

Virtual Learning Faces Tests of Its Own:

The school year is starting again with many students still attending completely online. As a result, schools and ed tech companies are facing continued challenges regarding privacy, security, and special needs accommodations.

When the Coronavirus pandemic hit the United States at the beginning of this year, a large portion of everyday life for Americans went completely virtual. Zoom became synonymous with the conference room, classroom, and post-work happy hours. Fall has come, and many K-12 students across the country are heading back to school in these entirely virtual environments.

Concerns over students' privacy while attending school virtually have steadily risen. The Family Educational Rights and Privacy Act (FERPA), enforced by the Student Protection Privacy Office (SPPO), aims to protect the privacy students' education records. In response to the initial shift to virtual learning in March 2020, the SPPO released guidance and resources for ensuring compliance with FERPA.¹ Under the school official exception of FERPA, educational institutions can disclose education records to virtual learning providers if they meet specific criteria to protect students' data. Schools found in violation can see their federal funding withheld.

Additional guidance has come from the FTC regarding compliance with the Children's Online Privacy Protection Act (COPPA). COPPA requires online services to get consent from parents before collecting data for children under 13; if a school utilizes virtual learning applications, the school can consent to these services on behalf of the parents.² The attorney general for New Mexico, Hector Balderas, sued Google in February alleging that it obtained data from students under 13 who used the Google Education Platform without proper consent, violating COPPA.³

Zoom, one of the most extensive virtual learning services, faces concerns over its privacy and security practices. A class-action lawsuit in California, *Johnston v. Zoom Video Communications, Inc.*, is seeking to hold Zoom accountable for these concerns. It alleges, among other things, that Zoom's lack of security has allowed internet trolls to post inappropriate content into online lessons.⁴ Other instances of this type of practice have been reported, although no other suits have been filed addressing them.

Additionally, many special needs students have failed to have adequate assistance provided through remote learning capabilities. The Individual with Disabilities Education Act (IDEA) makes free appropriate public education to eligible children with disabilities and ensures them special education and services.⁵ Some of these services, which are unavailable through remote learning, include full-time paraprofessionals and speech therapists who rely on physical contact to guide students.

¹ [SPPO FERPA and Virtual Learning Related Resources](#)

² [COPPA Guidance for Ed Tech Companies and Schools during the Coronavirus](#)

³ [New Mexico v. Google](#)

⁴ [Johnston v. Zoom Video Communications, Inc.](#)

⁵ [About IDEA](#)

As a result of fully online learning and lack of services, parents of special needs students have filed suits in multiple states. They claim that their local school system failed to provide required aid in violation of IDEA. For example, *C.M. v. Jara*, is a class action recently filed in Nevada on behalf of special needs students who have failed to have their requirements met. In their complaint, the plaintiffs claim that the defendant school district instructed parents with special need children that their only course of educational relief was “the same screen based, distance learning program as other children.” Similar suits have popped up in New York, Washington, and Hawaii.

The school year may have just started, but ed tech services and schools have already faced many tests switching to virtual learning.

--Zach Quinlan

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