Student Data Privacy Consortium

Wednesday, Feb 12, 2020
1:00 PM - 3:00 PM
B234

# Student Data Privacy: What Are YOUR Obligations?

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Feb 2020


"Before I write my name on the board, I'll need to know how you're planning to use that data."

# Why Do I Have to Worry About Student Privacy?

- The What: Student Data
- The Why: Legal Implications
- The How: Student Data Privacy Alliance and Partners
- The Where: Resources

# EDTech in Schools

## Technology
Explosion of technology in schools

## 1:1 Programs
Most districts have some sort of 1:1 program

## Chromebooks
Now in 70% of U.S. schools

## 2018 EdTech market
In the U.S it is worth over $8.38B.

## Online Resources
The average U.S. school employs 400 to 1000 online tools/apps (whether then know it or not)

**…. and then there is…….**

# Student Privacy – The What

***Information that is tied to individual students is referred to as personally identifiable information, or PII, and is subject to additional restrictions in laws and regulations.***

- Any information about a student's identity, academics, medical conditions, or anything else that is collected, stored, and communicated by schools or technology vendors on behalf of schools that is particular to that individual student.
- This includes name, address, names of parents or guardians, date of birth, grades, attendance, disciplinary records, eligibility for lunch programs, special needs, and other information necessary for basic administration and instruction.
- It also includes the data created or generated by the student or teacher in the use of technology – email accounts, online bulletin boards, work performed with an educational program or app, anything that is by or about the student in the educational setting.
- Some student personal information such as social security number, is highly sensitive and collection may be barred by state law.

# Student Privacy Laws – The Why

| CIPA | PPRA | COPPA | HIPAA | FERPA | STATE LAW |
|---|---|---|---|---|---|
| Children's Internet Privacy Act | Protection of Pupils Rights Amendment | Children's' Online Privacy & Protection Act | Health Insurance Portability & Accountability Act | Family Educational Rights & Privacy Act (1974) | Ohio Legislation Local Statutes and Regulations |

# Student Privacy Laws

# CIPA

## Children's Internet Privacy Act

Requires that K–12 schools and libraries in the United States use Internet filters and implement other measures to protect children from harmful online content as a condition for federal funding.

# Student Privacy Laws

# PPRA

## Protection of Pupils Rights Amendment

Requires parental consent for any surveys that contain the following information;

- Political affiliations;
- Mental and psychological problems potentially embarrassing to the student and his/her family;
- Sex behavior and attitudes;
- Illegal, anti-social, self-incriminating and demeaning behavior;
- Critical appraisals of other individuals with whom respondents have close family relationships;
- Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- Religious practices, affiliations, or beliefs of the student or student's parent; or
- Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.)

# Student Privacy Laws

# COPPA

## Children's' Online Privacy & Protection Act

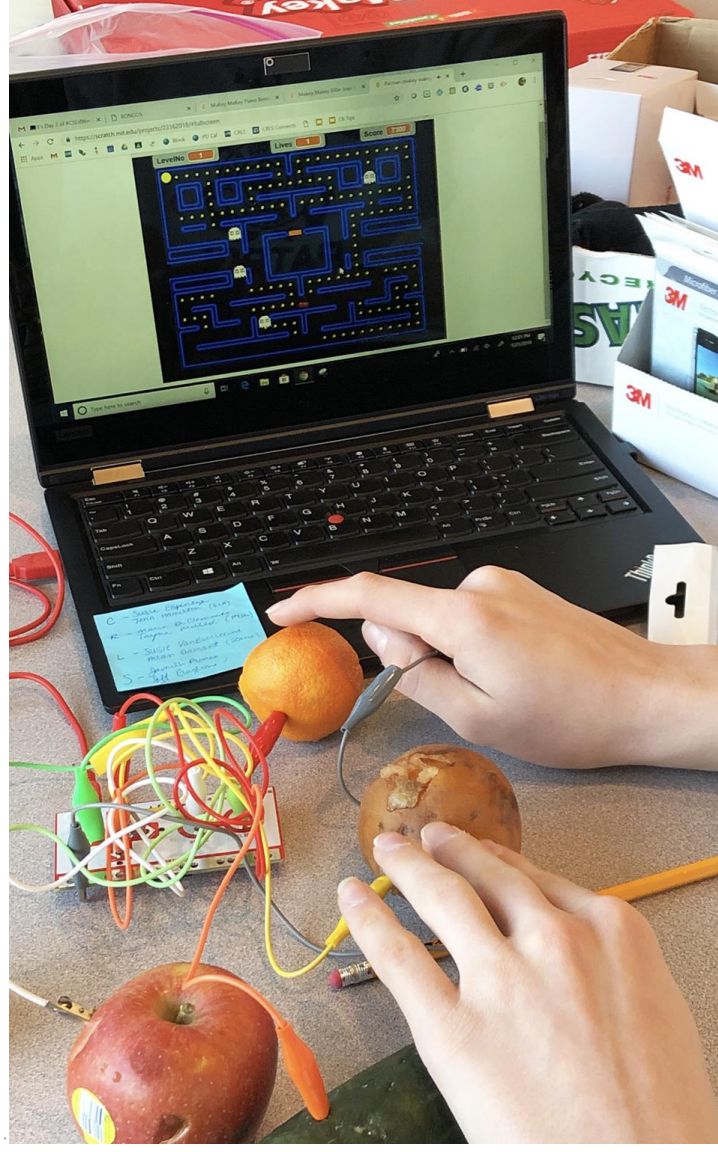
COPPA imposes certain requirements on operators of websites or online services directed to children under 13 years of age, and on operators of other websites or online services that have actual knowledge that they are collecting personal information online from a child under 13 years of age.

