should address the insults with both students and their parents/caretakers.

For further discussion:

- › How would this situation be different if it was in a physical classroom?
- › What could Mr. Sendo do to prevent this type of situation from happening in other classes?

Unintended consequences:

- › Online tools such as Google Translate are useful but come with concerns about social harm and safety when statements are mistranslated, used for harm, or to insult.



Breach of App Used by Students

Coach Kittles explores ways to keep his basketball players engaged and focused on skill building during the off season. He has each athlete download the HomeCourt app onto their phones that lets them work on their dribbling skills in a video game format. The players set up their phone camera so they can see themselves then the app shoots video of them responding to movement and dribbling cues. The players are excited about the app because they can compete with each other online and push each other to improve their skills. One day, Coach Kittles and all the players receive a notification from the app that some personal data was stolen via a breach.

Questions for discussion:

- › Would the scenario change if you knew if the app was approved by the athletic department or the school district?
- › What responsibilities does Coach Kittles have?



USER'S GUIDE: Breach of App Used by Students

Here's how we see it:

- › Teachers and coaches must make sure any apps used by students are approved and verified by the school or school district, whether for academic or athletic use. This allows the district/school to ensure the app complies with privacy laws and so they can take appropriate action if a breach occurs.
- › Coach Kittles should immediately reach out to administration so they are aware and so they can address the situation. Coach Kittles should also seek guidance from administration on how to communicate this incident and how it is being handled to families as quickly as possible.

For further discussion:

- › How can coaches protect student data privacy from being compromised when they use approved edtech tools?
- › What responsibilities do coaches have to protect student data privacy?
- › What happens when an athletic coach or teacher uses an unapproved app? Where do the responsibilities lie?

Unintended consequences:

- › There is always a risk of an app being breached, putting student data at risk. This risk is more severe when educators/coaches ask students to use an app that has not yet been vetted by the school or district.



CC'ing Parent Email Addresses

Sydney Middle School has a Gifted and Talented program. Ms. Anderson writes an email to all the parents (and caretakers) of the program. When sending the email, she puts all the parent emails on the same line, with none of them as a blind carbon copy (BCC). Parents can therefore see other parents' email addresses — and thus, possibly identify other students in the Gifted and Talented program.

Questions for discussion:

- › Does the school need to put parents' email addresses in a BCC?
- › What are the ramifications of parents finding out who the other Gifted and Talented students are?



USER'S GUIDE: CC'ing Parent Email Addresses

Here's how we see it:

- › The school should not allow these addresses to be visible to other parents. This is not necessarily a violation of privacy laws because it is directory information in most states, but it could be if, for instance, certain parents have opted out of disclosing email addresses.
- › The issue is more about best practice - in exposing email addresses, the school has unintentionally identified the Gifted and Talented status of many students. Regardless of any privacy laws, the school is ethically bound to do a better job protecting caregivers' email addresses.

For further discussion:

- › Gifted and Talented status is positive, so why does it matter if people know?
- › Is the answer different for a Gifted and Talented identification than for Special Education identification?
- › Would it be okay for parents to be able to communicate with one another based on the school email?

Unintended consequences:

- › The inadvertent disclosure of email addresses can lead to unwanted emails, spam, solicitations, or even hate mail. Even though there might be a close knit group of parents for this class, the protection of their email addresses is proper practice. If one parent wants the email of another parent, then there can be an agreed upon exchange of information, but it should not come from the teacher or the school.
- › There is the possibility that parents can glean which students are not in the program, leading to stigmatization.



Choosing College Major

Over the next few weeks, Ms. Cole's 11th-grade students have individual meetings with the guidance counselor, Mr. Freeman, to discuss what major they would like to pursue in higher education. One of her students, Quinton, comes back from his meeting visibly upset. Ms. Cole finds a time to talk with Quinton and learns that Mr. Freeman recommended this student pursue business instead of biology, dashing his hopes of becoming a biology professor. Ms. Cole decides to speak with the guidance counselor to learn more.

Mr. Freeman tells Ms. Cole that the school has recently acquired a new analytics-based advising tool to determine what career path is best for each student. This tool creates real-time, formative, and predictive assessments based on demonstrated interest, demographics, performance, and historical individual and institutional data points. The counselor lets Ms. Cole know that, based on the advising tool's assessment, Quinton is shown to be at risk of dropping out of higher ed if he were to pursue his major of choice, while he has a greater chance of success with the major Mr. Freeman has recommended.

Questions for discussion:

- › How should Ms. Cole respond to this explanation? Should she support the recommendation made by Mr. Freeman and this new tool?
- › What conversation should Ms. Cole have with Quinton? Should she have a conversation with his family as well?



USER'S GUIDE: Choosing College Major

Here's how we see it:

- Advising tools like those used by Mr. Freeman can provide valuable insight into a student's skills, strengths, and interests. However, it is important to remember that data is prone to bias, and any insight generated from these tools should be the start of a conversation, not the end. An important decision such as choosing a college major should not be decided by a black box of information with limited transparency on what data is being used to inform that decision and how this data is collected. Quinton, and his family, should have agency to challenge the tool's recommendation and make sure the decision is also informed by assessments from Quinton's teachers and with Quinton's interests and desires. Ms. Cole should ask how Mr. Freeman recommended the specific major to Quinton and what additional data, beyond the tool, he may have incorporated into the process.
- Quinton and his family should be a part of the conversation to craft his future options, not merely recipients of a recommendation. Quinton's teachers, family, and Quinton himself should work together to create a plan to help Quinton work towards his goals.

For further discussion:

- What are potential advantages and harms that come from using predictive analytics data?
- If you were in Ms. Cole's or Mr. Freeman's position, what other data would you incorporate into your decision making? How would you position/frame that decision to Quinton? His family?

Unintended consequences:

- Predictive assessment tools can lead to unfair and biased outcomes. There is severe potential harm to Quinton's future, and other students' futures, if the recommendation of this tool is taken without any other factors or considerations.



Computer Accidental Data Exposure

Mr. Huey is a social studies teacher at Buddy High School. He has a classroom computer where he keeps student records, and he has another computer at home where he also keeps student records. Mr. Huey invites some colleagues, Ms. Sally, Mr. Winston, and Mrs. Naomi, over to his home to do some collaborative work on a project. The colleagues sit down to discuss the project. As Mr. Huey is on the computer and showing Ms. Sally some documents and websites, Ms. Sally notices some student work products, such as quiz grades, that do not pertain to the collaborative work.

Questions for discussion:

- › Is it a problem that Ms. Sally has seen the unrelated student work?

USER'S GUIDE: Computer Accidental Data Exposure

Here's how we see it:

- › Computers where student data and personally identifiable information should be protected and locked down no matter where they are and to whom they belong. School communities are small, and it is possible that a teacher's child or others could snoop if computers are unlocked to find out information about their friends.
- › This inadvertent disclosure could possibly be a privacy violation if Ms. Sally did not have a legitimate educational interest in seeing the data; however, since all teachers are bound not to disclose student information, unless Ms. Sally rediscloses it, it is unlikely to violate law but could still harm the student (breach of trust, bias by Ms. Sally to the student, etc.).
- › Regardless, Mr. Huey should take measures to protect any data on his computer, such as the data that Ms. Sally saw.

For further discussion:

- › How might Mr. Huey better protect student information on his home computer?

Unintended consequences:

- › It is possible that there might be some data that even colleagues should not see that could skew how they potentially see students after viewing the data.



Facial Recognition

A large urban high school, Willie High School, installed facial recognition software to be used for campus security in lieu of identification cards. The software is based on artificial intelligence algorithms that have been tested primarily on white faces. The software is known to be less accurate when it comes to other racial groups. It is also particularly bad at recognizing and distinguishing children's faces. However, the system was already purchased with grant money, was very expensive, and it will supposedly be more secure than having students and faculty show ID cards each time they come into school. Since the system was launched, there have been problems. There is always a teacher standing by at the beginning of school to observe students as they walk through the scanner. On one day, Mr. Carter observes several students of color, Bailey, Rico, Jackson, and Jen, being misidentified and stopped by security.

Questions for discussion:

- › What are the ethical ramifications of using such a system?
- › What are the data privacy implications?

USER'S GUIDE: Facial Recognition

Here's how we see it:

- › Research has shown that the algorithms that underlie facial recognitions are indeed less accurate for various racial groups and women.
- › Continued profiling of certain groups of students eventually will become problematic, as it can result in disciplinary recourse and effect permanent records.
- › One possible solution, though up to school administration and district staff, is to allow students to opt-out of the system and allow them to stick with ID cards.

For further discussion:

- › Discuss some of the concerns about using the technology when there are issues with accuracy, especially differential accuracy.

Unintended consequences:

- › Because the software is flawed, the inaccuracies will disproportionately target students of color.



Heart Rate Monitor on Smartwatch

The Conwell High School Physical Education program purchased a class set of smartwatches with heart rate monitors. The students use them to monitor their heart rate during class to determine if they are working in their target heart rate zone for 30 minutes per class. At the end of class, the smartwatches sync via Bluetooth to the students' account on a school approved app for tracking fitness. Being in your target heart rate zone for 30 minutes per class is counted as 50 percent of the students' grade. The target heart rate zone is a standard metric for all students based on their age. The heart rate data syncs automatically with the student grade book. Jimmy is an athlete on a travel soccer and basketball team. Every period he goes for a run with friends and often does a High Intensity Interval workout. Despite all this activity he often has a difficult time getting his heart rate in the target zone. Ms. Padder receives a complaint from Jimmy's parent, Ms. Ziggy, because his grade is a D minus, primarily because of his heart rate data.

Questions for discussion:

- › What are the data issues in this scenario?
- › How can Ms. Padder address Ms. Ziggy's and Jimmy's concerns?

USER'S GUIDE: Heart Rate Monitor on Smartwatch

Here's how we see it:

- The generic algorithm in the smartwatch app that bases heart rate zones solely on age is flawed as it does not take into consideration highly trained athletes such as Jimmy whose resting heart rate is normally lower and on the end of the spectrum for students with a high resting heart rate.
- The department could explore options with the current company or research other apps that do take into account resting heart rate of the student.
- Ms. Padder should teach all students how their resting heart rate impacts their target heart rate and have them make manual modifications to their target zone.
- The settings that automatically transmit the heart data to the grade book should be changed until a system or app is implemented that takes into account variations in resting heart rate.

For further discussion:

- What other data and personal privacy concerns can you think of concerning student health data?

Unintended consequences:

- Students may receive unfair grades if influential variables that affect the smartwatch data are not taken into account.



Learning Management System Data Dashboard

To aid teachers for another semester of remote learning, Mr. Williams and his colleagues are shown the different tools and data that are made available in their learning management system (LMS). Teachers are able to see student scores from online assignments and quizzes, but also LMS activity data, such as how long students spend in the different learning units, how many times they access quizzes, and at what times of the day they log in.

After completing his classes' first semester learning unit, Mr. Williams accesses the data dashboard, which includes student scores from the assignments and quizzes and the relevant LMS activity data. He sees a general trend that students who spent less time logged into the unit did poorer on the unit's final exam. Mr. Williams decides that for the next unit, he will use the dashboard to check how many minutes students spend in the unit every week to identify which students might be at risk of failing.

Questions for discussion:

- What do you think about how Mr. Williams will use this activity and log in data?
- Should Mr. Williams communicate to students and families about what LMS activity data they are collecting and how they plan to use it?

USER'S GUIDE: Learning Management System Data Dashboard

Here's how we see it:

- › It is understandable for districts, schools, and teachers to want to use timely data to provide immediate feedback and support, as opposed to the end of the course or unit, especially in an unfamiliar learning environment. With that being said, it is a best practice to communicate to families and students about all the types of information that are collected, especially data that parents may not consider. Communication with families and students about how LMS data will be used builds transparency in how teachers monitor students and provides an opportunity for families to ask questions.

For further discussion:

- › What factors could affect minutes spent in an online unit? How could these factors be influenced during a pandemic and social unrest, especially for students from marginalized communities who are learning from home or elsewhere?

Untended consequences:

- › Minutes spent on an activity is only a proxy in identifying which students are at risk of failing. Minutes spent on an activity can be an indicator of a number of other factors. If Mr. Williams limits who he offers help to only students with low minutes spent on a unit, this could leave out other students who need help.



