

Analysis of Children's Online Privacy Protection Act

Dr. Peg Luksik – Founded on Truth

- Congress enacted the Children's Online Privacy Protection Act (COPPA) in 1998; latest Rule effective July 2013
- Required the Federal Trade Commission to issue and enforce regulations concerning children's online privacy.
- GOAL: place parents in control over what information is collected from children under age 13 online
- COPPA applies to operators of commercial websites and online services (including mobile apps) directed to children under 13 that collect, use, or disclose personal information from children, and operators of general audience websites or online services with actual knowledge that they are collecting, using, or disclosing personal information from children under 13.
- Operators must:
 - Post a clear and comprehensive online privacy policy describing their information practices for personal information collected online from children;
 - Provide direct notice to parents and obtain verifiable parental consent, with limited exceptions, before collecting personal information online from children;
 - Give parents the choice of consenting to the operator's collection and internal use of a child's information, but prohibiting the operator from disclosing that information to third parties (unless disclosure is integral to the site or service, in which case, this must be made clear to parents);
 - Provide parents access to their child's personal information to review and/or have the information deleted;
 - Give parents the opportunity to prevent further use or online collection of a child's personal information;
 - Maintain the confidentiality, security, and integrity of information they collect from children, including by taking reasonable steps to release such information only to parties capable of maintaining its confidentiality and security; and
 - Retain personal information collected online from a child for only as long as is necessary to fulfill the purpose for which it was collected and delete the information using reasonable measures to protect against its unauthorized access or use.
- Personal information includes:
 - First and last name;
 - A home or other physical address including street name and name of a city or town;
 - Online contact information;
 - A screen or user name that functions as online contact information;
 - A telephone number;

- A social security number;
 - A persistent identifier that can be used to recognize a user over time and across different websites or online services;
 - A photograph, video, or audio file, where such file contains a child's image or voice;
 - Geolocation information sufficient to identify street name and name of a city or town; or
 - Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described above.
- Parents must be told:
 - The name, address, telephone number, and email address of all operators collecting or maintaining personal information through the site or service (or, after listing all such operators, provide the contact information for one that will handle all inquiries from parents);
 - A description of what information the operator collects from children, including whether the operator enables children to make their personal information publicly available, how the operator uses such information, and the operator's disclosure practices for such information; and
 - That the parent can review or have deleted the child's personal information and refuse to permit its further collection or use, and state the procedures for doing so. See 16 C.F.R. § 312.4(d) ("notice on the Web site or online service").
 - School districts may contract with operators on behalf of parents, provided that:
 - The collection and/or use of the personal information of the children is limited to the educational context and for no other commercial purposes
 - In the event of use of the data outside of the educational context, parental consent must be directly obtained by the operator
 - The operator provides the school with all required notices listed above
 - If requested by the school, operator must provide description of types of information collected, opportunity to review information collected, and/or have it deleted; and opportunity to prevent further use of the information
 - The school has obtained parental consent to act as their agent (the operator is allowed to presume that the school has obtained this consent)
 - The Local Education Agency complies with the provisions of the Protection of Pupil Rights Amendment, which requires that the LEA must adopt policies and must provide direct notification to parents at least annually regarding the specific or approximate dates of, and the rights of parents to opt their children out of participation in, activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information (or otherwise providing the information to others for that purpose)
 - LEA must comply with all provisions of FERPA, and any applicable state law
 - COPPA recommends that school districts:
 - Give parents a list of all websites and all online services with whom it has consented on behalf of the parents
 - Make notices from all operators available to parents

- Allow parents to view all information collected
- Ensure that operators delete children's information after it is needed for stated educational purposes
- Ask potential operators:
 - What types of personal information will the operator collect from students?
 - How does the operator use this personal information?
 - Does the operator use or share the information for commercial purposes not related to the provision of the online services requested by the school? For instance, does it use the students' personal information in connection with online behavioral advertising, or building user profiles for commercial purposes not related to the provision of the online service? If so, the school cannot consent on behalf of the parent.
 - Does the operator enable the school to review and have deleted the personal information collected from their students? If not, the school cannot consent on behalf of the parent.
 - What measures does the operator take to protect the security, confidentiality, and integrity of the personal information that it collects?
 - What are the operator's data retention and deletion policies for children's personal information?