# Student Privacy Laws

# HIPAA

## Health Insurance Portability & Accountability Act

In most cases, the *HIPAA* Privacy Rule does not apply to an elementary or secondary school because the school either: (1) is not a *HIPAA* covered entity or (2) is a *HIPAA* covered entity but maintains health information only on students in records that are by definition "education records" under *FERPA* and, therefore, is not subject to the *HIPAA* Privacy Rule.



## Student Privacy Laws

# FERPA

### Family Educational Rights & Privacy Act (1974)

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31).

# FERPA (1974)

When FERPA was written….

….“cannot share records without parental consent”

# FERPA Exceptions

Other schools to which a student is transferring;

1

Specified officials for audit or evaluation purposes;

2

Appropriate parties in connection with financial aid to a student;

3

Organizations conducting certain studies for or on behalf of the school;

4

Accrediting organizations;

5

To comply with a judicial order or lawfully issued subpoena;

6

State and local authorities, within a juvenile justice system, pursuant to specific State law.

7

Appropriate officials in cases of health and safety emergencies;

8

School officials with legitimate educational interest;

9

## Student Privacy Laws

# FERPA

**School officials with legitimate educational interest;**

- Performs an **institutional service** or function for which the school or district would otherwise use its own employees;
- Has been determined to meet the criteria set forth in in the school's or district's annual notification of FERPA rights for being a school official with a **legitimate educational interest** in the education records;
- Is under the **direct control of the school** or district with regard to the use and maintenance of education records; and
- Uses education records **only for authorized purposes** and may not re-disclose PII from education records to other parties (unless the provider has specific authorization from the school or district to do so and it is otherwise permitted by FERPA).

## Student Privacy Laws

# FERPA

**School officials with legitimate educational interest.**
**Data Privacy Agreements (DPA) should cover;**

- Security and Data Stewardship Provisions.
- Collection Provisions.
- Data Use, Retention, Disclosure, and Destruction Provisions.
- Data Access Provisions.
- Modification, Duration, and Termination Provisions.
- Indemnification and Warranty Provisions.

# So what happens next?

# InBloom

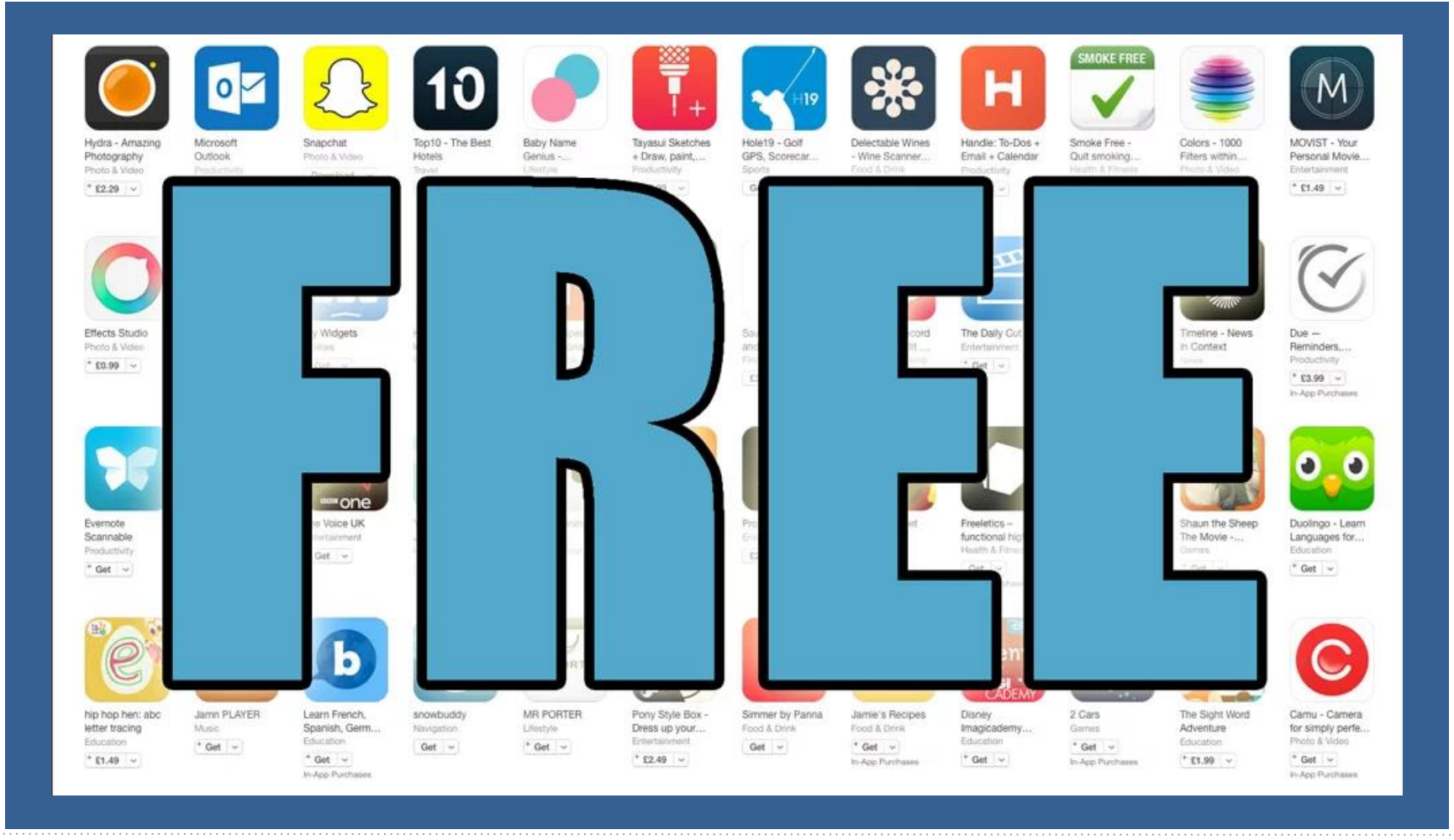
$100M investment by Gates to solve K12 data management issue