Parent-Recommended Educational App

The parents (and caretakers) of several different students from Ms. Kumar's class reach out to her to recommend the same educational app. The parents tell Ms. Kumar that friends of theirs with kids at another school have been using this app and love it. Ms. Kumar is familiar with this school district and knows they uphold similar strong privacy protections before allowing teachers to use any edtech tools.

Questions for discussion:

- Is it okay for Ms. Kumar to move on this recommendation from parents? Why or why not?

USER'S GUIDE: Parent-Recommended Educational App

Here's how we see it:

- Ms. Kumar should not act on parent recommendations alone and must proceed through her district's process for vetting and approving any apps before using them in her classroom. Before even taking this step, Ms. Kumar should first determine if this is a tool she wants to use. Ms. Kumar should consider how it fits into her instructional practice and if there is another tool they are already currently using and that has already been approved, with a similar function and purpose.

Unintended consequences:

- The app could violate student privacy laws or district and school policy if it does not undergo the appropriate vetting process.



Plagiarism Detected by Software

The Harley School District has put in place software that can detect plagiarism in students' work products. Mr. Levi gives an essay assignment to his ninth grade English class and runs his students' essays through the software. Two students' papers are flagged as questionable. Mr. Levi approaches Lucas and Dante.

Questions for discussion:

- How should Mr. Levi approach suspected students?
- Does Mr. Levi have to inform the students that he is using the detection software?
- What actions should Mr. Levi take?



USER'S GUIDE: Plagiarism Detected by Software

Here's how we see it:

- › Plagiarism is serious and should definitely be addressed.
- › A concern first is to determine if Lucas and Dante understand what they did is wrong. The situation may be one of not understanding the concept. In that case, it is a teachable moment.
- › The software output should be combined with Mr. Levi's knowledge of the students. It may not be 100 percent accurate, but it can point to irregularities.

For further discussion:

- › What happens if the software output differs from what Mr. Levi suspects?
- › What if the software flags language that Mr. Levi thought was cited and used appropriately?

Unintended consequences:

- › A student could be wrongly accused of plagiarism. Incidents of plagiarism on a student's permanent record can result in loss of opportunity, including college rejections or loss of scholarship.



Posting Student Videos on YouTube

Ms. Kowalski is putting together a virtual mini theater performance with her middle school theater class. She has each student record a short video of them performing their lines of the play and send them to her. Once she has all the videos, she edits them together and posts them on her school district YouTube channel as a public video to make it easier for students and parents to find. She also shares it with parents/caretakers and staff members via email. The next day, she receives an angry email from Jacob's mother saying she was very upset that his likeness was on YouTube. Jacob's mother says she had not consented to have him appear in video format. Ms. Kowalski reviews the school's video and photo release data and realizes that Jacob's mother is correct, she had only agreed to photographic representations.

Questions for discussion:

- › What should Ms. Kowalski have done to prevent this problem?
- › How can she remedy a solution?
- › Would it be different if it was Ms. Kowalski's personal YouTube account rather than the school's account?

USER'S GUIDE: Posting Student Videos on YouTube

Here's how we see it:

- › When using student likeness in any public setting teachers must verify what permissions parents have given for each student.
- › Ms. Kowalski should immediately take the video down to edit out the video of Jacob. Ms. Kowalski should also seek guidance from administration to amend the breach of trust and harm that was done.
- › The harm would have been worse had it been from Ms. Kowalski's personal account.
- › The main point of harm is the platform that the video was shared on. Anything posted on YouTube, be it privacy or unlisted, would still be considered public. There would be different implications if the video had been posted to an internal district drive or learning management system, which has much stronger access limitations.

For further discussion:

- › Would sharing a student likeness within a physical class for a project have different requirements?
- › If Ms. Kowalski had posted the video as Unlisted or Private on her YouTube channel would this change the issues?

Unintended consequences:

- › There is potential for student likeness posted on YouTube to be shared infinitely, even if it is a school account, especially if the settings are public. Anyone can watch these public videos, it can be reshared on social media accounts, and people can comment on the video.
- › There is potential for legal and personal harm to Jacob as his parents did not authorize the use of his image on video.



Proctoring Software

Ms. Hughes is giving a test to her students. This test has to be done under standardized and secure conditions. But the test is virtual this year so extra procedures and precautions have been introduced by the district including a proctoring software. Students take the test at home and Ms. Hughes hopes for the best. Ms. Hughes is concerned that her students might try and game the test. The proctoring software indicates potential cheating by some of the students.

Questions for discussion:

- › What actions should Ms. Hughes take?
- › Is observing the students while taking the test in any way a violation of their privacy?

USER'S GUIDE: Proctoring Software

Here's how we see it:

- Ms. Hughes should assess why the software is indicating possible cheating and discuss with the students to see if there is a rational explanation. Ms. Hughes may also want to discuss these incidents with the appropriate administrators.
- A key difference between how test proctoring would occur in person versus online, is that the software could be reporting false positives. In an in-person situation, the teacher would be accountable to noticing instances of cheating. Additionally, with students learning from home, there could be a number of factors triggering the proctoring software, especially if students do not have a private, quiet place to take their test.

For further discussion:

- What should happen if the software and Ms. Hughes' observations did not agree?

Unintended consequences:

- The proctoring software can lead to false positives. Furthermore, just having the software in place can add increased stress and anxiety to students while taking the test.



Recording Virtual Class on Personal Device

Mrs. Rayne is teaching a virtual class that requires students to produce some visual displays of their work. Mrs. Rayne is really concerned that she will forget which student has produced which product, so she decides to record the class session using another device, not the recording feature of the district-approved video conferencing tool. Mrs. Rayne pulls out her mobile device and records each student as they present their work. Mrs. Rayne does not tell the students she is recording their presentations.

Questions for discussion:

- › Has Mrs. Rayne done anything wrong by recording the students and their work? If so, how?
- › Would it make any difference if Mrs. Rayne had used the district-approved video conferencing tool to record rather than her mobile device?

USER'S GUIDE: Recording Virtual Class on Personal Device

Here's how we see it:

- › Mrs. Rayne should check with the district to ensure that she is not violating any policies by recording her students. Mrs. Rayne should also determine if her district permits or requires recording of lessons. No matter district policy, it is not good practice to record students on personal mobile devices. Many times, mobile devices do not have the same privacy protections as district devices and platforms. And these student recordings could easily be accidentally shared with unauthorized people when stored on a personal mobile device.
- › Mrs. Rayne should also take into account that this recording may be FERPA protected, and as a result parents/caretakers would have the right to access this recording.
- › Students may be able to exercise their rights to say that they are not comfortable being recorded and opt out, depending on the district policy.

For further discussion:

- › Is it necessary and appropriate for Mrs. Rayne to inform her students that she is recording the class?
- › Most video-conferencing tools show when a session is being recorded. Is that sufficient notification for the students in lieu of telling them?

Unintended consequences:

- › Storage of these recordings on personal, mobile devices heightens the risk of it being shared with unauthorized persons because its main purpose is for personal use. The mobile device could be stolen, someone could look through the gallery and find the recordings, or the recordings could be accidentally shared in a text message.
- › Students may have had difficulty with the project, so having their presentation recorded could add increased pressure and look bad to peers who could make fun of them for a bad work product. Thus, the recording of the activity could lead to low self-esteem for students whose work gets criticized.



Recording Virtual Classes

Mrs. Garcia will use a district-approved video conferencing tool to conduct her social studies class during distance learning. From student and family communication, Mrs. Garcia knows that it will be difficult for all of her students to join the class every day and so decides to record her classes to offer asynchronous learning and more equitable access for her students.

Questions for discussion:

- › Is it okay for Mrs. Garcia to record the virtual classes?
- › Is there anything Mrs. Garcia should be cautious of?



USER'S GUIDE: Recording Virtual Classes

Here's how we see it:

- › It is laudable that Mrs. Garcia took the time to understand the needs of her students during distance learning and used their needs to inform her decision to record her classes. With regard to whether Mrs. Garcia is allowed to record her classes, she should look to school or district guidance in this legally gray area.
- › If her school and district say it is permissible to record classes, Mrs. Garcia should only use district-approved video conferencing platforms when conducting and recording classes. Mrs. Garcia should also seek school or district guidance on where to store these recordings, to ensure these recordings are privacy protected from breaches or otherwise unwanted access.
- › Mrs. Garcia should also carefully consider how long she will retain these recordings. They should not be retained indefinitely and not retained longer than needed.
- › Mrs. Garcia should also communicate her recording practices to students and families so they are aware and so they have the opportunity to raise any questions or concerns.
- › Mrs. Garcia should consider which parts of classes should be recorded. For example, students may feel much differently about lectures being recorded versus student-led classroom discussions.

For further discussion:

- › What communication should Mrs. Garcia provide to her students regarding recording of the classes?
- › What are some concerns students and families may have in learning the classes will be recorded?

Unintended consequences:

- › If not properly stored, these recordings can be hacked into and leaked.
- › Students may feel a breach of trust with Mrs. Garcia and a breach of privacy, especially if they are not made aware in advance of being recorded during live instruction.
- › Recording student discussion can have chilling effects—meaning students are less willing to participate and voice their opinions because they know they are being recorded.



Screen Sharing

Students in Ms. Gordon's middle school Multimedia Arts class are sharing their self-portrait projects during an online critique on a video conferencing platform. The project involves manipulating their self-portrait in photoshop. Each student takes turns sharing their screen, while the other students follow a structured critique process. Jonah shares his screen to show his manipulated self-portrait. In the image his face is overlaid with multiple images of penises.

Questions for discussion:

- › How should Ms. Gordon respond?
- › What options does she have to mitigate the harm to the other students?
- › What if Jonah did not mean to share this manipulated self-portrait?

USER'S GUIDE: Screen Sharing

Here's how we see it:

- › Teachers should be intentional with the videoconferencing platform settings and the ability for students to share their screen. Allowing students to screenshare can foster collaboration and increase engagement, but there is also the risk of students sharing something inappropriate, be it accidental or not. Expectations should be set on what is allowable to be shared and caution advised to students on how to use the sharing screen feature.
- › Instead of allowing students to share their own screens, Ms. Gordon could share student work from her own screen after pre-screening the work.
- › The most immediate step Ms. Gordon should take is to stop Jonah's screen sharing.

For further discussion:

- › What are the privacy risks for the students?
- › What are the privacy concerns for Jonah?
- › How would the scenario be different in a physical classroom?

Unintended consequences:

- › Social harm and age-appropriate content are the biggest concerns. The other students were exposed to images that were not age-appropriate without their parent's consent.



Sending Kids into Breakout Rooms

While teaching science online, Mr. Riley has students working in small groups to develop an experiment. In class he sends each small group into breakout rooms. The breakout rooms are difficult to monitor as the platform does not allow recording of the rooms and students have unlimited access to screen sharing and chat functions. When students come back from working in the breakout room Mr. Riley receives a direct message from Jacob saying that Kimberly shared her screen during the breakout room and showed a pornographic website. Jacob felt very uncomfortable and said he was going to talk to his parents.

Questions for discussion:

- › What are the next steps for Mr. Riley?
- › Who should Mr. Riley talk to?
- › What are the safety and privacy implications for Jacob and Kimberly?

USER'S GUIDE: Sending Kids into Breakout Rooms

Here's how we see it:

- Online breakout rooms for students without monitoring present a challenge for teachers for classroom management, student safety, and student privacy. Mr. Riley must develop a plan for monitoring breakout rooms in a systematic manner, reteach classroom expectations for breakout rooms, and contact the parents/caretakers of both students to explain what happened and discuss the next steps. Mr. Riley should also seek out guidance from administration to determine if and what disciplinary action may take place.
- The data privacy concerns are minimal in this case study. On the other hand, the personal privacy concerns regarding the possibility of students being exposed to unwanted content in an unmonitored chat room are more complex.

For further discussion:

- How can Mr. Riley incorporate breakout rooms into his lessons while protecting student safety and privacy?
- Are online breakout rooms the same as small group discussions in classrooms?
- What if this had happened in a classroom with a student showing pornographic images on a phone in a small group? What are the differences?

