

FAQ Guide: Addressing the Practical Challenges of Transitioning to Online-Only Classrooms



Introduction

The outbreak of COVID-19 has had a profound and marked effect on the landscape of the public school system. As a result, teachers and administrators have been left to sort through the miasma of Executive Orders, legislative updates, and general uncertainty surrounding this national crisis with minimal or tentative guidance.

On March 13, 2020, Governor Whitmer signed Executive Order (EO) 2020-5 which closed all K-12 school buildings in the State of Michigan. A few days ago, the Governor issued EO 2020-35 which suspended in-person education for the remainder of the 2019-2020 school year in favor of “alternative modes of instruction.” For many school districts, these “alternative modes” will primarily involve electronic learning (e-learning) via virtual learning sites such as Seesaw, Blackboard, or Google Classroom.

Efforts to stop the spread of COVID-19 have presented schools with a set of unique and never-before-seen challenges. While teachers and administrators work hard to prepare materials for their students in an online-only setting, there are several practical considerations school districts should consider to ensure they remain compliant with federal and state laws. These FAQs address some common issues that have arisen in recent weeks.

What can my school district do to best protect student privacy rights under FERPA and similar laws when our teachers transition to online-only classrooms?

The Family Education Rights and Privacy Act (FERPA), among other laws, prohibits school districts from releasing education and other records which contain protected student information (“PII”). It is important for teachers and administrators to create an e-learning environment that imitates the classroom environment as closely as possible in order to maintain student privacy rights and ensure school districts are complying with FERPA. The following is a list of guidelines to assist school districts in maintaining compliance:

- Refrain from posting screenshots or recordings of online classrooms to personal social media pages or the school/district’s social media page.
- Refrain from posting student PII into chatboxes or in online forums where the information may be accessed by third parties.
- Inform students they must seek permission before recording e-learning instruction and lesson plans. Unless such recordings are part of a student’s IEP or 504 Plan, teachers should check with their schools before allowing students to record lessons.
- Teachers should not allow parents or other non-students to attend e-learning classes without express permission from their school or central office.
- Teachers may bring home student records containing PII, so long as the records are needed by the teacher to carry out his/her duties.

- Recently, a cybersecurity risk colloquially known as “Zoombombing” has been on the rise. Zoombombing occurs when an uninvited attendee breaks into and disrupts a videoconference meeting. To combat this possibility (and to the extent permitted by the school district’s chosen e-learning software) schools should consider: changing the settings of the online classroom from public to private; adding a classroom password; providing students with unique user IDs; or utilizing “waiting room” features which allow teachers to control the admittance of students and others into their electronic classrooms.
- Currently, there is no e-learning software that is “FERPA-compliant” because FERPA does not specifically address the security requirements necessary to protect student PII. School districts may want to consider entering into written agreements with virtual classroom providers to ensure student PII is not collected or improperly disclosed to third parties.

Before choosing a specific online software tool, school districts should engage legal counsel and their information security officers to review security requirements and software terms of service. For more information, the U.S. Department of Education has provided the following link: <https://studentprivacy.ed.gov/>

May our teachers upload recordings of themselves reading books out loud to their students online?

Generally, it is inadvisable to upload such recordings. In recent weeks, schools have been faced with potential copyright violation issues due to the admirable, but ultimately misplaced, actions of teachers to engage their students despite statewide school closures. These issues occur most frequently when teachers post videos or audio-recordings of themselves online reading books out loud to their students. Generally, the federal Copyright Act of 1976 and similar laws prohibit individuals from reproducing copyrighted material online and making such material available to general public without first obtaining permission from the author. In the end, these videos are flagged as copyright violations and removed, potentially leaving teachers and school districts open to liability for copyright infringement. The following tips will assist school districts in ensuring compliance with copyright laws:

- Be mindful of posting videos, photographs, or the text of copyrighted material in a way that is accessible to the general public.
- If the copyrighted material is used as part of a teacher’s lesson, it should be accessible only to the current students in the teacher’s class.
- Continue to follow all IEPs and Section 504 Plans that include reading out loud to students, permit students to record teacher instruction, etc.
- As a best practice standard, teachers should include a copyright notice on any materials distributed online.
- Teachers should only distribute the same amount of the copyrighted material online that they would have distributed or presented during a face-to-face class.
- Copies of any copyright material must have been “lawfully acquired,” in that the teacher or the school district cannot have pirated or stolen the material before presenting it to students online.

- Teachers should review and familiarize themselves with their school district's policies and procedures concerning copyrighted material.
- Some publishers have granted limited permission to educators to post videos of themselves reading books online to their students. Teachers and administrators should be encouraged to seek out these resources.

Our school district is expecting an increase in the number of district-owned laptops and tablets for students to use at home. What are some things we can do to best protect our inventory?