Good idea right?

**InBloom** =

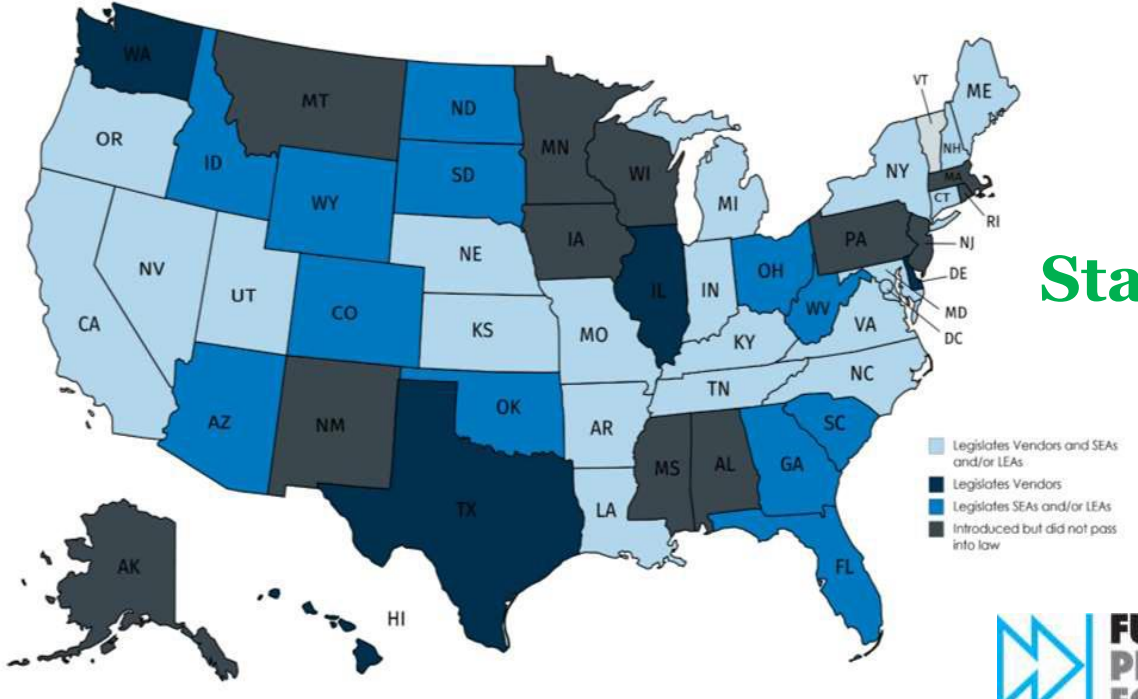
**Privacy Explosion in USA**

# The BIG Question:



## Student Privacy Laws

# STATE LAW




**40**

**States Have Passed 125 Laws Since 2013**

FUTURE OF PRIVACY FORUM

# What Would You Do?

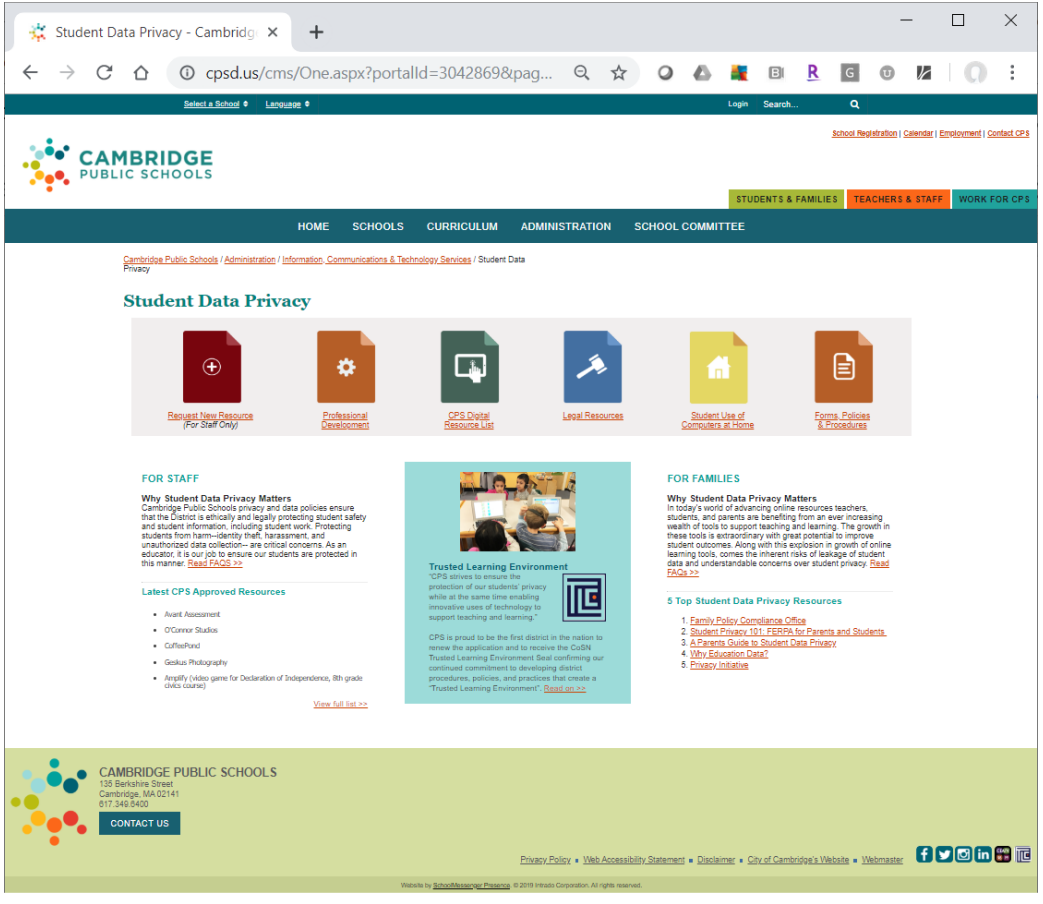
1) What role do you play in your District in ensuring FERPA requirements are being met?
2) Who else in your District plays a role in protecting students' privacy?
3) What do you feel you and your District do well in ensuring all student records/data are protected?
4) What areas do you feel your District could improve in relation to ensuring the protection of your students' data?