Unintended consequences:

- Breakout rooms without direct adult supervision have the potential to expose students to speech, images, and language that would have more protection in a monitored situation.



Shared Document

Mr. Clive is teaching English at Brandy High School. He is using Google Docs as a platform for his students to collaborate on writing assignments. Students work together on essays and other group projects. It is usually a team effort. One group consists of Camille, Daisy, Tonya, Lee, and Otto. A document thread has begun and students add text and comments. Mr. Clive notices that one of the students, Otto, has made some really nasty comments. There is evidence of Otto bullying the other students in the group.

Questions for discussion:

- What should Mr. Clive do, given that he has observed this behavior?
- Would Mr. Clive's actions differ if Camille, one of the students, brings the harassment to his attention, rather than having seen it first-hand?



USER'S GUIDE: Shared Document

Here's how we see it:

- Addressing this bullying incident and Otto's actions is absolutely in Mr. Clive's purview, as this is happening on a school document for a school purpose. Mr. Clive should address the comments with Otto and also ensure expectations for the different functionalities of different apps and tools have been covered with the class.
- When using newer apps and tools (that have been vetted and approved by the school/district), teachers should be sure to understand all the different possible functionalities to discuss expectations with students regarding their use.

For further discussion:

- Would Mr. Clive's options be any different if he observed the harassment first-hand rather than in the Google Doc?

Unintended consequences:

- Students may abuse different aspects of newer apps and tools and this abuse can happen unsupervised if a teacher is not aware of these features.



Signing up for an Educational App

Mrs. Hart found a math app on the list of district-approved tools that she wants her students to use. She asks all students to sign up for the app. One of her students has difficulty signing up, so she walks this particular student through the process. As she is helping the student sign up, she notices all the information the app is asking the student to enter: first and last name, grade, age, home address, email, profile picture, a list of favorite things such as color and food, and a username and password.

Questions for discussion:

- › Should Mrs. Hart have the students fill out all of this information? Is there any information students shouldn't fill out? If so, which ones?

USER'S GUIDE: Signing up for an Educational App

Here's how we see it:

- › It is possible that not all of the information the app is asking for is necessary or required for the main purpose or functionality Mrs. Hart intends to use it for. Username and password will most likely be required, but the other information might be optional, such as profile picture and home address. Since this is a district-approved app, we can assume that the district has vetted the app, determined that it complies with privacy laws, and that students are okay to input all information, even when optional. But it is best practice for teachers to minimize the amount of student data collected by apps, even when district-approved. For example, some students may feel uncomfortable uploading a picture of themselves or not have a home address because they are in transition. Therefore Mrs. Hart can give them clarity on what information is mandatory to access the tool versus what information students can choose whether to input.

For further discussion:

- › What instruction should teachers provide to students signing up for a new app or service and inserting information?

Unintended consequences:

- › Students may feel uncomfortable submitting certain types of information and doing so may lead to social harm.



Students Sharing Videos with Teacher

Mr. Randall is teaching virtual Physical Education and is looking for ways to increase student accountability for completing the fitness challenges he sets for his students. He is concerned the results being reported by his students are not accurate. For the student push up challenge he assigns students to use FlipGrid to document the challenge. FlipGrid is an approved app in the Madison School District. It is a video discussion and message platform that allows teachers to pose questions and prompts using video that students comment on or respond to using video. He is careful with his FlipGrid settings in that he sets it so the videos only come to him to protect his students' privacy and he is the only one who can comment on student performance through the videos. Most of his students post their push up challenge videos to document doing as many pushups as possible in 1 minute. Mr. Randall sends back video coaching of their technique. Later in the week, Mr. Randall receives an angry email from Mrs. Stanley, the parent of his student Emily, saying that she is very concerned that a male teacher is watching videos of her daughter doing pushups in skimpy workout outfits. Mrs. Stanley is extremely angry in the email and feels the use of the videos is not educationally appropriate.

Questions for discussion:

- › What are ways for Mr. Randall to respond to Mrs. Stanley?
- › Does the gender of the teacher impact the situation?
- › What are the privacy implications of using video sharing applications?
- › If the FlipGrid is not approved for use by the school district does that change the discussion?

USER'S GUIDE: Students Sharing Videos with Teacher

Here's how we see it:

- › The app is approved for use by the Madison School District which allows for Mr. Randall to use the app with his students. Mr. Randall was not sharing an education record, the video, with anyone. Mr. Randall should work with the parent to address the concern, and possibly include an administrator.
- › Mr. Randall should also consider the importance of proactive communication and transparency with parents/caregivers. A notice from Mr. Randall to all families about this new practice he was adopting—students sharing videos of their workouts—would most likely have prevented this response. Parents can feel a breach of trust without proactive communication. Proactive communication also grants a space for families to give feedback and input and for Mr. Randall to improve the practice and make it more comfortable for everyone.

For further discussion:

- › What are ways Mr. Randall could have protected students' concerns about video sharing?

Unintended consequences:

- › Sharing videos is a powerful educational tool both for in person and virtual learning but it raises concerns about student personal privacy and comfort with video sharing. Teachers should be thoughtful about its use and implementation. Teachers, such as Mr. Randall, must explicitly explain the value and need for it to students and parents through proactive communication.



Teacher Laptop Crash

Ms. Dory is a teacher who keeps her gradebook on her personal laptop. Ms. Dory does this because it is more convenient than using the desktop in her classroom—this way, she can work on grades at home or a coffee shop. One day, the laptop crashes while she is doing her grades. Ms. Dory takes it to a computer repair person, Mr. Zie, that she trusts and has used before. Mr. Zie is able to fix the laptop and restore the grades she was working on.

Questions for discussion:

- › Is there a problem with taking this laptop to an external repair person?
- › Would it be different if Mr. Zie was the district technology repair person instead of an independent repair person?
- › Can teachers keep student personally identifiable information (PII) on personal equipment?



USER'S GUIDE: Teacher Laptop Crash

Here's how we see it:

- › The main problem is that by taking the laptop to Mr. Zie, Ms. Dory has exposed student names, grades, and any other information to Mr. Zie. It doesn't matter if Mr. Zie actually sees it or not—the opportunity is there.
- › A district technology repair person is a much better choice because they are generally authorized by the school to fix computers that have student personal information on them. However, the teacher should ask administrators who they should take the laptop to for repair.

For further discussion:

- › Is there a difference in keeping PII on a personal laptop or a personal smartphone?
- › What issues does it raise that Ms. Dory works on grades outside the school? Is her home any different than a public coffee shop?

Unintended consequences:

- › An individual without authorization to view the grades may have seen them. One does not know if Mr. Zie might speak about the grades, know some of the students, or even make modifications to the gradebook if he happens to have a connection with one of the students.



Teacher Viewing Student Data During Class

A teacher at Sebastian High School, Ms. Mia, has given her students time to do homework in class. She takes advantage of that time to explore student performance on the assessment system on the computer. Through this system, Ms. Mia is able to view student assessment histories and insert new grades. As the students do their homework, they sometimes come to Ms. Mia's desk to ask her a question. Ms. Mia does not make any attempt to shield her screen or lock her computer when a student comes to the desk.

Questions for discussion:

- Should Ms. Mia shield her screen or lock her computer? Why or why not?

USER'S GUIDE: Teacher Viewing Student Data During Class

Here's how we see it:

- Ms. Mia should make a reasonable effort to ensure that students cannot see her work when they come to her desk. Some of the assessment histories or personal demographic information might be Personally Identifiable Information (PII) which should not be viewed by unauthorized individuals (e.g., students) pursuant to FERPA. Even if some data is not PII, Ms. Mia is ethically bound to ensure that students do not see each other's data.
- Ms. Mia can solve this in many ways. For instance, she might install a screen filter that makes it hard to see what is on the computer unless you are directly in front of it, she might lock the computer, or she might simply minimize the program window when the students come to her desk.

For further discussion:

- Would it matter if Ms. Mia was working on information from another class? Especially if it were another section of the course where the students did not know each other?
- What other options does Ms. Mia have to protect the PII when she is talking with the students?

Unintended consequences:

- It is possible that a student can see data or information about other students to which they should not have access. Such viewing could lead to bullying, stigmatizing, taunting, etc. It is best to ensure that students cannot see any data other than their own.
- This could also lead to a potential violation of FERPA.



Tracking Attendance During Remote Learning

The Shea School District instituted new policies in the wake of the pandemic to collect attendance data. All educators have been struggling to obtain accurate data about student attendance while conducting virtual instruction. Mr. Bartlett and Ms. Tatum have been worried about getting accurate counts of their students. Some students have their cameras on and others do not. Some students may be “in attendance” for the entire class time, whereas others may go missing at various points in time. The school has advised teachers to use student login data from the learning management system (LMS) to track attendance. Yet there is no real way for teachers like Mr. Bartlett and Ms. Tatum to know if it is actually the specific students who are logged into the LMS and not someone else.

Questions for discussion:

- › Can a LMS provide accurate attendance data?
- › Is the use of time in the LMS not only a valid indicator of attendance but also an appropriate use of the data?
- › Are there privacy concerns about using LMS data or on-camera data for attendance indicators?

USER'S GUIDE: Tracking Attendance During Remote Learning

Here's how we see it:

- Having accurate attendance data is a part of compliance and accountability data for a district. Getting it right is important.
- The district is making an assumption that the student on the LMS is the student of record. This assumption has the potential of being inaccurate as it is possible that when students first log into their LMS, they remain logged in for a long period of time. There also needs to be protections so that students are only able to log into their own account in the LMS.
- Furthermore, an LMS may not track student logins from phone or tablet devices. This would mean students using these types of devices would have absences falsely reported.

For further discussion:

- What if someone else is on the LMS and not the student?
- How can the teacher ensure or determine if it is the real student who is logged into the LMS?
- What are the ramifications if it is the wrong student?

Unintended consequences:

- Potential harm can occur if a student's attendance is not accurately recorded. In this situation, using LMS login data to track attendance will disproportionately harm students who are using a table or phone device.
- There is potential harm for the school and district as well for inaccurate attendance data.
- The validity of attendance as a data element is in question and could be impactful for district funding if recorded inaccurately.

Unknown Virtual Class Attendee

Forrest Schools has moved online and decided to use a video conferencing platform to conduct virtual classes. To mitigate the possibility of unauthorized access into these virtual classes, the Forrest School has tried to password protect entry into classrooms. Yet, one day, Mr. Ares notices someone other than his students in the Zoom meeting room. Entry was done using a phone number so that is all Mr. Ares can see. He asks who is in the room but gets no answer.

Questions for discussion:

- › What action should Mr. Ares take?
- › Is this a violation of student privacy?



USER'S GUIDE: Unknown Virtual Class Attendee

Here's how we see it:

- Mr. Ares should be aware of the setting and capabilities of the video conferencing platform he is using. Most likely, Mr. Ares should be able to boot out the unknown attendee. Mr. Ares should also set the expectation that if students must join from a phone number, which can assist during technical difficulties, to communicate in advance with the teacher when possible and introduce oneself when joining the call.
- School or district policy will determine whether or not this intrusion is considered a violation. Mr. Ares should therefore seek out this policy and guidance from administration in determining what are the appropriate next steps to take.
- There are reasons that schools lock down video conferencing meetings to protect the sanctity of the classroom to inadvertent intrusions from people who should not be there. Such intrusions can potentially put students at risk.

For further discussion:

- What kinds of assistance should the school provide Mr. Ares?
- Is there potential harm for anyone other than the students and teacher to have access to the secure room?

Unintended consequences:

- The potential harm is that an uninvited and therefore unauthorized guest or interloper would be able to learn and have access to student information, including who is in the class and, if student cameras are on, information on their living situation. Also, consider an extreme situation where an interloper has a restraining order to stay away from one of the students. Schools have a legal obligation to uphold these restraining orders.
- The interloper could potentially disrupt instruction with inappropriate language, images, or content in the virtual classroom.



Working at Home on Grades

Mrs. Kimberly is a teacher at the Petals School and is grading at home one evening on her district-issued laptop. Each time she gets up, she locks the screen—and only she knows the password. As Mrs. Kimberly is working, it is just her family in the apartment—her husband, her 6-year-old, and her 4-year-old.

