

# Client Alert

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## Coping with COPPA

### Education Law

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The Children’s Online Privacy Protection Act (“COPPA”) was enacted to give parents control over the information collected from their young children. Among other things, the law requires operators of commercial websites or online services (“Operators”) to notify parents and obtain parental consent before collecting personal information from children under the age of 13.

Schools need to know about COPPA because children can access online content while at school. **When and how can schools consent to the collection of students’ personal information?**

**FTC Guidance.** The Federal Trade Commission (“FTC”) recently provided guidance addressing this very issue. According to the FTC, schools or districts may contract with online educational program providers and consent to the collection of personal information from children under the age of 13 *only if*:

- The programs are solely for the benefit of students and the school system (for example, homework help, individualized education modules, online research, online organizational tools, web-based testing services), *and*
- The Operator collects personal information from the students only “for the use and benefit of the school,” not for any commercial purpose.

Personal information under COPPA is defined very broadly and includes a child’s first and last name, address, phone number, or social security number, as well as a child’s online contact information or screen user name, any media file (such as a photograph, video, or audio file) containing a child’s image or voice, or a persistent identifier of any kind that can be used to recognize a user over time and across different websites or online services.

**Best Practices for Schools.** In light of the FTC’s recent guidance, we suggest the following best practices for schools in order to ensure that they comply with COPPA.

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- Enter into a formal contract with Operators before allowing students to use any online program. Although the FTC guidance never specifically states the school must have a formal contract in place, a school or district will need to enter into a written contract with an Operator in order to enforce the many requirements of COPPA, including the restrictions on the use and retention of student information.
- Request that each Operator provide a description of the types of personal information collected, how that information is used, how long the information is retained, and what security measures the Operator has in place to protect the information. If the Operator uses the personal information for *any* commercial purpose, COPPA prohibits you from consenting to the disclosure of student information.
- Follow up with the Operator to ensure that all personal information is deleted once it is no longer of use to the school. This should be done periodically throughout the contract term, as well as once the contract has ended.
- Establish an Acceptable Internet Use Policy that will educate both parents and students about allowed student internet use during school hours.
- Notify parents when consent is made on their behalf under COPPA and explain the type of personal information being collected from students. Parents should be informed about which websites their children are accessing and the purpose of using these websites. If possible, parents should have the opportunity to review the personal information collected by the Operators and the Operators' direct notices regarding their information practices.

The full FTC FAQ can be found [here](#).

We are happy to answer questions about your COPPA compliance or assist you with these issues, including reviewing proposed contracts with Operators or drafting an Acceptable Internet Use Policy.

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