# BREAK

# SDPC Origin

## The SDPC:

- Built upon work done in CPS
- 12+ years working with vendors
- Developed in house tools
- Awareness building
- Standardized DPAs
- Expanded across MA



Access 4 Learning Community

Powered by: SIF

Simple. Secure. Scalable. Standard.

Student Data Privacy Consortium

## A4L:

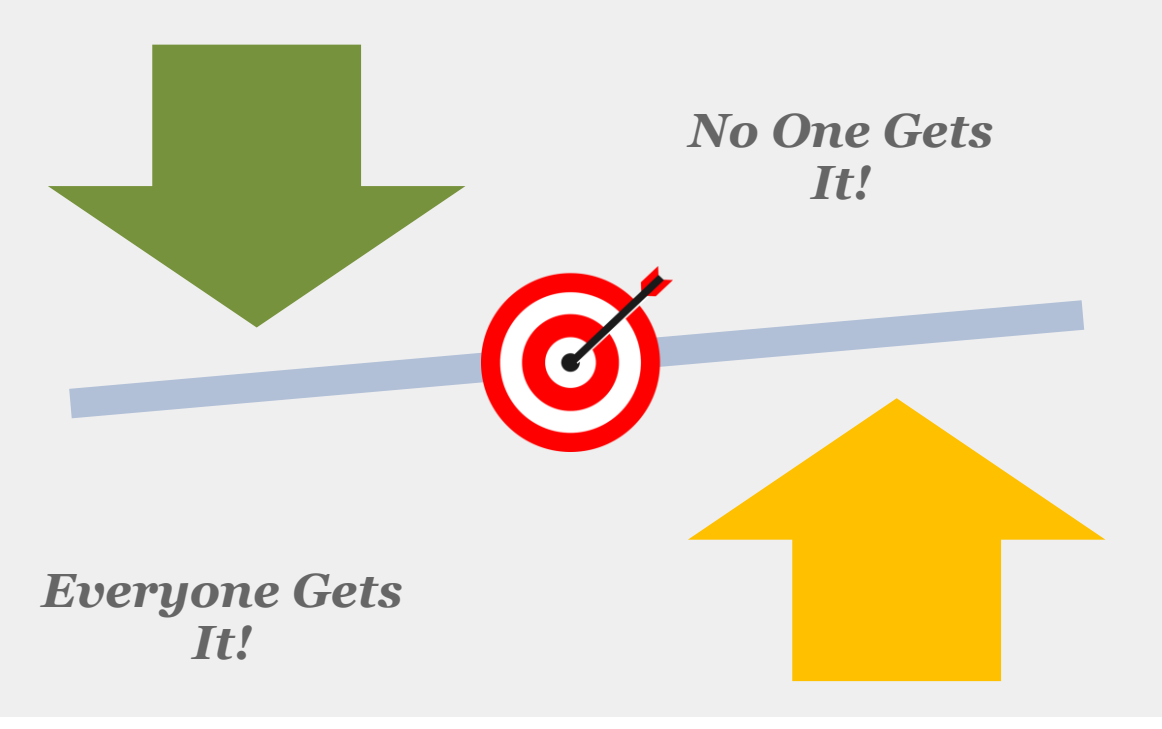
- Non-Profit started in 1997
- Membership driven with schools, districts, regional and state agencies, other professional organizations and marketplace providers in the Community
- Collaboratively develops technical blueprints for data to move safely and securely between school software applications
- Used in every state and Communities in 4 Countries