Questions for discussion:

- Does Mrs. Kimberly need to lock the screen every time she's away from the computer? Why or why not?



USER'S GUIDE: Working at Home on Grades

Here's how we see it:

- › Absolutely, Mrs. Kimberly needs to lock the screen every time she gets up. Grades when correlated with a student are considered Personally Identifiable Information (PII) that is part of an education record, and PII in education records must be secured at all times that the authorized user is not with them. Besides this, it is important for Mrs. Kimberly's career and safety that she is always able to say that she followed these procedures to the letter of the law.

For further discussion:

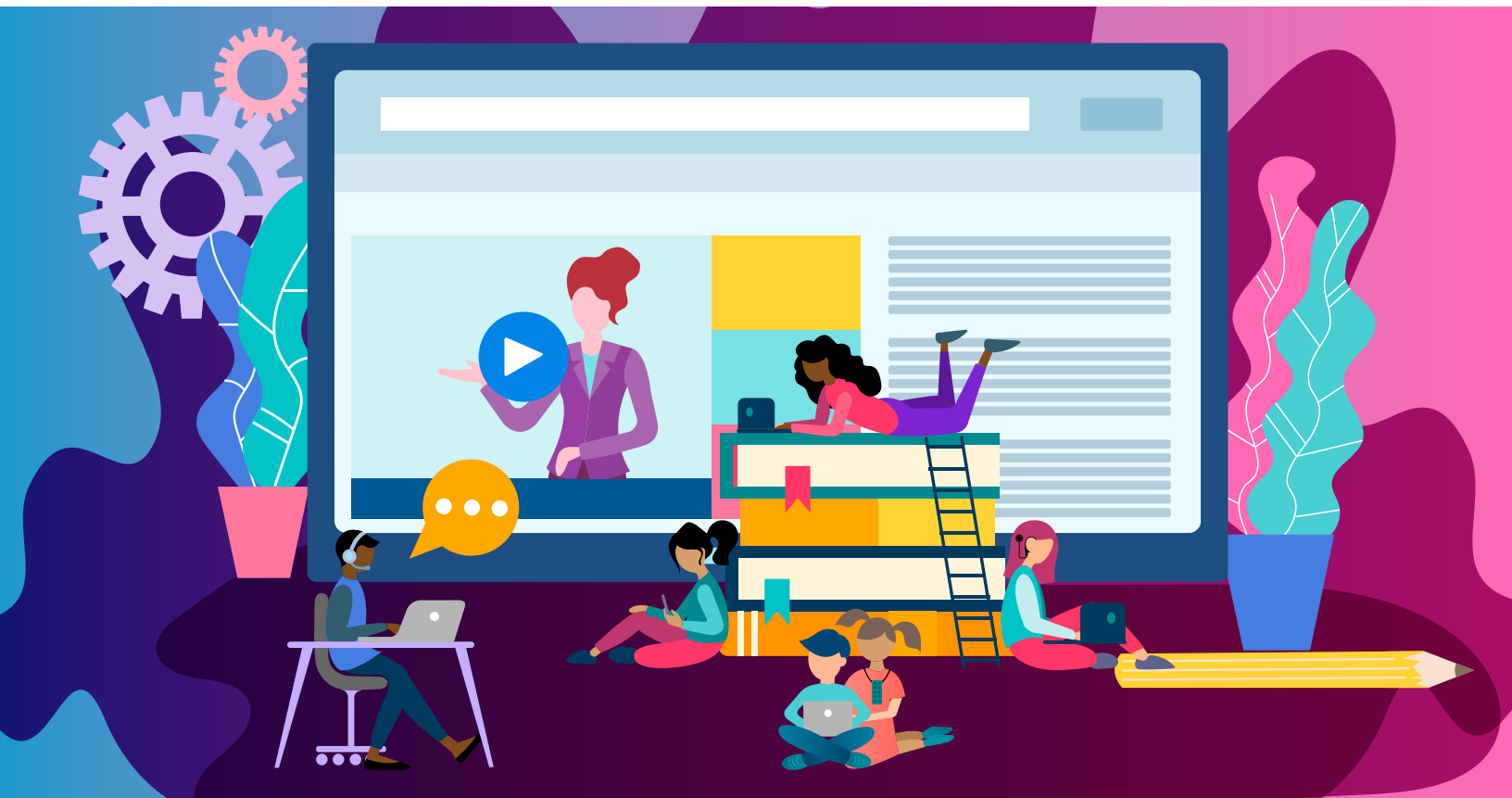
- › If Mrs. Kimberly's husband does not care what the grades are, and the kids are too young to understand them, what would it matter if she left her computer unlocked?
- › What if Mrs. Kimberly's children were older? What if they were also students at Petals School? Would either of those changes to the scenario change your answer on whether Mrs. Kimberly should lock the screen every time she's away from the computer?
- › What other things could go wrong if she leaves it unlocked?
 - For example, maybe one of her kids starts hitting keys and accidentally changes grades — and nobody notices.
 - An email inadvertently gets sent with a grade file.
- › What are other ways to secure Mrs. Kimberly's device, aside from locking it?

Unintended consequences:

- › Although it is unlikely that toddlers can understand what they see on the computer screen, they can inadvertently make changes to the gradebook without Mrs. Kimberly's knowledge, only to be discovered later (or not). It is also unlikely that Mrs. Kimberly's husband will do anything to the computer but protecting it and keeping it locked down will prevent any accidental modifications to files that potentially could change students' grades, and it will also prevent him from having access to information he should not have access to.



VIRTUAL LEARNING



These scenarios take place in a virtual, remote learning environment, particularly classrooms held through video conferencing platforms.



Accidental Sharing of a Tab

Ms. Emma is using a video conferencing tool to conduct a virtual lesson to her science class. Like many people during the pandemic, she has a number of different websites and tabs open on her browser. One tab contains an email she was drafting to a colleague about a student, Olivia, that contains personal information and student performance data. Inadvertently, Ms. Emma switches from tab to tab and the email is visible on the screen for the entire class to see.

Questions for discussion:

- › What precautions should Ms. Emma take to protect documents and windows on her computer while teaching class?
- › What risk did Ms. Emma take by not closing extraneous tabs?

USER'S GUIDE: Accidental Sharing of a Tab

Here's how we see it:

- › Extreme care around technology must be taken so that no information is inadvertently shown to students.
- › Ms. Emma should use fresh windows with no tabs when sharing her screen to others to minimize the risk of sharing student data or other tabs that should not be shared.
- › Ms. Emma should seek guidance from administration on how to proceed as the inadvertent disclosure of information could potentially be problematic under FERPA, especially depending on the sensitivity of the email content.

For further discussion:

- › Does it make a difference if the content of the email is positive or negative?

Unintended consequences:

- › Other students now have seen that Emma is communicating about Olivia to other educators. They could taunt Olivia and impact her self-esteem if the data and information were negative.
- › If the data were positive, the students could still unnecessarily tease Olivia because she could be considered the teacher's pet.
- › Depending on the information that was shared, this could be a potential violation of FERPA.



Asthma Attack

Bruno is a student in Ms. Roxy's class. Instruction is being conducted virtually. In the course of one class period, Ms. Roxy notices that Bruno is struggling to breathe. She is aware that Bruno has a medical condition and it is apparent he is having an asthma attack.

Questions for discussion:

- › How should Ms. Roxy respond?



USER'S GUIDE: Asthma Attack

Here's how we see it:

- Bruno has a disclosed medical condition and he is at risk. Ms. Roxy should try to talk to Bruno alone, then try to reach out to his parents or guardian. If unable to gain timely access, Ms. Roxy should dial 911 if Bruno continues to suffer.
- The same course of action should be taken even if Bruno's condition is undisclosed. He is at risk.

For further discussion:

- Would Ms. Roxy's decision be any different if Bruno's attack had taken place in person?

Unintended consequences:

- If Ms. Roxy does not act, Bruno could suffer harm in terms of his personal health.



Bullying

Mrs. Reese is a middle school teacher, teaching virtually. Her students have been working together since the beginning of the school year and have formed a bond. There is a clique among several students: Xander, Teddy, Ivan, Butler, and Molly. Another student, Aurora, seems to be somewhat of an outlier. Mrs. Reese tries various strategies to have the pod be more inclusive to Aurora. It backfires. During one class session in which the students are to collaborate on a team project, Mrs. Reese overhears the students picking on Aurora. They call her names and tell her she is stupid.

Questions for discussion:

- How should Mrs. Reese handle this situation?
- Is there a privacy issue here when Mrs. Reese overhears the pod taunting Aurora?



USER'S GUIDE: Bullying

Here's how we see it:

- › Schools have clear guidelines around what is considered bullying or not. Mrs. Reese should make sure what the boundaries are and what are the recommended actions.
- › Mrs. Reese overhearing the taunting is not a violation of privacy. She would have likely heard this same conversation had it happened in person. Being virtual makes no difference here.
- › Mrs. Reese needs to make clear to the students in the pod that their behavior is unacceptable and there will be consequences for taunting Aurora.
- › Mrs. Reese, having heard the taunting, has an obligation to address the situation and seek assistance as needed to stop future instances of bullying and protect Aurora.

For further discussion:

- › Would there be any differences in Mrs. Reese's obligation to act if the students were in person as opposed to virtual?

Unintended consequences:

- › Aurora here is in a potential bullying situation where the pod's taunt can negatively impact her, her self-esteem, and her social-emotional well-being.



Emoji Student Check-ins

Mr. Kelly wants a quick way to check in with students and see how they are feeling at the beginning of virtual class. Therefore, at the beginning of virtual class, Mr. Kelly asks students to submit an emoji that reflects how they're feeling - happy face, neutral face, or sad face - in the chat. Students are also encouraged to write a sentence or two on how they feel.

Questions for discussion:

- › Should student check-in responses be sent privately to only Mr. Kelly or shared in the general chat to everyone in the class?
- › Is there a difference between asking students to submit an emoji versus asking students to type out how they feel?



USER'S GUIDE: Emoji Student Check-ins

Here's how we see it:

- › Asking students to share their emojis in the general chat to everyone can foster a deeper sense of community among students. But the main purpose of these check-ins appears to be for Mr. Kelly to get a quick pulse on his students. Mr. Kelly should consider giving students the option to submit their emoji check-in either in the general chat or just to him privately. This option may result in more honest answers from students who may not want to send a sad face in the group chat for other students to see.
- › There is a significant difference between asking students to submit an emoji versus typing out how they feel. When asking students to submit an emoji, there are a limited number of options available—happy face, neutral face, or sad face. When asking students to type out a sentence or two, it is unknown what type of responses students may send. If students reveal certain sensitive information about themselves, such as considering self-harm, the teacher will be required to report this to the relevant department of family and child services and will most likely need to bring in their administrator and counselor. Additionally, when surveys are administered in a school, there are certain requirements under PPRA that must be followed: school staff must receive parental consent if student responses include sensitive information, including mental problems or self-incriminating behaviors. If this type of check-in garners responses that include sensitive information, this poses legal issues regarding parental consent.

For further discussion:

- › What are other ways to have quick check-ins with students that would not lead to students revealing sensitive information?

Unintended consequences:

- › If students reveal sensitive information about themselves and depending on the type of information, the teacher may have to report to the department of family and child services and/or could pose legal issues in terms of parental consent.



Informal Observations of Students' Homes During Virtual Class

Ms. Cora is conducting virtual lessons with her students. Students interact using district-provided Chromebooks. Over the course of weeks, Ms. Cora has opportunities to observe not only her students but also the students' home environments. Sometimes, there are things that she sees that concern her. For example, Rolo's home appears to be dirty, with piled up dishes and food sitting out in the heat. With another student, Daisy, Ms. Cora has heard commotions outside like police cars, yelling, and even possibly gun shots. To Ms. Cora, both situations seem unsafe. She is worried about Rolo and Daisy and potentially others with similar issues.

Questions for discussion:

- Because education has become virtual, is Ms. Cora within her right to observe the home environment of her students?
- What should Ms. Cora do with the information she has gained from her inadvertent home observations?



