



# **Student Privacy State Legislation: Trends Since 2013 in the United States**

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Future of Privacy Forum

# The Siegl Risk Framework

An actual security or privacy risk  
Risk of not being in compliance  
Perception risk

*Credit: Jim Siegl, Fairfax County Public Schools, Virginia*



# Landscape of Privacy Concerns

The Scope and Type of Data Schools Collect

A Lack of Transparency

Who is collecting and accessing student data?

How is student data being used?

The “cloud” and other amorphous terminology  
+ jargon

Privacy Beyond Data

# Landscape of Privacy Concerns

## Primary Concerns

Commercialism

Putting students on “tracks”

Historical discrimination

# The Family Educational Rights and Privacy Act (FERPA)

Passed in 1974

Applies to educational agencies and institutions

Enforced by Department of Education

Penalty for noncompliance is loss of federal funding – but has never happened

# FERPA

## FERPA grants parents or eligible students the following rights:

- Right to annual notification of the EAI's FERPA policy

- Right to access education record

- Right to seek amendment or correction of record

- Right to confidentiality of personally identifiable information in record

- Right to file a complaint

# Key Exceptions to Consent

Directory information

School Official

Studies

Audit or Evaluation

# Protection of Pupil Rights Amendment (PPRA)



# Children's Online Privacy Protection Act (COPPA)

Applies to operators of commercial websites or online services that:

- Are directed to children and collect personal information from children under 13; or

- Have actual knowledge that they collect personal information from children under 13

Enforced by FTC and State AGs

Penalty for noncompliance is civil penalties up to \$41,484 per violation (per record, per day)

# COPPA Basics

Covered operators must:

- Provide a privacy policy

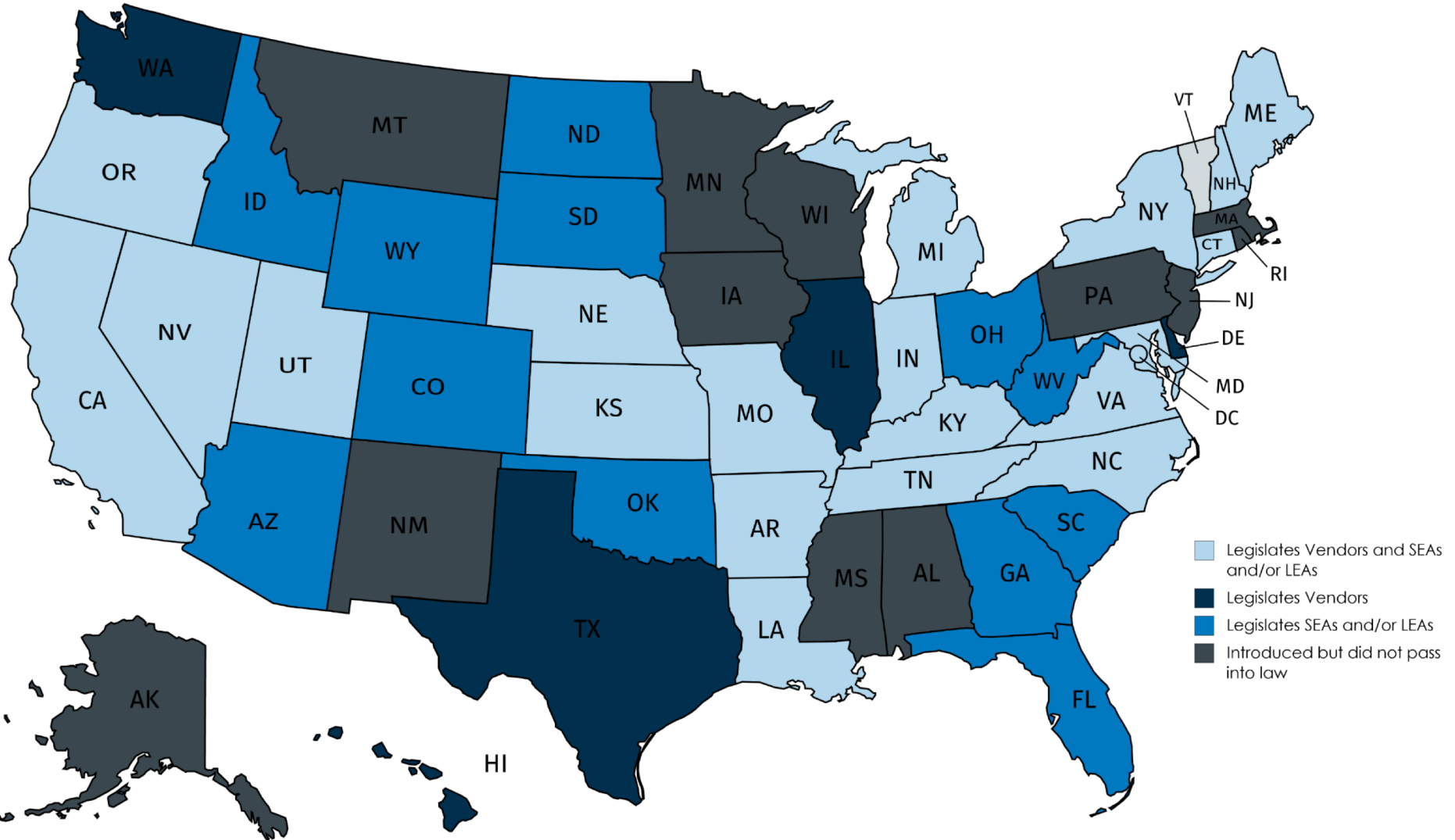
- Obtain verifiable parental consent

- Provide parents with access (and deletion rights) to their child's personal information

- Give parents the opportunity to withdraw consent

COPPA in Schools: Like FERPA?

# 41 States Have Passed 125 Laws Since 2013



# Questions Raised By Laws

## Collection

- What information is collected?
- How is information collected?
- Is consent needed?

## Access

- Who can access the information?

## Sharing

- When can data be initially shared?
- When can data be redisclosed?

# Two Types of Laws

Governing LEAs/SEAs

Governing Vendors (directly or indirectly)

# State Laws Passed Since 2013

<https://ferpasherpa.org/state-laws/>



The Education Privacy Resource Center

- for* STUDENTS
- for* PARENTS
- for* EDUCATORS
- for* LEAS
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## State Student Privacy Laws

*Passed 2013-2017*

Year Passed	State	BILL NUMBER	High Level Summary	Early Ed (Y/N)	K-12 (Y/N)	Higher Ed (Y/N)	Legislating Vendors (Y/N)	Legislating SEAs (Y/N)	Legislating LEAs (Y/N)
2013	Arizona	SB 1450	For school districts that release directory information to educational and occupational/military recruiters, they must provide students with the opportunity to opt-out of that release. Student transcripts can't be released unless the student consents in writing.	N	Y	N	N	Y	Y
			An Act Relating to School Accountability: Requires the Department to compile an annual achievement profile – any disclosure of educational records compiled by the department of education must comply with FERPA.	N	Y	N	N	Y	N
2016	Arizona	HB2088	HB 2088 prohibits public schools from administering specified assessments or surveys to students without notifying and obtaining written informed consent from parents and prescribes penalties for	Y	Y	N	N	N	Y



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# Unintended Consequences

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## Louisiana schools struggle with strict privacy law

In Louisiana, a new law bars school districts from sharing identifiable information without parental consent.

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By Nate Robson July 29, 2015

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## New State Law Complicates Classroom Recording For N.H. School Districts

By RICK GANLEY & MICHAEL BRINDLEY · NOV 11, 2015

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school districts.

A new state law limiting when record in classrooms is having consequences for some New H

# Interesting Trends

Transparency

Opt-in and Opt-Out

Device and social media privacy

Penalties (financial and criminal)

Research restrictions

Training and Resources



# Coming Up?

*“While the idea of identifying a child's strengths and weaknesses and using that information to help them make decisions about their future is a good idea, the United Nation's idea of data collection and globalizing our nation's children, making them human capital, is unamerican and Hitleresque.”*

ID: USBC-2016-0003-0124

June 6, 2018

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By Benjamin Herold on [April 17, 2018 10:05 AM](#)

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# **Portland State University Researchers May Have Violated Federal Law by Using the Personal Data of Thousands of Portland-Area K-12 Students**

**It appears to be a remarkable breach of trust.**





## TELEPHONE TERRORISM



# 'Dark Overlord' Hackers Text Death Threats to Students, Then Dump Voicemails From Victims



The same hackers who tried to extort Netflix have moved onto another target: schools.



JOSEPH COX 10.05.17 12:18 PM ET

Earlier this week, the Johnston Community School District in Iowa closed several of its schools, after parents received text messages threatening to harm or kill their children, according to multiple local media reports. Now, a group of hackers, who have traditionally tried to extort money from targets through blackmail or intimidation, has claimed sending the messages and has

POLICY

# What Parents and Teachers Should Note From Mark Zuckerberg's Senate Testimony

By Jenny Abamu and Tina Nazerian

Apr 10, 2018



Expert Opinion

# Understanding Calif.'s Game-Changing Data Protection Law: The California Consumer Privacy Act of 2018

For any company that has assets in California or handles Californians' personal information, California's new Consumer Privacy Act of 2018 will likely have a significant impact on core business operations.

By **Emily Tabatabai, Antony Kim and Jennifer Martin** | July 10, 2018 at 05:01 PM



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# Questions?

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