## SDPC:

- Special Interest Group of A4L Community started in 2015
- Maintains its own governance, oversight and resource support
- Numerous stakeholders addressing data privacy “Pain Points”
- Working on three projects identified and worked on by members:
  - Privacy Contract Framework
  - Digital Tools Governance
  - Global Education Privacy Standard

# Its Not “One or the Other”!

Student Data Privacy Consortium




Access 4 Learning Community

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# SDPC Goals

1

**Establish a community of stakeholders** who have various needs addressed through policy, technology and/or effective practice sharing around effective privacy management

2

Development of **tools and resources** to address operational issues not currently being addressed

3

Development of a **clearinghouse of student data privacy operational issues** and resources to support schools, districts, states and vendors in managing those issues – no matter where the resources originate

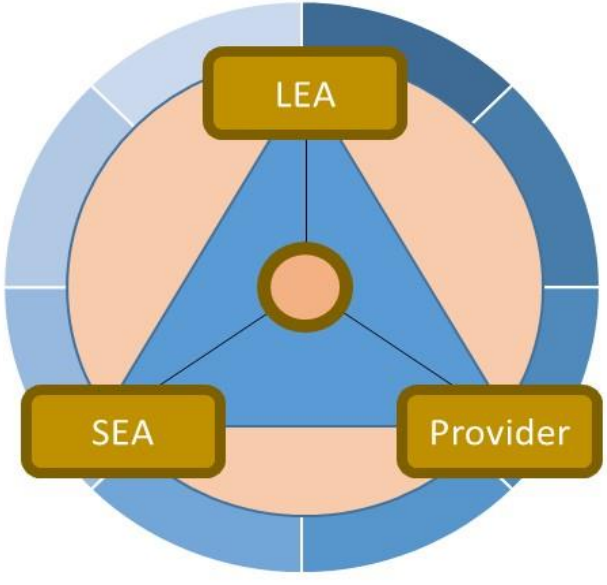
4

Identify **projects that have on-the-ground and real-world impact** on student data privacy enabling schools, districts, state and vendors find resources, adapt them to their unique context and implement needed protections

5

**Leverage partnership** organizations working in the privacy space to have their good work utilized and no reinvention of existing work

# SDPC Scope and Opportunity




Consortia sponsored products/tools services

Consortia membership, ideals, mission

Tangential initiatives and groups, including privacy initiatives, funders, etc

Core stakeholder/consumer/client

Stakeholder relationship driving core directives through pain points

# SDPC Origin

1. **2015**
   Began due to numerous stakeholders addressing data privacy “Pain Points”

2. **Guidance**
   Maintains its own governance, oversight, and resource support

3. **Supported**
   Through membership dues

4. **SIG**
   Organized as a Special Interest Group (SIG) under the Access 4 Learning Community (a 501c3 Member Tech Standards Organization)

5. **Members**
   Include schools, districts, regional and state education agencies, other professional organizations, and marketplace providers

# Privacy – By The Numbers...

*the **Student Data Privacy Consortium (SDPC)***

**28**


**State-wide Alliances**

**Tools for:**
Privacy Contract Building
Application Inventory & Searchable Database
Application Contract Management
Global Education Privacy Standard (GEPS)

**'Tactical' Privacy Information**
– contract to implementation

**32*million***

**Students supported by Tools**

**8750+**

**School Districts represented**

**4**

**Countries Collaborating on Privacy Issues**

**5332**

**Signed Vendor Agreements**

**3618**

**Applications in Database**

**4108**

**Signed "Piggyback" Exhibit E**

## Student Data Privacy Consortium

- ✔ Application Resource Registry – Check the Apps!
- ✔ National Data Privacy Agreement Clause Set
- ✔ Automate and Certify Software Contract Privacy Obligations
- ✔ Privacy Effective Practice Sharing Tools
- ✔ A Growing International Community Setting Clear Expectations Between Vendors and Customers
- ✔ Three dozen vendor members

# Alliances, Alliances, .....

## Alliance Formation Models

### Top Down

The State agency leading the charge to develop and grow the Alliance

### Bottom Up

A LEA takes the lead to develop and grow the Alliance

### Middle Driven

A regional service agency, professional association, or user group takes the lead to develop and grow the Alliance

- CoSN, ISTE, SETDA, affiliates / Regional Service Agencies / Etc.

** All three models have examples of SEAs paying for Alliance Membership as a "value-add" to LEAs.*

# Alliances, Alliances, .....

## Alliance Roles

### Participate

in the SDPC and interact with other Alliance members and SDPC Projects

### Convene

stakeholders in their state to identify pain points and gauge the interest in developing a “common contract framework” and tools use as 16 other states have done to date.

### Develop

contract wording that could be used by all districts with their vendors and provide transparent communications to parents and community members on application usage.

### Advocate

for student data privacy and locally support the ongoing needs of the Alliance including bringing possible projects to the larger SDPC Consortium for review and vetting by other Alliances.