USER'S GUIDE: Informal Observations of Students' Homes During Virtual Class

Here's how we see it:

- › Ms. Cora should check with administrators to understand the policies that pertain to virtual settings and observations of home environments. In a virtual setting, it is inevitable for Ms. Cora to inadvertently learn aspects of student home environments through both audio and video in ways that were not possible in an in-person environment. Ms. Cora should keep any information she learns about students' living situations confidential and not share or gossip with other teachers. Ms. Cora should also raise student awareness on how to protect their own privacy, so they are not sharing more information about their home environments than they are comfortable with.
- › It is important to note that all teachers are mandated reporters. This means that if Ms. Cora knows or has suspicions that a student is exposed to child physical or sexual abuse or neglect, she must report to the school's relevant department of family and child services. Ms. Cora must take this legal obligation seriously but must also consider the unintended consequences of making this report as it may result in a police officer or social worker visiting the house. If Ms. Cora has concerns regarding the living situation of a student that do not implicate her role as a mandated reporter, meaning she does not know or have suspicions that a student is exposed to child physical or sexual abuse or neglect, but has a wellness concern, she should discuss this with administrators and counselors who can then take appropriate actions.

For further discussion:

- › Is Ms. Cora being a diligent and caring educator by worrying about her students or are her observations overstepping her professional boundaries?
- › What privacy issues pertain here to the observations?

Unintended consequences:

- › Any information Ms. Cora learns from inadvertent observation of students' home environments should be held confidential and only shared with the appropriate and authorized persons. Ms. Cora should never share simply to gossip or share with unauthorized people as this can lead to violations of privacy, breaches of trust, and social harm.



Informal Observations of Students' Living Conditions During Virtual Class

Virtual instruction has continued into the winter season at Crawley Elementary School. It is getting cold. Ms. Beryl worries about some of her students whose homes may not be well heated. She begins teaching and scans the videos of her students. Parker is visibly shivering. Monte is hunkered down under a blanket. And Sasha has on a heavy parka (inside). Ms. Beryl wonders if the students' homes have any heat at all.

Questions for discussion:

- › What should Ms. Beryl do with this information?
- › Are the observations of the students in any way a violation of their privacy?

USER'S GUIDE: Informal Observations of Students' Living Conditions During Virtual Class

Here's how we see it:

- › Ms. Beryl is noticing students' responses to their home environments that may impact their well-being—that is, inadequate heat. In a virtual setting, it is inevitable for Ms. Beryl to inadvertently learn aspects of student home environments through both audio and video in ways that were not possible in an in-person environment. Ms. Beryl should keep any information she learns about students' living situations confidential and not share or gossip with other teachers.
- › Ms. Beryl should consult school authorities, including the counselor, to see if any financial or other help can be offered to families.
- › As a mandated reporter, if Ms. Beryl suspects negligence or child abuse, she is legally required to report this to the school's relevant family and child services. Ms. Beryl must take this legal obligation seriously but must also consider the unintended consequences of making this report as it may result in a police officer or social worker visiting the house.

For further discussion:

- › Given that the virtual learning environment gives teachers a new lens into students' lives, is such a lens a legitimate source of data about the students?

Unintended consequences:

- › These three students may be living in substandard housing that has no heat which places the students at potential risk for health and safety issues.
- › Reporting these conditions could lead to a disproportionate and harmful response by school officials and/or law enforcement.



Mentor Teacher Virtual Classroom Observation

Chapparral High School has a mentor teacher program, where veteran teachers of the high school provide feedback and assistance to first year teachers. In a virtual setting, the mentor teachers pop into the virtual classes to “observe” their respective mentee teachers or they review virtual recordings of classes. Ms. Hershey, a mentor teacher, sends a request to her mentee teacher Mrs. Rodriguez to debrief about her math lesson earlier that week. Mrs. Rodriguez had not noticed that Ms. Hershey had entered into her virtual classroom during that lesson. Mrs. Rodriguez was surprised and felt somewhat threatened.

Questions for discussion:

- › What are the privacy concerns for Mrs. Rodriguez to consider here?
- › What are the privacy concerns for Ms. Hershey?
- › Are there differences in terms of privacy concerns if the mentor teacher popped into in person classes as opposed to viewing virtual recordings?



USER'S GUIDE: Mentor Teacher Virtual Classroom Observation

Here's how we see it:

- › Teacher mentor programs are an important training practice for schools and teacher development and can still be incredibly useful during virtual learning. Because Mrs. Rodriguez was not aware of the informal observation taking place, this can feel like an intrusion and a violation of the sanctity of her classroom. It also has the possibility of hurting their mentor-mentee relationship. In a real classroom, teachers can see when others come in and observe. For future informal observations, Ms. Hershey should consider scheduling them with Mrs. Rodriguez, give communication prior to joining the lesson, or at the very least introduce herself when joining.

For further discussion:

- › Would the situation be different if Ms. Hershey had informed Mrs. Rodriguez of her impending arrival prior to their entrance into the virtual class?
- › Are there any violations to FERPA?
- › Are there threats to student privacy here?
- › Does this feel like legitimate observations or micromanaging of teachers?

Unintentional Consequences:

- › The teachers may feel violated by not being aware they are being observed.



Observing Students During Virtual Class

As a result of the pandemic, Mr. Bucky's school is conducting classes via videoconferencing platforms. Mr. Bucky is leading his virtual class through some activities. The students seem pretty engaged. Mr. Bucky scans the views of his students and notices that one student, Edith, is literally asleep at the computer. Mr. Bucky also notices that another student seems disheveled. Sandy's clothes are dirty and her hair apparently has not been washed in a while.

Questions for discussion:

- › What should Mr. Bucky do about both Edith's and Sandy's situations?
- › Is making these observations any different virtually as opposed to if Mr. Bucky observed the same things in his classroom?



USER'S GUIDE: Observing Students During Virtual Class

Here's how we see it:

- › The virtual platform gives teachers some views that they likely would not have in the classroom, while other observations would be the same. For example, Mr. Bucky would have noticed if a student came to school with dirty clothes or fell asleep in class.
- › Mr. Bucky should consider addressing these situations (falling asleep and appearing disheveled) privately with the students themselves to check in on how they are doing. If concerns continue, Mr. Bucky should discuss with appropriate administrators and counselors and share his concerns. It is appropriate for him to share this information with administrators out of concern for the well-being of his students.
- › There is a gray area between negligence and financial and economic circumstances. It is better to do more investigation before taking next and formal steps, such as speaking with the school counselors or the student's parents/caretaker.

For further discussion:

- › What differences are there between classroom observations and those made in virtual classrooms? Are there any boundary differences?
- › Are there any privacy concerns about having a view into a student's home situation?
- › What if Mr. Bucky is overreacting to what he has seen, by interpreting some sort of negligence on the part of the parent or guardian?

Unintended consequences:

- › A student who is dirty, unkempt, or falling asleep may be an indication of some sort of neglect in the home environment. To miss or ignore potential neglect could do harm to Edith and Sandy. On the other hand, these signs could also be an indication of tough financial times for these students and their families. Reporting for such circumstances could lead to negative consequences, especially because it often involves social workers or even police officers getting involved.
- › Other students could have observed Edith and Sandy which could lead to teasing or taunting.



Parent Opting Out of Camera Use During Virtual Class

Mr. Smith receives an email from one of his student's parents asking that their child be able to opt out of having their camera on during video classrooms. Mr. Smith has set the expectation in his class that everyone is required to have their video on so that he can take attendance and monitor engagement.

Questions for discussion:

- Does the parent have the right to opt out of video for their child?
- How should Mr. Smith respond to a parent's request to opt out?

USER'S GUIDE: Parent Opting Out of Camera Use During Virtual Class

Here's how we see it:

- FERPA does not address this situation. Therefore, Mr. Smith must refer to his school or district policy for guidance on if parents/caretakers are able to opt out of their child having their video on.
- There are a number of justifiable reasons for this parent's request. If district/school policy does not allow the parent to opt out, Mr. Smith should continue to work with the parent and the student to accommodate as much as possible.

For further discussion:

- What are potential reasons for this parent to request that their child be allowed to have their video off during virtual class?

Unintended consequences:

- Video mandates can force students to reveal intimate details of their personal lives, including their housing situation (experiencing homelessness, getting evicted), family makeup (sick family members, nontraditional families), and more. This could lead to stigmatization and bullying, as well as cause extreme stress to the student.



Posting Screenshot of Virtual Class

Ms. Pujols is a middle school science teacher who has just started her virtual classes. Once a week, Ms. Pujols has virtual class on her district's approved video conferencing tool with groups of 15 students. During the first week, she shares screenshots of the grid of students to Facebook, Twitter, and Instagram. The screenshots show the students and their names. She shares these because she is excited about the meetings and because she believes it can create buy-in from parents/caretakers and students.

Questions for discussion:

- › Is it okay for Ms. Pujols to share screenshots of the students in this way? Why or why not?
- › Would it matter if it were just student pictures but not names?
- › Does it matter if she shares only to Facebook, Twitter, or Instagram — but not all?

USER'S GUIDE: Posting Screenshot of Virtual Class

Here's how we see it:

- › Sharing student images and names may be a violation of student privacy laws. Whether it is a violation depends on school policies regarding directory information and whether parents have opted in or out of such sharing.
- › In any case, this is not recommended best practice. Especially while students are learning remotely and video is a window into their home, students may see this as a violation of trust and their privacy. For everyone's protection and to respect their students' privacy, teachers should avoid sharing student images and names whenever possible without express consent from students, and parents/caretakers as applicable.
- › Virtual learning, especially under challenging circumstances, is setting new standards as it adapts to crisis situations. The protection of privacy becomes even more important.

For further discussion:

- › What if some students in the class agree to be posted and others do not?
- › If student names and faces were blurred out, how would that impact the ethics of sharing the screenshot?

Unintended consequences:

- › Potential harm could ensue if a blocked parent somehow determines where the child might be, leading to possible physical harm or abuse to the child or parent with custody.
- › Another potential harm is break of trust with parents/caretakers who may not have social media or do not approve of their child's name and face being posted on social media.
- › Depending on Ms. Pujol's school and district policy, she may be in violation and have to face punitive measures.



Proctoring Software

Ms. Hughes is giving a test to her students. This test has to be done under standardized and secure conditions. But the test is virtual this year so extra procedures and precautions have been introduced by the district including a proctoring software. Students take the test at home and Ms. Hughes hopes for the best. Ms. Hughes is concerned that her students might try and game the test. The proctoring software indicates potential cheating by some of the students.

Questions for discussion:

- › What actions should Ms. Hughes take?
- › Is observing the students while taking the test in any way a violation of their privacy?



USER'S GUIDE: Proctoring Software

Here's how we see it:

- Ms. Hughes should assess why the software is indicating possible cheating and discuss with the students to see if there is a rational explanation. Ms. Hughes may also want to discuss these incidents with the appropriate administrators.
- A key difference between how test proctoring would occur in person versus online, is that the software could be reporting false positives. In an in-person situation, the teacher would be accountable to noticing instances of cheating. Additionally, with students learning from home, there could be a number of factors triggering the proctoring software, especially if students do not have a private, quiet place to take their test.

For further discussion:

- What should happen if the software and Ms. Hughes' observations did not agree?

Unintended consequences:

- The proctoring software can lead to false positives. Furthermore, just having the software in place can add increased stress and anxiety to students while taking the test.



Recording Virtual Class on Personal Device

Mrs. Rayne is teaching a virtual class that requires students to produce some visual displays of their work. Mrs. Rayne is really concerned that she will forget which student has produced which product, so she decides to record the class session using another device, not the recording feature of the district-approved video conferencing tool. Mrs. Rayne pulls out her mobile device and records each student as they present their work. Mrs. Rayne does not tell the students she is recording their presentations.

Questions for discussion:

- Has Mrs. Rayne done anything wrong by recording the students and their work? If so, how?
- Would it make any difference if Mrs. Rayne had used the district-approved video conferencing tool to record rather than her mobile device?



USER'S GUIDE: Recording Virtual Class on Personal Device

Here's how we see it:

- › Mrs. Rayne should check with the district to ensure that she is not violating any policies by recording her students. Mrs. Rayne should also determine if her district permits or requires recording of lessons. No matter district policy, it is not good practice to record students on personal mobile devices. Many times, mobile devices do not have the same privacy protections as district devices and platforms. And these student recordings could easily be accidentally shared with unauthorized people when stored on a personal mobile device.
- › Mrs. Rayne should also take into account that this recording may be FERPA protected, and as a result parents/caretakers would have the right to access this recording.
- › Students may be able to exercise their rights to say that they are not comfortable being recorded and opt out, depending on the district policy.

