

Ms. April Tabor
Secretary
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex E)
Washington, D.C. 20580

Kevin Herms,
Chief Privacy Officer,
Student Privacy Policy Office
U.S. Department of Education
400 Maryland Ave SW.
Washington, DC 20202

Dear Ms. Tabor and Mr. Herms,

We, the undersigned organizations, are deeply committed to protecting children's privacy and have decades of experience working with schools and educational technology (edtech) companies in navigating compliance with the Family Educational Rights and Privacy Act (FERPA) and Children's Online Privacy Protection Act (COPPA).

We share the Federal Trade Commission's (FTC) determination to protect kids online, and by formalizing existing guidance, the proposed COPPA rule strengthens the protections for younger students when schools use edtech. However, there is also a risk of codifying long-standing confusion and misalignment between COPPA and FERPA.

These are two complex regulations, and the potential impact of confusion and misalignment is significant. There are more than 98,000 U.S. schools and more than 9,000 edtech companies. School districts access an average of 2,591 distinct edtech tools annually, and the International Trade Administration estimates the size of the U.S. edtech market at more than \$89.49 billion (USD) per year, in which the under-13 population is a significant component.

A coordinated approach to guidance is essential, especially given that the Department of Education announced plans in Spring 2023, to amend FERPA.

We urge the Federal Trade Commission and the Department of Education to develop and maintain joint guidance that clarifies how Operator and School obligations shall be interpreted in light of the interaction between COPPA and FERPA.

For a more extensive list of recommendations, we would direct you to comments from signatories including Future of Privacy Forum, Center for Democracy & Technology, and the Software & Information Industry Association filed with the FTC in response to its Request for Comment on the Children's Online Privacy Protection Proposed Rule.

We are committed to continuing to work with both schools and edtech companies to facilitate compliance with both FERPA and COPPA, and increased clarity and alignment on these concerns will go a long way.

We appreciate your urgent consideration of this issue and would be happy to discuss these concerns and recommendations in more detail.

Sincerely,

InnovateEDU

Future of Privacy Forum

SETDA

Common Sense Media

CoSN - the Consortium for School Networking

Center for Democracy & Technology

Digital Promise

Software & Information Industry Association

International Society for Technology in Education (ISTE)

Association for Supervision and Curriculum Development (ASCD)

Getting Smart Collective

Access 4 Learning - Student Data Privacy Consortium (A4L - SDPC)