# The Ohio Alliance

Learn21

Leadership · Learning · Logistics

**Mission**

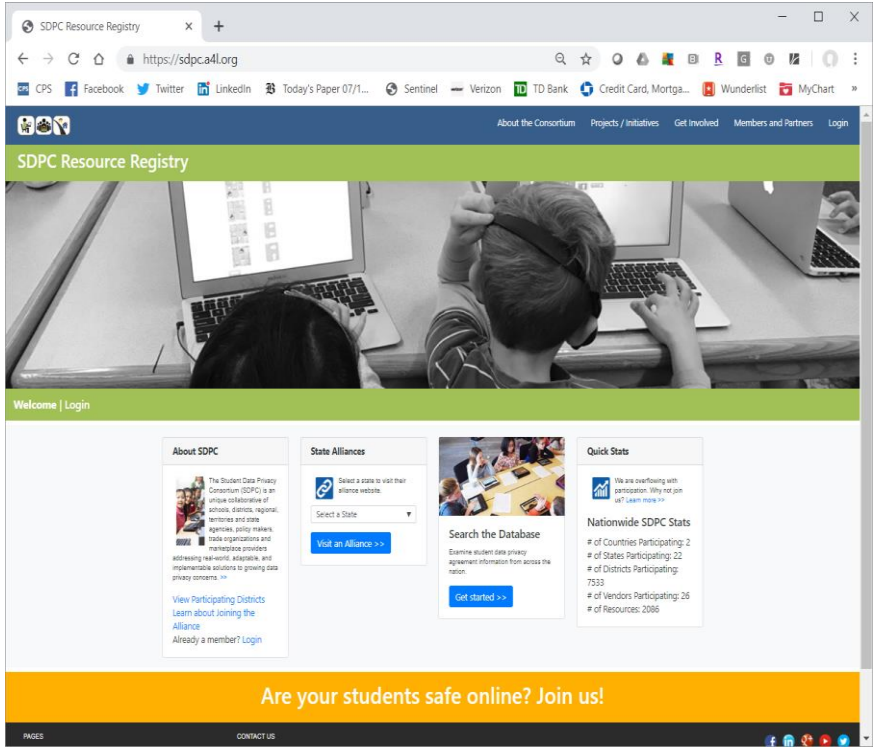
*Learn21 is a nonprofit agency who provides cost-effective instructional technology support, services, and solutions to member educational organizations.*

https://www.learn21.org

# Leveraging Each Other's Work

***The Privacy Contract Framework project*** *is focused on the development a framework for identifying solutions that have on-the-ground and real-world impact on student data privacy enabling schools, districts, state, and vendors find resources, adapt them to their unique context and implement needed protections. Application Profiles will be developed to support "apples to apples" comparisons.*

# SDPC Resource Registry




QUICK DEMO

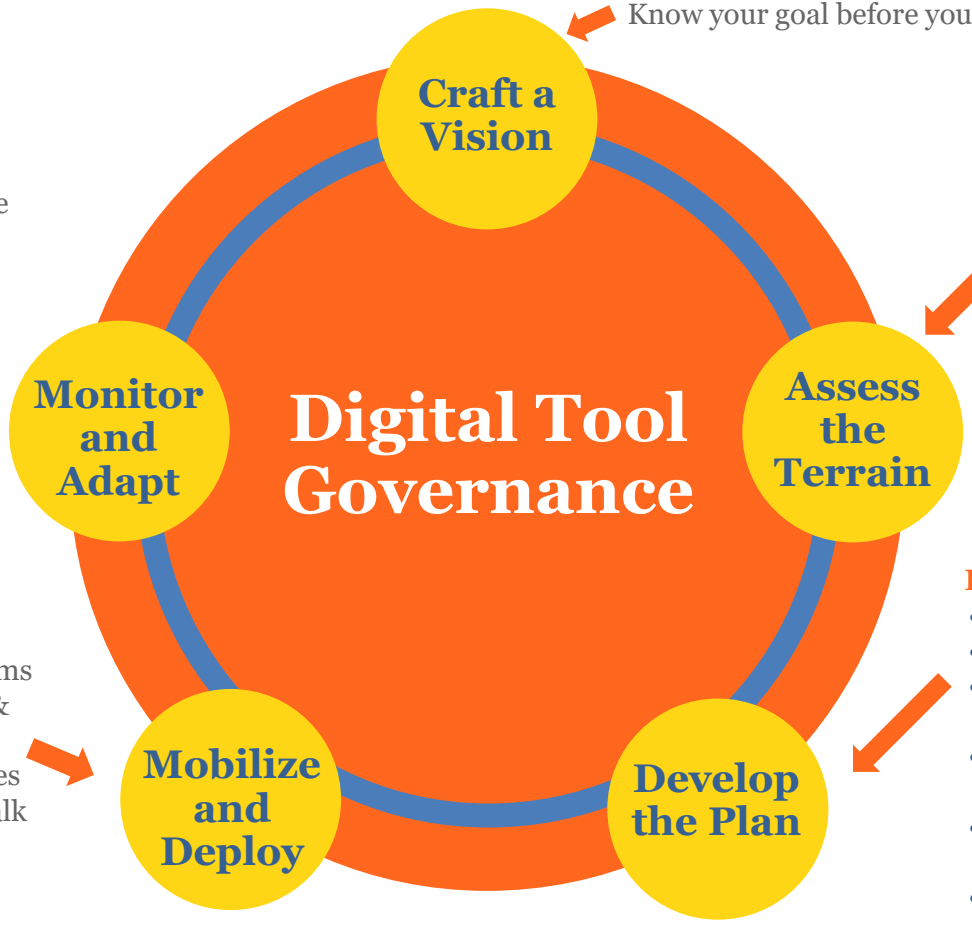
# Professional Learning.....