For further discussion:

- › Is it necessary and appropriate for Mrs. Rayne to inform her students that she is recording the class?
- › Most video-conferencing tools show when a session is being recorded. Is that sufficient notification for the students in lieu of telling them?

Unintended consequences:

- › Storage of these recordings on personal, mobile devices heightens the risk of it being shared with unauthorized persons because its main purpose is for personal use. The mobile device could be stolen, someone could look through the gallery and find the recordings, or the recordings could be accidentally shared in a text message.
- › Students may have had difficulty with the project, so having their presentation recorded could add increased pressure and look bad to peers who could make fun of them for a bad work product. Thus, the recording of the activity could lead to low self-esteem for students whose work gets criticized.



Recording Virtual Class While Parent Abuses Student

Samson is a student in Ms. Hermione's class. Ms. Hermione has been conducting class virtually using a video conferencing platform and regularly records her classes. During one class session, she observes Samson being verbally assaulted by an adult. She can hear the adult screaming obscenities at Samson. In a later class session, Samson seems withdrawn. The same adult suddenly comes into view of the computer camera and physically strikes Samson who proceeds to cry and run away from the computer camera.

Questions for discussion:

- › What should Ms. Hermione have done following the verbal assault?
- › What should Ms. Hermione do now that she has seen Samson being struck by an adult?

USER'S GUIDE: Recording Virtual Class While Parent Abuses Student

Here's how we see it:

- › Samson is in danger. As a mandated report, when a teacher witnesses either sexual or physical abuse, she is legally required to report the incident immediately to the relevant family and child services department. Delays could imperil the child's well-being.
- › It does not matter here whether the assaults occurred in-person or witnessed virtually. The teacher has witnessed the incident and therefore must report it.
- › Each school has procedures from reporting abuse. In this case, Ms. Hermione observed the abuse in real time and Samson could be in real danger. Calling the police may be warranted rather than delaying by going through procedural channels as might be the case in a brick and mortar situation when the abuse has already occurred.
- › There is typically an automated process that records and uploads virtual classes, if classes are indeed recorded. Ms. Hermione should edit the recording by editing out this particular incident into its own recording and work with school administration on how to safely store it.

For further discussion:

- › Was the verbal assault sufficient evidence to report the adult's behavior?
- › Should Ms. Hermione go straight to the police since the incident is in real-time?

Unintended consequences:

- › If Ms. Hermione does nothing, Samson is in danger of both physical and emotional harm.
- › If Ms. Hermione delays in reporting what she has witnessed, Samson will still be in danger.
- › Other students may likely have seen what Ms. Hermione saw and could fear similar abusive behavior in their own home.



Recording Virtual Class with Student Misbehavior

At Bellamy Elementary School, teachers have been recording their classes so that they can review the videos to better understand how to improve their virtual instruction and virtual classroom management techniques. Ms. Sunny is recording her class and notices that one of her students, Simon, is behaving erratically. He is throwing things and cursing. She also notices another student, Bijou, who has moved away from the computer. She is refusing to pay attention to the lesson.

Questions for discussion:

- Are there any privacy issues involved here because Ms. Sunny has observed the students' misbehavior not only virtually, but on a recording?
- What actions should Ms. Sunny take to address the kinds of misbehavior Simon and Bijou are exhibiting?



USER'S GUIDE: Recording Virtual Class with Student Misbehavior

Here's how we see it:

- › Ms. Sunny should check with school or district policy and administrators to make sure it is okay for her to record virtual classes.
- › Ms. Sunny should consult her administrator to see how best to handle misbehavior caught virtually or through recording as this may constitute a disciplinary incident and therefore be FERPA-protected.
- › Differences in the disciplinary incident occurring in person versus a virtual classroom, is that the incident is recorded, and this recording is stored and retained. It is best practice to store these recordings on district-approved platforms. Ms. Sunny should also consult school policy on how long these recordings should be retained and at what point they should be deleted.

For further discussion:

- › How might the move from in-person to virtual differ in terms of handling misbehavior?
- › Is filming versus real-time discernment of misbehavior any different?

Unintended consequences:

- › The potential harm here is that all student behavior is being recorded and therefore educators must be aware when a recording will be FERPA-protected, relevant to this specific scenario this means when there is a disciplinary incident.
- › Depending on how long this recording is retained, it could also become a part of a student's permanent record and result in loss of opportunity, for example negatively impact which classes students are placed in the future.



Recording Virtual Classes

Mrs. Garcia will use a district-approved video conferencing tool to conduct her social studies class during distance learning. From student and family communication, Mrs. Garcia knows that it will be difficult for all of her students to join the class every day and so decides to record her classes to offer asynchronous learning and more equitable access for her students.

Questions for discussion:

- › Is it okay for Mrs. Garcia to record the virtual classes?
- › Is there anything Mrs. Garcia should be cautious of?



USER'S GUIDE: Recording Virtual Classes

Here's how we see it:

- › It is laudable that Mrs. Garcia took the time to understand the needs of her students during distance learning and used their needs to inform her decision to record her classes. With regard to whether Mrs. Garcia is allowed to record her classes, she should look to school or district guidance in this legally gray area.
- › If her school and district say it is permissible to record classes, Mrs. Garcia should only use district-approved video conferencing platforms when conducting and recording classes. Mrs. Garcia should also seek school or district guidance on where to store these recordings, to ensure these recordings are privacy protected from breaches or otherwise unwanted access.
- › Mrs. Garcia should also carefully consider how long she will retain these recordings. They should not be retained indefinitely and not retained longer than needed.
- › Mrs. Garcia should also communicate her recording practices to students and families so they are aware and so they have the opportunity to raise any questions or concerns.
- › Mrs. Garcia should consider which parts of classes should be recorded. For example, students may feel much differently about lectures being recorded versus student-led classroom discussions.

For further discussion:

- › What communication should Mrs. Garcia provide to her students regarding recording of the classes?
- › What are some concerns students and families may have in learning the classes will be recorded?

Unintended consequences:

- › If not properly stored, these recordings can be hacked into and leaked.
- › Students may feel a breach of trust with Mrs. Garcia and a breach of privacy, especially if they are not made aware in advance of being recorded during live instruction.
- › Recording student discussion can have chilling effects—meaning students are less willing to participate and voice their opinions because they know they are being recorded.



Requiring Student Cameras On

Mr. Lopez has just started his online learning math class that begins at 9 am. After the first week, Mr. Lopez decides he will require students to have their cameras turned on during the entire class. This way, he can better track attendance and monitor student participation and engagement. After Mr. Lopez announces that everyone's cameras must be turned on, a few of his students continue to attend class with their cameras turned off. Mr. Lopez considers whether he should make this requirement a part of student grades to increase compliance.

Questions for discussion:

- › What are some reasons why students might not have or want their cameras on during class?
- › What should Mr. Lopez do about the students who are not turning on their cameras?
- › Should Mr. Lopez require students to have their cameras on during class?



USER'S GUIDE: Requiring Student Cameras On

Here's how we see it:

- › Mr. Lopez should seek guidance from administration and district policy on implementing this video mandate policy in his classroom.
- › There are many reasons why students may not want their cameras on, not necessarily for mischievous reasons. Students' devices and internet connectivity may work much better with their cameras turned off. Students may not feel comfortable allowing their teacher and peers to see into their living space through the background. Requiring cameras on may also place increased pressure on students to worry about their appearance when showing up to class.
- › There are privacy risks to requiring students to keep their cameras on. This requirement can force students to show details about their lives which they are not comfortable sharing, such as their living situation (living in a motel, experiencing homelessness, being evicted), which can lead to social harm and bullying. It can also be unclear what the expectations are for what students can show in their background. For example, can a student get in trouble for a school-inappropriate poster that is hung up on their wall or for a toy gun placed on a shelf?

For further discussion:

- › What are other ways Mr. Lopez can track attendance and monitor engagement and participation, aside from requiring student cameras to be turned on?

Unintended consequences:

- › Students may feel uncomfortable having their video on and showing their living situation. A video requirement could lead to stigmatization, bullying, increased stress for students, and force students to reveal intimate details about their lives.
- › Video mandates can also imply lack of trust and cause students to feel surveilled.
- › Video requirements may lead to worsened internet connectivity for some students.



Screen Sharing

Students in Ms. Gordon's middle school Multimedia Arts class are sharing their self-portrait projects during an online critique on a video conferencing platform. The project involves manipulating their self-portrait in photoshop. Each student takes turns sharing their screen, while the other students follow a structured critique process. Jonah shares his screen to show his manipulated self-portrait. In the image his face is overlaid with multiple images of penises.

Questions for discussion:

- › How should Ms. Gordon respond?
- › What options does she have to mitigate the harm to the other students?
- › What if Jonah did not mean to share this manipulated self-portrait?



USER'S GUIDE: Screen Sharing

Here's how we see it:

- › Teachers should be intentional with the videoconferencing platform settings and the ability for students to share their screen. Allowing students to screenshare can foster collaboration and increase engagement, but there is also the risk of students sharing something inappropriate, be it accidental or not. Expectations should be set on what is allowable to be shared and caution advised to students on how to use the sharing screen feature.
- › Instead of allowing students to share their own screens, Ms. Gordon could share student work from her own screen after pre-screening the work.
- › The most immediate step Ms. Gordon should take is to stop Jonah's screen sharing.

For further discussion:

- › What are the privacy risks for the students?
- › What are the privacy concerns for Jonah?
- › How would the scenario be different in a physical classroom?

Unintended consequences:

- › Social harm and age-appropriate content are the biggest concerns. The other students were exposed to images that were not age-appropriate without their parent's consent.



Seeing Student Unclothed During Virtual Class

Ms. Talbot is working with her elementary school students on a science lesson. The lesson is being conducted virtually. Student cameras are on so Ms. Talbot sees her students and sometimes glimpses background images of the students' homes. On one particular day, Ms. Talbot notices that one of her students is not clothed. Lusitano is in front of the camera naked.

Questions for discussion:

- › What should Ms. Talbot do?
- › Is noticing that Lusitano is naked a violation of his privacy?

USER'S GUIDE: Seeing Student Unclothed During Virtual Class

Here's how we see it:

- Ms. Talbot should attempt to turn off Lusitano's video as soon as possible to minimize other students from seeing.
- Ms. Talbot must determine if Lusitano's nudity is a more innocent or troubling scenario. Depending on age or level of awareness, Lusitano may not have realized her camera was on and was about to get dressed. In a more troubling scenario, improper clothing could be an indication of child neglect. As a mandated reporter, if Ms. Talbot, suspects child physical or sexual abuse or neglect, she must report this to the school's relevant department of family and child services.
- The virtual observation is different than if a student had appeared to school unclothed. In a virtual setting, students are learning from home and often their own bedrooms. The lines between private, home life and public, school life have been significantly blurred under a virtual setting.

For further discussion:

- What if Lusitano had clothes on but someone in his family walked behind the camera without clothes on?

Unintended consequences:

- It is possible that Lusitano is in a home situation where there is neglect, thereby rendering him in potential harm.
- It is also possible Lusitano was not aware that her camera was on.



Sending Kids into Breakout Rooms

While teaching science online, Mr. Riley has students working in small groups to develop an experiment. In class he sends each small group into breakout rooms. The breakout rooms are difficult to monitor as the platform does not allow recording of the rooms and students have unlimited access to screen sharing and chat functions. When students come back from working in the breakout room Mr. Riley receives a direct message from Jacob saying that Kimberly shared her screen during the breakout room and showed a pornographic website. Jacob felt very uncomfortable and said he was going to talk to his parents.

Questions for discussion:

- › What are the next steps for Mr. Riley?
- › Who should Mr. Riley talk to?
- › What are the safety and privacy implications for Jacob and Kimberly?

