

<b>FREDERICK COUNTY PUBLIC SCHOOLS</b>	<b>Reg. No. 400-96</b>
<b>Subject: Student Data Privacy</b>	<b>Issued: 08/20/15</b>
<b>Preparing Office: Office of the Superintendent</b>	<b>Amended:</b>

I. Policy 442

II. Definitions

A. "Covered information" means information or material that:

1. Personally identifies a Frederick County Public Schools (FCPS) student, or that is linked to information or material that personally identifies an FCPS student; and
2. Is gathered by an operator through the operation of a site, a service, or an application.

Covered information includes a student's:

1. Educational and disciplinary record;
2. First and last name;
3. Home address and geolocation information;
4. Telephone number;
5. Electronic mail address or other information that allows physical or online contact;
6. Test results, grades and student evaluations;
7. Special education data;
8. Criminal records;
9. Medical records and health records;
10. Social security number;
11. Biometric information;
12. Socioeconomic information;
13. Food purchases;
14. Political and religious affiliations;
15. Text messages;
16. Student identifiers;
17. Search activity;
18. Photos; and
19. Voice recordings.

B. "Operator" means a person who is operating in accordance with a contract or an agreement with FCPS to provide an Internet Web site, an online service, an online application, or a mobile application that:

1. Is used primarily for a PreK-12 school purpose;
2. Is issued at the direction of an FCPS employee, or the Maryland State Department of Education (MSDE); and
3. Was designed and marketed primarily for PreK-12 school purpose.

C. "Persistent unique identifier" means a unique reference number used as an identifier in computer software that is stored across different usage sessions.

D. "PreK-12 school purpose" means an activity that:

1. Takes place at the direction of an FCPS employee; or
2. Aids in the administration of public school activities.

PreK-12 school purpose includes:

1. Instruction in the classroom;
2. Home instruction;
3. Administrative activities;
4. Collaboration among students, public school employees, and parents;
5. Maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application; and
6. An activity that is for the use and benefit of the school.

E. "Targeted advertising" means presenting advertisements to a student that are selected based on information obtained or inferred from the student's online behavior, usage of applications, or covered information.

Targeted advertising does not include advertisements presented to a student at an online location:

1. Based on the student's current visit to the online location without collection or retention of the student's online activities over time; or
2. In response to a single search query without collection or retention of the student's online activities over time.

### III. Exceptions

A. This regulation does not apply to a general audience Internet Web site, general audience online service, general audience online application, or general audience mobile application, even if log-in credentials created for an operator's site, service, or application may be used to access the general audience site, service, or application.

B. Nothing in this regulation shall be construed to prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

C. Making a profile of a student does not include the collection and retention of account information that remains under the authority of a student, a student's parent/guardian, or FCPS. Furthermore, this regulation does not impede the ability of students to download, export, transfer, or otherwise save or maintain their own data or documents.

D. An operator is not prohibited from using aggregated or de-identified covered information:

1. To develop or improve an educational product or service within any site, service, or

- application the operator owns; or
- 2. To demonstrate the effectiveness of the operator's products or services; or
- 3. Sharing aggregated or de-identified covered information for the development or improvement of educational sites, services, or applications.

E. Internet service providers are not prohibited from providing Internet connectivity to FCPS schools, students or students' families.

#### IV. Procedures

A. To execute the expectation established under Maryland law and Board of Education policy, the FCPS instructional and technology departments will enforce measures to:

1. Protect covered information from unauthorized access, destruction, use, modification or disclosure;
2. Implement and maintain reasonable security procedures and practices to protect covered information;
3. In accordance with a contract or agreement, delete within a reasonable time the covered information; and
4. Ensure an operator does not engage in any of the following activities with respect to the operator's site, service, or application:
  - a. Engage in targeted advertising if the advertising is based on information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of the operator's site, service, or application;
  - b. Except in furtherance of a PreK-12 school purpose, use information, including covered information and persistent unique identifiers, created or gathered by the operator's site, service, or application, to make a profile about a student;
  - c. Sell a student's information; or
  - d. Disclose covered information.

#### V. Permissible Disclosures

A. An operator may disclose a student's covered information:

1. If the disclosure is made only in furtherance of the PreK-12 school purpose of the site, service, or application and the recipient of the covered information does not further disclose the information;
2. To ensure legal or regulatory compliance;
3. To take precautions against liability;
4. To respond to or participate in judicial process;
5. To protect the safety of users or others or the security or integrity of the site, service or application;
6. To a service provider, provided the operator contractually:
  - a. Prohibits the service provider from using any covered information for any purpose other than providing the contracted service to, or on behalf of, the operator; and
  - b. Prohibits the service provider from disclosing covered information provided by

- the operator with a third party.
7. If federal or state law requires the operator to disclose the information, and the operator complies with the requirements of federal and state law in protecting and disclosing the information;
  8. For a legitimate research purpose as:
    - a. Required by federal or state law; or
    - b. Allowed by federal or state law and under the direction of FCPS, if a student's covered information is not used for advertising or to make a profile on the student for a purpose other than a PreK-12 school purpose; or
  9. To a state or local education agency, including public schools and local school systems, for a PreK-12 school purpose, as permitted by federal and state law.
- B. An operator may use or disclose covered information if the operator:
1. Provides clear and conspicuous notice of the use or disclosure of the student's covered information to the student or the student's parent/guardian; and
  2. Obtains the affirmative consent of the student, if the student is at least 18 years old, or the student's parent/guardian, to use or disclose the student's covered information.

Cross-reference:

FCPS Regulation 300-45 *Computers – Staff Use*

FCPS Regulation 400-73 *Computers: Acceptable Use of Digital Networks and Online Resources*

FCPS Regulation 400-77 *Computers: FCPS Website Publishing*

Approved:

*Original signed by*

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