



## LEGAL CONSIDERATIONS FOR AI IN EDUCATION

### Safety Review of AI Tools in Education

**Vet Terms & Conditions.** School districts should have a vetting system in place to evaluate student data privacy and safety when new AI tools are introduced or existing tools are updated with AI features.

- **Notice.** Is district notified of updates to terms and conditions that could include use of AI? (AI may exceed the scope of what district originally agreed to.)
- **Parental Consent.** Does collection of student data in AI now require parental consent for use of software?
- **Protection of PII.** Staff and students should be trained not to include any PII in a generative open AI tool.
- **Threat Monitoring.** How does the software monitor and respond to any threats to self or others that may be entered into an AI chatbot by a student. What is the District's responsibility?

### Parent / Guardian Consent May Be Required

**FERPA School Official Exception.** Educational software typically falls within the exception to FERPA's parental consent requirement because it is considered a "school official" that is performing an administrative function of the district and has a legitimate educational interest in the student data collected. Additionally, these companies limit re-sharing to serve the original purpose of the Agreement.

### **Open Generative AI Likely Exceeds FERPA Exception.**

- Collecting student data which populates AI knowledge base beyond school setting likely goes beyond a "legitimate educational interest."
- Populating AI knowledge base with student inserted content is also likely resharing student data beyond the scope of the original purpose of the educational software.

### **Key Components of Parental Consent**

- Clear explanation of what data may be collected.
- If and how data may be shared beyond students' educational purpose.
  - Is the AI tool open or closed AI?
  - Is the AI tool generative AI?
- School district liability waiver.



### **Partnership with F3Law**

F3Law is supporting school districts throughout the U.S. on a variety of emerging EdTech legal issues, including:

- AI Chatbot for education contract drafting and negotiations
- Legal action against Social Media companies for student mental health
- Development of National Student Data Privacy Agreement
- Creation of National Purchasing Consortium for EdTech products
- Counsel for Party in Interest to U.S. Supreme Court Case on school board member social media use.

F3Law is happy to consult with school districts in the following areas of EdTech:

- Policies for staff and students
- Student Data Privacy Compliance
- Ed Tech Contract review process and procedures
- Training for staff and students regarding responsible use of EdTech
- Managing Social Media
- Network Monitoring for Threats – policies and procedures

### **Contact Info:**

Gretchen Shipley, Partner

(760) 304-6015

[gshipley@f3law.com](mailto:gshipley@f3law.com)