USER'S GUIDE: Sending Kids into Breakout Rooms

Here's how we see it:

- Online breakout rooms for students without monitoring present a challenge for teachers for classroom management, student safety, and student privacy. Mr. Riley must develop a plan for monitoring breakout rooms in a systematic manner, reteach classroom expectations for breakout rooms, and contact the parents/caretakers of both students to explain what happened and discuss the next steps. Mr. Riley should also seek out guidance from administration to determine if and what disciplinary action may take place.
- The data privacy concerns are minimal in this case study. On the other hand, the personal privacy concerns regarding the possibility of students being exposed to unwanted content in an unmonitored chat room are more complex.

For further discussion:

- How can Mr. Riley incorporate breakout rooms into his lessons while protecting student safety and privacy?
- Are online breakout rooms the same as small group discussions in classrooms?
- What if this had happened in a classroom with a student showing pornographic images on a phone in a small group? What are the differences?

Unintended consequences:

- Breakout rooms without direct adult supervision have the potential to expose students to speech, images, and language that would have more protection in a monitored situation.



Student Confiding in Teacher

Mr. Houdini is a teacher at Javier High School. He has just finished conducting an online class and one of his students, Winston, requests some extra time after class to talk to Mr. Houdini. Winston has had a close mentoring relationship with Mr. Houdini. He trusts him. Winston confesses that he is coming out and is concerned that he will be bullied and taunted by other students. Winston asks for Mr. Houdini's guidance. As Winston and Mr. Houdini are completing their very sensitive conversation, they notice that someone else has broken into the call.

Questions for discussion:

- Should Winston be discussing such a private matter with Mr. Houdini and through the virtual portal?
- What should Mr. Houdini do, now that he realizes someone else may have heard the discussion?



USER'S GUIDE: Student Confiding in Teacher

Here's how we see it:

- Protecting Winston's privacy here is essential. He has confided in a trusted teacher about sensitive information. This information is private and should remain shared between the two of them.
- Mr. Houdini did not know the seriousness of the conversation in advance, and so did not have the proper privacy protections in place for the call. For future serious conversations, or when it is clear that the conversation is serious and private, Mr. Houdini should create a virtual room that will not allow others to join without explicit permission, such as through a waiting room or a link that only the specific people were given.
- If indeed someone hacked into the call or another student had remained online unbeknownst to them, then Mr. Houdini must seek out that individual, if possible, to ensure that what was heard, remains confidential, with possible ramifications if rumors were to be spread. Mr. Houdini should seek guidance from administration, without necessarily sharing the exact details of what Winston shared, only that it was personal and sensitive.
- A virtual setting has been particularly difficult for students to seek out support and confide in trusted school community members, such as teachers. Students and teachers do not have the opportunity to check-in via hallway chats or for students to stay behind after class to chat.

For further discussion:

- Would it make any difference had this conversation taken place in person?

Unintended consequences:

- Both Winston and Mr. Houdini should be concerned that someone could use the overheard information in a way to harm Winston. He could be bullied, taunted, and outcast.
- Winston most likely feels violated and this incident may have harmed his relationship with Mr. Houdini and his willingness to reach out for support.



Student Possibly Cheating During Virtual Quiz

Mr. Eli has asked his high school social studies class to take a pop quiz in the midst of a virtual class session. The students start working on the quiz that he sent them. Mr. Eli notices one student, Millie, starting to move away from the camera. She turns on the mute function. From Mr. Eli's view, he cannot tell what Millie is actually doing. Her diverted gaze indicates that she is not looking at the computer screen and the quiz but may be doing something else, such as rifling through papers, asking someone at home a question, or potentially looking up answers. Mr. Eli suspects that Millie may be cheating on the quiz.

Questions for discussion:

- › What should Mr. Eli do?
- › How should Mr. Eli speak to Millie about this situation?



USER'S GUIDE: Student Possibly Cheating During Virtual Quiz

Here's how we see it:

- Suspected cheating must be addressed. It is possible that Millie was doing something totally innocent. Mr. Eli should give her a chance to explain.
- Observing students taking a test has its differences between an in-person setting and a virtual one. Gestures, eye gaze, and other movements are only a proxy to understanding student behavior, engagement, and participation, which can be harder to understand virtually. This is again why it is important for Mr. Eli to discuss the situation with Ellie.
- Mr. Eli must make it clear to Millie and to the other students the boundary conditions and expectations for appropriate behavior for virtual quizzes and tests.

For further discussion:

- If indeed Millie was cheating, what actions should Mr. Eli take?
- If Millie's actions were innocent, what should Mr. Eli do then?

Unintended consequences:

- Using a student's eye gaze and physical movements are not always an accurate indication of behavior, participation, or engagement, especially in a virtual environment.



Student Seen Doing Drugs

Ms. Wilson teaches high school math. She has been conducting her classes online. Students often work in virtual pods to complete some of the assignments. Ms. Wilson is observing the work of one pod that contains three students, Coby, Orlando, and Niko. As the three students are working, she notices that Niko moves away from the camera and takes some drugs from a prescription drug bottle. She suspects, however, that they are not prescription drugs but illegal drugs.

Questions for discussion:

- › What actions should Ms. Wilson take?
- › Does it make any difference that she has observed the drug use virtually instead of in person?
- › What if there were illegal drugs, not prescription drugs?



USER'S GUIDE: Student Seen Doing Drugs

Here's how we see it:

- › Suspected drug use, whether observed in person or virtually, requires action on the part of Ms. Wilson.
- › Ms. Wilson should seek out more information to determine if Niko was indeed taking prescribed medication or illegal drugs. Ms. Wilson can speak with the student themselves and also the parents/caretakers.
- › Ms. Wilson should reach out to school administration to seek guidance on how to proceed as this may become a law enforcement issue.
- › The virtual observation is different. In a virtual setting, students are learning from home and often their own bedrooms. The lines between private, home life and public, school life have been significantly blurred under a virtual setting.

For further discussion:

- › What would Ms. Wilson do if she had spotted Niko doing the same thing, but he was in school? Would that have changed her approach to the situation?
- › What if the drugs were prescribed medicine?
- › Would there be any difference in Ms. Wilson's actions if Nike were smoking pot, which is clearly drug use?
- › What if Ms. Wilson suspects the drugs are a part of self-harm?

Unintended consequences:

- › If the drugs Niko has taken are indeed illegal, this can result in serious health harm and risk to himself. There is also harm to other students who have viewed Niko take these drugs, as they may feel incentivized to do so themselves.
- › There is also the possibility that these are prescription drugs. If so, there is still the potential for harm as Niko may not realize others in the class have viewed him taking his prescription. Niko may feel as though his privacy was breached, and it can also lead to stigmatization or bullying by other students.
- › Additionally, if the drugs were not illegal, falsely reporting innocent drug use could also lead to harm especially when law enforcement becomes involved. It could affect Niko's disciplinary records, lead to false stories or rumors, and stigmatize him. Additionally, because it is suspected drug use, it is possible that the teacher's suspicion may be based on assumptions about the students and it is crucial to check for potential bias in this suspicion.



Students Sharing Videos with Teacher

Mr. Randall is teaching virtual Physical Education and is looking for ways to increase student accountability for completing the fitness challenges he sets for his students. He is concerned the results being reported by his students are not accurate. For the student push up challenge he assigns students to use FlipGrid to document the challenge. FlipGrid is an approved app in the Madison School District. It is a video discussion and message platform that allows teachers to pose questions and prompts using video that students comment on or respond to using video. He is careful with his FlipGrid settings in that he sets it so the videos only come to him to protect his students' privacy and he is the only one who can comment on student performance through the videos. Most of his students post their push up challenge videos to document doing as many pushups as possible in 1 minute. Mr. Randall sends back video coaching of their technique. Later in the week, Mr. Randall receives an angry email from Mrs. Stanley, the parent of his student Emily, saying that she is very concerned that a male teacher is watching videos of her daughter doing pushups in skimpy workout outfits. Mrs. Stanley is extremely angry in the email and feels the use of the videos is not educationally appropriate.

Questions for discussion:

- › What are ways for Mr. Randall to respond to Mrs. Stanley?
- › Does the gender of the teacher impact the situation?
- › What are the privacy implications of using video sharing applications?
- › If the FlipGrid is not approved for use by the school district does that change the discussion?



USER'S GUIDE: Students Sharing Videos with Teacher

Here's how we see it:

- › The app is approved for use by the Madison School District which allows for Mr. Randall to use the app with his students. Mr. Randall was not sharing an education record, the video, with anyone. Mr. Randall should work with the parent to address the concern, and possibly include an administrator.
- › Mr. Randall should also consider the importance of proactive communication and transparency with parents/caregivers. A notice from Mr. Randall to all families about this new practice he was adopting—students sharing videos of their workouts—would most likely have prevented this response. Parents can feel a breach of trust without proactive communication. Proactive communication also grants a space for families to give feedback and input and for Mr. Randall to improve the practice and make it more comfortable for everyone.

For further discussion:

- › What are ways Mr. Randall could have protected students' concerns about video sharing?

Unintended consequences:

- › Sharing videos is a powerful educational tool both for in person and virtual learning but it raises concerns about student personal privacy and comfort with video sharing. Teachers should be thoughtful about its use and implementation. Teachers, such as Mr. Randall, must explicitly explain the value and need for it to students and parents through proactive communication.



Taking a Screenshot of a Virtual Class

Ms. Hazel is conducting instruction online due to the pandemic. All of her students have their cameras on so she can interact with them, make eye contact, and visually observe their engagement and behavior. At some point during a lesson, Ms. Hazel takes a screenshot of the entire class to capture their reaction to a question. She does not share the photo with anyone else and retains it on her computer.

Questions for Discussion:

- › Is it appropriate to take such a screenshot without students being aware?
- › Does Ms. Hazel need permission to take the screenshot?



USER'S GUIDE: Taking a Screenshot of a Virtual Class

Here's how we see it:

- › There are many legal and privacy considerations Ms. Hazel must consider. First, is whether this screenshot might be considered directly related to students and where the screenshot will be stored. This is important because if it is deemed to be directly related to students and maintained by the school, it is an education record and is protected under FERPA. If the purpose of the screenshot is to inform Ms. Hazel's teaching practice, then it may fall under the sole possession exception, which means it would not fall under FERPA. Because this is a gray area, it would be best to treat it as FERPA protected.
- › Ms. Hazel should also consider that just because you can do something with technology doesn't mean you should and should weigh the benefits against the risks. It is hard to imagine Ms. Hazel would take a picture during an in person class to capture students' reactions.
- › Ms. Hazel should also consider the perspective of parents/caretakers and if they would be comfortable with in time reaction screenshots being taken of their child during class and that they may question the necessity of this action.
- › It is best practice for Ms. Hazel to communicate to students when a screenshot is being taken of them, especially since video conferencing platforms do not tend to indicate when this happens. It is also best practice to inform students what the screenshots will be used for, to store this screenshot on district-approved devices and platforms, and to delete the screenshot as soon as it is no longer needed.

For further discussion:

- › Would it make a difference if Hazel took the screenshot of only one student?
- › Would it make a difference if a student took the screenshot instead of the teacher?
- › Does intention make a difference here? What if the screenshot was not going to be used for educational purposes?

Unintended consequences:

- › A screenshot might capture a student doing something wrong. Depending on how long this photo is kept and who it is shown to, this student could be punished for their behavior and this photo could even become part of their permanent record.
- › There is the potential for this photo to be leaked or breached, especially if it is not properly stored, and therefore someone might see the screenshot who should not have access to it leading to privacy or safety concerns.
- › If the screenshot becomes public, students could access it which could lead to bullying and stigmatization, especially if the screenshot caught students doing something embarrassing or showed intimate parts of student living situations through the use of cameras.



Teacher Evaluation

At Hennessey Middle School, the principal, Ms. Violet, makes an appointment with one of her teachers, Mrs. Rose, to conduct her quarterly evaluation. Mrs. Rose, like many teachers, has been challenged by conducting instruction virtually. It is even more challenging for Mrs. Rose because she teaches science which typically has hands-on activities. Mrs. Rose has struggled to modify her lesson plans and instruction to adapt to the virtual environment. She is very concerned that she will not look good in front of Ms. Violet and that her typically stellar evaluation ratings will suffer.

Questions for discussion:

- › Are there any issues with this situation?
- › Are there any reasons to be concerned about the protection of privacy for the students and for Mrs. Rose?



