



School Leaders Risk Management Association

UPDATE

March 2014

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School District Cloud Computing: Silver Lining or Thunderhead

Fordham University recently undertook a study of cloud computing use by 54 public schools across the United States (2 large, medium and small schools from 9 geographic locations*). A full 95% of those schools used cloud computing services for a diverse range of services. Use of cloud computing services makes sense as it provides school districts with cost-effective, readily scalable access to information technology services.

However, the Fordham study also found that:

- 75% of the districts did not inform parents that the school's use of cloud services potentially violating the *Protection of Pupil Rights Amendment* (PPRA);
- Over 75% of the districts had agreements with third-party vendors of cloud services that failed

to specify controls on the use of student data, thereby potentially violating the *Family Educational Rights and Privacy Act* (FERPA);

- Over 93% of the districts' agreements with those vendors did not restrict or otherwise limit the sale or marketing of student information by vendors potentially violating the *Children's Online Privacy Protection Act* (COPPA) and (FERPA).

Failure to put safeguards in place to protect student data, and failure to establish explicit restrictions in contracts with vendors, can result in serious liability. In fact, the U.S. Department of Education established the *Privacy Technical Assistance Center* (PTAC) as a "one-stop" resource for educational professionals to learn about data privacy, confidentiality and security practices. The PTAC recently issued its guidance document entitled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*. The Hogan Lovells Law Firm has issued an overview memorandum on this publication. Both



*Privacy and Cloud Computing in Public Schools (2013)
Fordham University's Center on Law and Information Policy

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the PTAC publication and the Hogan Lovells' overview are available for immediate download at SLRMA.org.

To help school districts respond to the challenges presented by the use of cloud computing services, SLRMA has compiled this *Self-Audit Checklist and Best Practices for School Districts Using Cloud Computing Services*. This checklist, incorporating and expanding on the guidance provided by the PTAC, provides the very critical first step in making sure your district's use of cloud computing does not result in a downpour of litigation.

School Districts Cloud Computing Services Self-Audit Checklist

I. Overall Policy, Governance, Education, Risk Management, and Accountability.

Has the district reviewed its insurance coverage to determine whether the district is covered for costs associated with responding to security incidents? Yes No

Districts should consider potential litigation costs as well as the direct costs of responding to incidents, notifying affected individuals and appropriate agencies, and restoring data.

Districts should assess whether policies will cover incidents occurring at a cloud provider's place of business.

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II. Process for choosing/vetting cloud computing providers

Districts should take particular care to assess whether potential providers will be able to provide students, parents, and others with the access rights established by applicable laws, regulations, and agreements.

Does the policy require that the district inform potential providers about the district's obligations under applicable laws, regulations, and agreements? Yes No

Does the policy require that the district assess the reputation and history of potential providers (e.g., history of data breaches, regulatory enforcement actions, references, length of time in business)? Yes No

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III. Contracting Policies for Cloud Computing Services

Does the district contractually require providers to use data provided by the district, especially personal information, only to provide services on behalf of the district or as consented to in writing by the district? Yes No

Districts should generally prohibit providers from using student data for marketing purposes. Such use may be appropriate with consent. Districts should carefully evaluate whether the risks, including reputational ones, merit such use even with consent.

Other Cloud Computing Resources for Immediate Download at SLRMA.org

The U.S. Department of Education's Privacy Technical Assistance Center issues its guide on cloud computing: *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*.

With the recent advances in technology and telecommunications, schools are embracing this technology to accomplish the educational mission by providing personalized content to students, engaging in online communities between student and teachers, and through the use of off-site "cloud computing" and utilizing other online educational services.

However, schools have also become entangled with privacy and security concerns when using such online educational service. To further guide schools in their use of such services, the U.S. Department of Education's Privacy Technical Assistance Center issued its Guide on Cloud Computing: *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices* and it is immediately available for download at SLRMA.org.

Hogan Lovells Issues its Companion Guide to the Education Department's education guideline.

Following the issuance of the U.S. Department of Education's guidance, the Hogan Lovells Law Firm issued an overview and explanation for the guidance. This memorandum highlights the issues in the U.S. Department of Education's guidance and provides an overview of the potential liability that schools face when using online educational services.

Go to SLRMA.org now and download these resources and the checklist to fully understand and help protect your school when using online educational services.



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SLRMA.org
School Leaders Risk Management Association

**Navigating Risk
Has Never Been Easier**



SLRMA's Checklists are tools to help you avoid potentially damaging liability.



In February, SLRMA's most popular checklists were:

- 1** District Social Media Policy, Part 2: Administrator/Teacher Social Media Policies Checklist
- 2** District Social Media Policy, Part 1: Student Social Media Policies Checklist
- 3** Disciplining Students with Disabilities Self-Audit Checklist/Best Practices On the Use of Restraint

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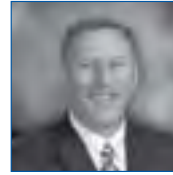
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New York Ed Department Faces Lawsuit Over inBloom Student Data Plan

In New York, parents are concerned about the privacy of their children in the big data Common Core era — so concerned that they are taking the state's education official to court to stop the Department from sharing students' data with a private company. A group of parents filed a lawsuit against the Department of Education...

*-Education News
November 13, 2013*

**Download SLRMA's
2014 Cloud Computing Best Practices and Self-Audit Checklist
Today to Protect Your School**