## Framework for Digital Governance

*"The Digital Tools Governance project focuses on developing a comprehensive framework for aligning a school system's policy landscape, strategic programing, tactical processes, and accountability mechanisms to support the system's vision of how its digital tool ecosystem will advance its overall mission and goals while minimizing its risks of data privacy and security incidents."*

| Task | Craft a Vision | Assess The Terrain | Develop The Plan | Mobilize and Deploy | Monitor/Adapt |
|---|---|---|---|---|---|
| **App Vetting** | Norming session with identified stakeholders to establish a goal for the identified activity with measurable deliverables, scope and progress data checks | Establish a comprehensive (curriculum, admin, finance, purchasing, etc.) inventory of applications in use including grade level, content area and functional area | Process Steps Established:<br>• Approved list check<br>• Assessment Tool<br>• Request Form<br>• Reviewer Descriptions, Process Steps and Timelines | Communicate and provide training and resources for plan implementation | At contract/ agreement end teacher and IT staff review apps/site for continued usage |
| | Where does application vetting fit in your organization?<br><br>Develop a stepped centralized process that is simple to follow but allows for multiple, and often, communications | What are other entities doing regarding this task<br><br>Determine what needs to be vetted; Privacy / alignment accessibility/proper use etc… | Budget implications of the plan<br>- Required resources<br>- Consider other vetting resources<br>- e.g. | Inform staff in process is a tool to cover their legal obligations, best use of school resources and enabling the most learning impact and safety for their students | Direct practitioners to any "approved application" list in use |
| | Identify the accountability measures and owners and incorporate their ideas, thoughts and brainstorming results | What considerations may impact the developing plans (industry guidance, laws, effective practices, etc.) | What strategies work in the setting you have regarding resources, expertise, time, etc.<br>- Include procurement /purchasing office<br>- What to ask – districts need directions | Generate a simple to simple graphics, modules, etc. used for transparency with admin and public | Application usage information gathered |

# Framework for Transformative Digital Governance




**Craft a Vision**
Know your goal before you begin…

**Assess the Terrain**
- Tone at the Top?
- Policies in Place?
- Stakeholders?
- Risk and Liabilities?
- Ground View?
- Blind Spots?

**Develop the Plan**
- New Policies & Procedures
- Implementation Strategy
- Communications Plan & Documents
- Accountability Mechanisms & Metrics
- Peoples' Roles & Responsibilities
- Resources Needed

**Mobilize and Deploy**
- Create Cross-functional Teams
- Communicate Goals, Plans & Expectations
- Provide Training & Resources
- Fully Engage & Walk the Walk
- Celebrate Accomplishments

**Monitor and Adapt**
- Ensure Accountability Mechanisms and Metrics are Working
- Monitor Metrics and Provide Feedback
- Adapt and Rework as Necessary

# Professional Learning.....

## Framework for Digital Governance

### Digital Governance Tool (DGT)

**Welcome to the DGT.**

Below are the projects and your progress. Click on a project below to get started.