USER'S GUIDE: Teacher Evaluation

Here's how we see it:

- › Classroom observations are standard practice and schools are continuing this practice in a virtual setting. However, with virtual learning, Ms. Violet may observe things about students previously not possible in an in-person setting. The school will decide how administration will interact with students during a classroom observation.
- › Ms. Violet has also provided advance notice to Mrs. Rose about the forthcoming observation to aid Mrs. Rose in her preparations for the observation.

For further discussion:

- › What if Ms. Violet did not alert Mrs. Rose to the forthcoming observation? Would that make any difference?
- › What if Ms. Violet observes some things that students were doing at home that were problematic or were beyond the scope of the evaluation?



Teacher Keeping Class Recordings

Mr. Robert regularly records his classes so he can refer back to them to better understand his students' responses to questions. It helps him to remember and to be more diagnostic to modify future instructional activities. Mr. Robert has not explicitly informed his classes of this practice. He simply has invoked it as part of virtual practice.

Questions for discussion:

- › Does such recording without student awareness violate student privacy?
- › Is this an ethical issue or a privacy issue or both?

USER'S GUIDE: Teacher Keeping Class Recordings

Here's how we see it:

- Mr. Robert must check his school and district policies to ensure he is able to record his classes. Mr. Robert must also carefully consider where he is storing these recordings. It is best practice to store recordings on a district-approved platform to minimize risk of breaches or hacks. Mr. Robert should also carefully consider how long he will retain these recordings. They should not be retained indefinitely.
- Informing students about the practice and the purpose is a best practice and helps improve transparency.
- Since Mr. Robert's is using the classroom recordings to improve his own instruction and teaching practice, this most likely falls under the sole possession record and there is likely no FERPA violation here.

For further discussion:

- What should Mr. Robert do if a student is uncomfortable with the classes being recorded?
- Do you think that such recordings can negatively impact students?

Unintended consequences:

- If used as Mr. Robert intends, his review of the videos may actually benefit the students rather than harm them because he can be retrospective and introspective about things he may have missed in real-time. This would help Mr. Robert be more responsive to student needs.
- However, if students are unaware, they may feel violated and result in a breach of trust.



Toy Gun at Home

Spratt Middle School is conducting virtual classes via Zoom during the pandemic. Virtual instruction is new and somewhat challenging for the faculty, especially when it comes to monitoring and addressing behavior. One day, Mrs. Matthew sees one of her students playing with a toy gun during one of their virtual classes. When school was in person, toy guns were not allowed in school and any incidents required reporting to administration and could result in suspension.

Questions for discussion:

- Should Mrs. Matthew report this incident to her administration? Why or why not?
- Is seeing a student play with a toy gun in their home during a virtual class different than a student bringing a toy gun to school?



USER'S GUIDE: Toy Gun at Home

Here's how we see it:

- Mrs. Matthew should see if the school's disciplinary code has been updated for the new virtual setting. If it has not been updated, Mrs. Matthew could reach out to administrators to request the disciplinary code be updated to be made relevant and reasonable to the new virtual setting.
- Before pursuing a path that may lead to extreme disciplinary outcomes, such as suspension, Mrs. Matthew should consider alternatives, such as privately messaging the student and or speaking with the parent/caregiver.
- A student bringing a toy gun to school versus playing with a toy gun in their home is incredibly different. In a virtual environment, the student is learning from home, a space traditionally completely separate from academic life. Prior to distance learning, it was not possible for students to get in trouble for playing with toy guns at home. Lines are blurred and teachers should keep this in mind.
- If Ms. Matthew was to believe the gun the student was playing with was a real gun, she may have a legal obligation to report as a mandated reporter. Even in this situation, Ms. Matthew should still consider the unprecedented circumstances of a virtual environment and being able to see into the homes and private details of her students' lives. And in any reporting that is conducted, to give as accurate a portrayal as possible to what she saw and the context.

For further discussion:

- What if Mrs. Matthew was unsure whether it was a toy gun or a real gun?

Unintended consequences:

- Students and families can experience breaches of privacy and harm, especially when actions done in the privacy of one's home, are reported and result in disciplinary action.
- Disciplinary codes that have not been updated can result in severe and unreasonable disciplinary actions on students, and research shows school disciplinary actions have disproportionately impacted students of color.



Tracking Attendance During Remote Learning

The Shea School District instituted new policies in the wake of the pandemic to collect attendance data. All educators have been struggling to obtain accurate data about student attendance while conducting virtual instruction. Mr. Bartlett and Ms. Tatum have been worried about getting accurate counts of their students. Some students have their cameras on and others do not. Some students may be “in attendance” for the entire class time, whereas others may go missing at various points in time. The school has advised teachers to use student login data from the learning management system (LMS) to track attendance. Yet there is no real way for teachers like Mr. Bartlett and Ms. Tatum to know if it is actually the specific students who are logged into the LMS and not someone else.

Questions for discussion:

- › Can a LMS provide accurate attendance data?
- › Is the use of time in the LMS not only a valid indicator of attendance but also an appropriate use of the data?
- › Are there privacy concerns about using LMS data or on-camera data for attendance indicators?



USER'S GUIDE: Tracking Attendance During Remote Learning

Here's how we see it:

- Having accurate attendance data is a part of compliance and accountability data for a district. Getting it right is important.
- The district is making an assumption that the student on the LMS is the student of record. This assumption has the potential of being inaccurate as it is possible that when students first log into their LMS, they remain logged in for a long period of time. There also needs to be protections so that students are only able to log into their own account in the LMS.
- Furthermore, an LMS may not track student logins from phone or tablet devices. This would mean students using these types of devices would have absences falsely reported.

For further discussion:

- What if someone else is on the LMS and not the student?
- How can the teacher ensure or determine if it is the real student who is logged into the LMS?
- What are the ramifications if it is the wrong student?

Unintended consequences:

- Potential harm can occur if a student's attendance is not accurately recorded. In this situation, using LMS login data to track attendance will disproportionately harm students who are using a table or phone device.
- There is potential harm for the school and district as well for inaccurate attendance data.
- The validity of attendance as a data element is in question and could be impactful for district funding if recorded inaccurately.



Unknown Virtual Class Attendee

Forrest Schools has moved online and decided to use a video conferencing platform to conduct virtual classes. To mitigate the possibility of unauthorized access into these virtual classes, the Forrest School has tried to password protect entry into classrooms. Yet, one day, Mr. Ares notices someone other than his students in the Zoom meeting room. Entry was done using a phone number so that is all Mr. Ares can see. He asks who is in the room but gets no answer.

Questions for discussion:

- › What action should Mr. Ares take?
- › Is this a violation of student privacy?



USER'S GUIDE: Unknown Virtual Class Attendee

Here's how we see it:

- Mr. Ares should be aware of the setting and capabilities of the video conferencing platform he is using. Most likely, Mr. Ares should be able to boot out the unknown attendee. Mr. Ares should also set the expectation that if students must join from a phone number, which can assist during technical difficulties, to communicate in advance with the teacher when possible and introduce oneself when joining the call.
- School or district policy will determine whether or not this intrusion is considered a violation. Mr. Ares should therefore seek out this policy and guidance from administration in determining what are the appropriate next steps to take.
- There are reasons that schools lock down video conferencing meetings to protect the sanctity of the classroom to inadvertent intrusions from people who should not be there. Such intrusions can potentially put students at risk.

For further discussion:

- What kinds of assistance should the school provide Mr. Ares?
- Is there potential harm for anyone other than the students and teacher to have access to the secure room?

Unintended consequences:

- The potential harm is that an uninvited and therefore unauthorized guest or interloper would be able to learn and have access to student information, including who is in the class and, if student cameras are on, information on their living situation. Also, consider an extreme situation where an interloper has a restraining order to stay away from one of the students. Schools have a legal obligation to uphold these restraining orders.
- The interloper could potentially disrupt instruction with inappropriate language, images, or content in the virtual classroom.



Virtual Class with Student Home Misbehavior

Mr. Bertie is conducting a virtual class and has a clear view of all of his students via the video conferencing platform. Mr. Bertie decides to give the class a bio break. Students leave their cameras and microphones on in their absence. During the break, Mr. Bertie witnesses one of his students, Maude, being hit by an older sibling. Maude returns when the lesson resumes.

Questions for discussion:

- › What should Mr. Bertie do?
- › Does it make a difference that what he witnessed occurred during a bio break rather than during actual classroom work?

USER'S GUIDE: Virtual Class with Student Home Misbehavior

Here's how we see it:

- › Students learning from home have blurred the line between home, a private place, and school, a public space. Understanding boundaries can be difficult, but teachers will most likely be held accountable to what they are able to observe through virtual classes. Mr. Bertie should address the situation and not completely ignore it - either through a conversation with the student, sibling, and/or parent/caregiver.
- › Witnessing this incident during a virtual class is different from witnessing the incident in-person, for example on the playground, because it is taking place in the student's home. Mr. Bertie should take this into account and caution against responding in a manner that results in disproportionately severe disciplinary action.

For further discussion:

- › Would it make a difference if Maude was hit while in the middle of a lesson?
- › Is it possible that what Mr. Bertie witnessed was innocent play between siblings?
- › Should Mr. Bertie immediately call Maude's parents?

Unintended consequences:

- › Maude's safety and even social harm; he may feel embarrassed that his peers saw the incident.
- › Other students may have witnessed the event as well and could be impacted by seeing a classmate being hit.



Virtual IEP Meetings

Nugget Elementary School has been holding IEP meetings virtually to carry out normal school activities during the COVID-19 lockdown. Such meetings involve bringing various educational specialists together with a student's parents or guardians to make determinations about the IEP status and processes. As in an in-person meeting, the goal of an IEP meeting is to determine best practices for the particular student. In one meeting, however, the special education teacher, Mr. Sammy notices that there is an unknown individual out of camera range in the parent's home. Keeping in mind that the information being discussed is sensitive in nature, Mr. Sammy asks who the person is. As it turns out, the person is a family friend.

Questions for discussion:

- What should Mr. Sammy or the IEP team do, given that there is someone else within earshot of the conversation?
- Should the meeting continue and not worry about the additional presence or should the team request that the individual be asked to leave the room?



USER'S GUIDE: Virtual IEP Meetings

Here's how we see it:

- › Discussing sensitive content such as those in an IEP should only be done with the relevant parties there, not with extraneous persons, even if they are a family friend.
- › IEP teams have strict guidelines about the data they review and the composition of team members.
- › The IEP team should request that only the legal guardians be present for this meeting.

For further discussion:

- › What if the extra person was a family member? Would that make any difference?
- › What if the extra person had professional training and was there to support the parents or guardian as an advocate?

Unintended consequences:

- › IEP teams often cover highly sensitive material about a student that should not be discussed in public. There are strict requirements on who is allowed in the room during IEP meetings to protect the student's privacy and autonomy.



Virtual Private Conversations

In Mrs. Wood's class, one student, Jordan, has an IEP that requires modifications to his assignments. Mrs. Wood has had to reference Jordan's modified assignment to answer questions or prompt Jordan. In an in person setting, Mrs. Wood was able to do this discreetly, by walking over to his desk or having him go to her desk. In a virtual setting, being able to have private chats with Jordan has become extremely difficult.

Questions for discussion:

- › What are the risks to referring to Jordan's modified work in front of the entire class?
- › What are some strategies to having safe, virtual private conversations?



USER'S GUIDE: Virtual Private Conversations

Here's how we see it:

- › The rest of Jordan's classmates do not need to know and should not know about modifications being given to Jordan as part of his IEP requirements. Not only does this not comply with law, but it also can lead to stigmatization and bullying of Jordan.
- › Mrs. Wood should check the features of the video conferencing tool they are using to see if there is a private chat and breakout room features. Mrs. Wood could communicate with Jordan through private messaging, host office hours, or schedule phone calls with Jordan before classes to answer any questions and provide any guidance Jordan needs.

For further discussion:

- › What are other reasons teachers have private conversations with students? Can similar strategies be used?

Unintended consequences:

- › In a virtual setting, there are many obstacles to having one-on-one chats with students as everyone can hear the speaker in a video conference call. Discussing Jordan's modifications in front of the entire class breaks confidentiality and can lead to stigmatization and bullying.



