

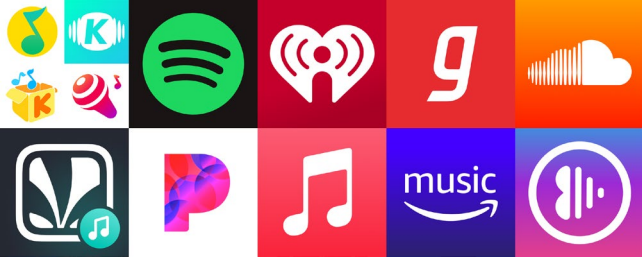


F3 Law

## LEGAL CONSIDERATIONS FOR AI IN EDUCATION

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# AI is already embedded into our everyday lives.



# AI Impacts All Areas of School District Operations

- District Business or Technology team may want to introduce AI for administrative efficiency.
- Special Education may want to utilize AI as an accommodation or assistive technology.
- District Leadership may want to invoke AI tool to foster equity and access to higher education and other resources.
- Students may introduce AI apps they want to utilize as a learning tool.
- Staff may want to utilize AI for instructional purposes or raise a labor-related issue.

## Objective: Balanced Approach to AI

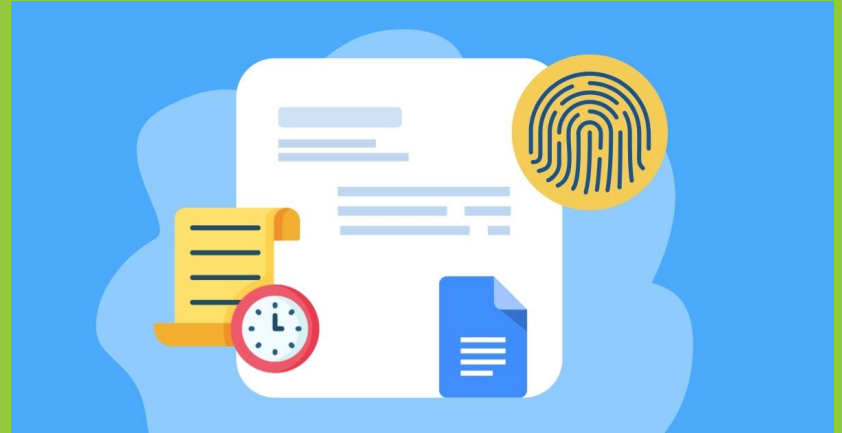
- Potential for both positive and negative consequences.
- School districts need to be vigilant to ensure that they can maximize AI in a positive way, while preventing AI misconduct.



# Safety Review of AI Tools in Education

- **Protection of PII.**

Staff and students should be advised not to include any PII in a generative open AI tool.



# 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.



# Safety Review of AI Tools in Education



- **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.)

# Safety Review of AI Tools in Education

## ■ 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?





# Safety Review of AI Tools in Education

- **Parental Consent**. Does collection of student data in AI now require parental consent for use of software?



# 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 business 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 resharing to serve the original purpose of the Agreement.



# Parent / Guardian Consent May Be Required

## 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.
- School district liability waiver.



# AI Policy Considerations

- Equity
- Bias
- Accuracy
- Data Privacy Evaluation
- Permission for Student Use
- Evaluate Duty to Bargain
- Prohibition on Misconduct

# Partnership with F3Law

F3Law is happy to consult with you and your clients in the following areas of AI in EdTech:

- Policy for staff and students
- Contract review process and procedures
- Student Data Privacy Compliance
- Training for staff and students regarding responsible use of EdTech

News Alert:

- SCOTUS social media for Board Members ruling

[www.f3law.com/services/education-technology](http://www.f3law.com/services/education-technology)





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