Many school districts are in the process of acquiring or distributing electronic equipment such as laptops and tablets to their students and staff members. In anticipation of the likely increase in district-owned equipment, schools should consider updating their check-out forms to include language:

- Identifying the device as an education resource to be used only in that capacity.
- Acknowledging the student has no reasonable expectation of privacy while using the device.
- Notifying the student that s/he is responsible for any theft, loss, or damage to the device due to the student's negligence or carelessness.
- Confirming the student will not share or loan the device with any other person outside of an immediate family member who is also a student of the school district.
- Requiring the student to use the device consistent with the school district's Acceptable Use policies and procedures.
- Requiring the student to report any known or believed damage to the device as soon as possible.


Is there anything school district IT departments can do to prepare for the transition to e-learning?

Students and staff will likely expect school district IT departments to support and troubleshoot mobile personal devices, wireless networks, and any other electronic devices used to access online educational materials. IT personnel may want to consider measures such as: creating a how-to guide for parents and students to download and access e-learning software; and including remote access software on all school district-owned equipment to aid in potential troubleshooting efforts. IT personnel should also make efforts to assist students and parents with non-district-owned technology, to the extent such efforts are necessary for students to access e-learning classrooms and other educational resources.

Should my school set up a wireless internet hotspot for our students?

At this time, a number of commercial internet providers are offering free internet to K-12 students at home or offering free hotspot access throughout the state. Students without consistent or reliable internet access should be encouraged to take advantage of these offers. The Michigan Department of Education has also compiled a list of low-cost internet options: https://www.michigan.gov/mde/0,4615,7-140-28753_65803-387715--,00.html

School districts have been utilizing effective strategies to provide their students with internet access – either by parking internet-capable school buses in district neighborhoods or designated specific hotspot



locations near school buildings. The following is a list of recommendations for school districts to consider:

- Avoid setting up hotspot locations in small or cramped areas where social distancing will be difficult to maintain.
- There is no need for school district personnel to be present at hotspot locations to ensure parents and students are following social distancing rules. However, personnel should not hesitate to contact local law enforcement agencies if they believe parents and students are intentionally gathering in violation of the Governor’s social distancing orders.

How should our teachers record and submit student attendance for e-learning classes?

While districts transition to e-learning platforms, some schools may need to restructure how student attendance is determined and documented. For many school districts, attendance will be determined by their ISD’s COVID-19 Response Plan, as ordered by EO 2020-35. Under these Response Plans, attendance may be tracked in a variety of ways, including:

- Sending/receiving emails from students.
- Viewing which students are in attendance during a live video session or online chat via the chosen e-learning software.
- Uploads of images or videos which accurately document active student participation during a lesson.


As soon as is practical, schools should inform students and parents of any changes to attendance policies and/or procedures.

As a teacher, are there any precautions I should take when sharing my laptop or computer screen with my students?

Absolutely. School district personnel serve as role models for their students and within their respective communities. For these reasons, personnel should be reminded that inappropriate on- or off-duty digital communication may still result in investigation, disciplinary action, or discharge. This is particularly imperative when hosting online class sessions; teachers should always be aware that if they share their computer screen with students, they are also sharing all open tabs, comments, file names, incoming messages, appointments, photo thumbnails, emails, and all other items on their desktop. School districts should consider encouraging teachers to use a “Do Not Disturb” function on their computers or close any applications other than those necessary to carry out the current lesson.

Does the school district’s Student Code of Conduct still apply to students who are attending classes via e-learning software?

Yes. It is recommended school districts specifically inform students that the applicable Student Code of Conduct still applies to student behavior even though instruction is moving from in-person to online. In addition, school districts may consider exchanging current forms of discipline no longer applicable in the e-learning environment (e.g., detentions, in-school suspensions) with other forms, such as deactivating school-district technology, prohibiting students from attending online classrooms, etc. It is critical



teachers and administrators identify which of these alternate modes of discipline may be considered “suspensions” and comply with all applicable student due process rights and procedures.

Is there any guidance on FAPE and accessibility expectations you can provide?

EO 2020-35 requires schools to deliver instruction consistent with ISD-approved COVID-19 Response Plans. This means districts have an obligation to provide FAPE to the extent feasible under the circumstances. Districts may consider developing contingency plans to specify how this is going to be done. Such plans may include:

- Consideration of the educational opportunities provided to general education students and whether any accommodations may be necessary for students with IEPs/Section 504 Plans.
- Consideration of whether general education students are expected to progress educationally or maintain previously-acquired skills during this time and, if so, how students with IEPs/Section 504 Plans are also expected to progress.
- Any special circumstances unique to the individual student.

At this time, MDE expects annual IEPs to be completed in a timely fashion. Violations of this expectation will be noted, but no corrective action will be required. EO 2020-35 “strongly encourages” MDE to seek waivers from the U.S. Department of Education so that: annual IEPs will be considered timely, if completed by the end of the school year; and meetings concerning compensatory education need not be convened until the next annual IEP during the 2020-2021 school year. However, school districts will have to wait and see whether such waivers will be granted.