Privacy Policies

1 2 3 4 5

App Vetting

1 2 3 4 5

View the Project Report

Privacy Professional Learning

1 2 3 4 5

Shared Resources

My Shared Resources

Shared Digital Governance Plans

**View Your District's Digital Governance Plan**


Data Breach Issues

1 2 3 4 5

View the Project Report

Technical Cyber Security

1 2 3 4 5

Vendor-End User Engagement

1 2 3 4 5

View the Project Report

# Automation

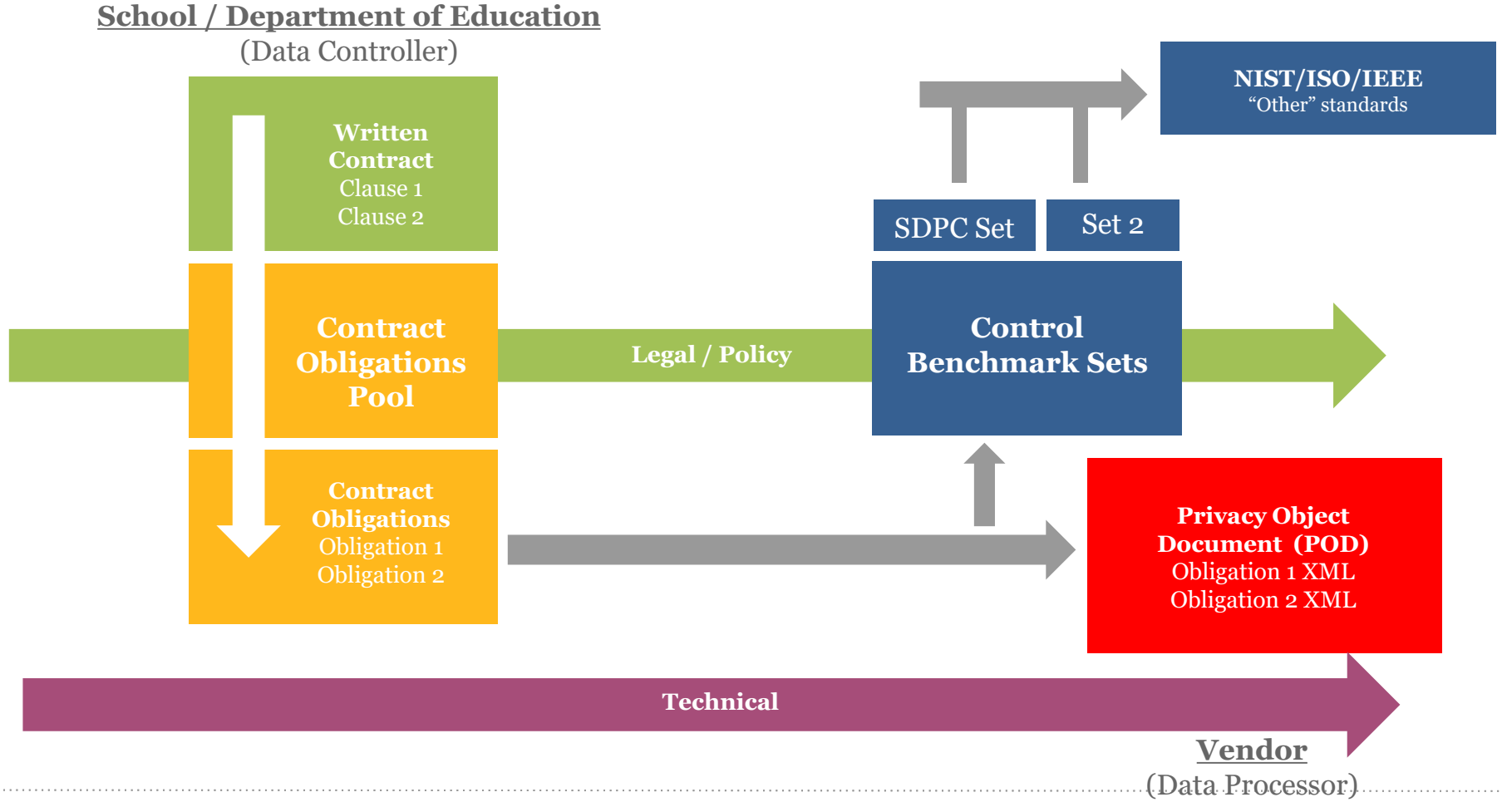
## Global Education Privacy Standard (GEPS)

OK the contract is all signed between marketplace provider and customer, the deliverables are clearly outlined and everything is outlined in the roles and responsibilities of each party.

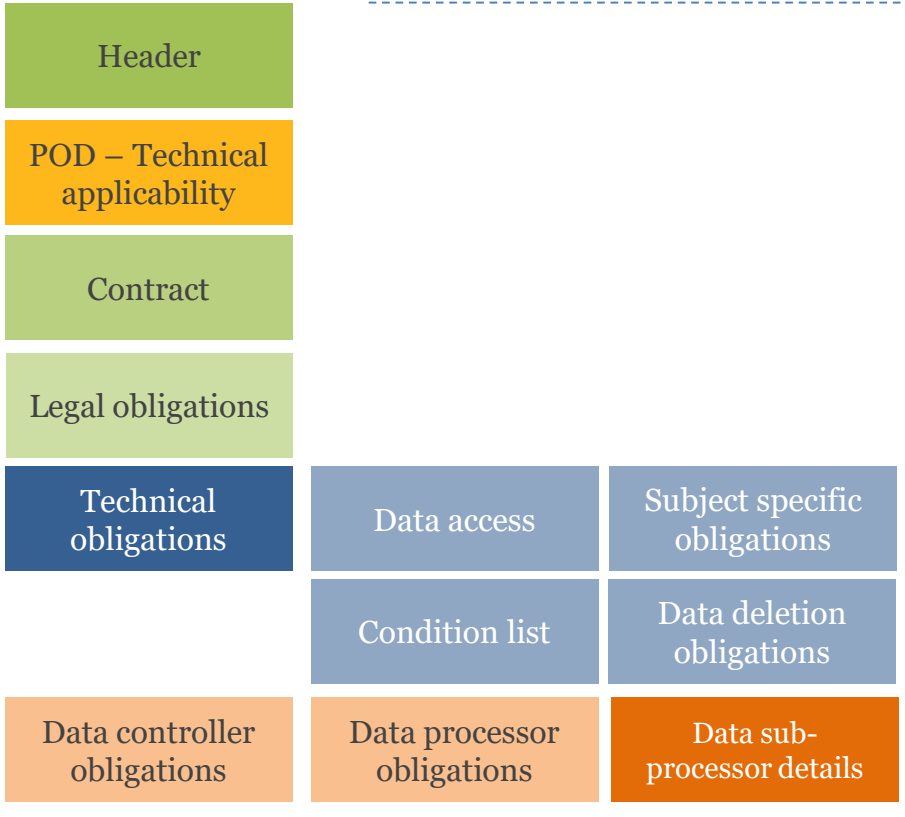
**Ready to go, right? No.** In most cases the next call between the two parties to answer the question **"How do you want us to deliver on X, Y and Z?"**. This is especially true when it comes to student data privacy issues which usually outlines the need for vendors to use "industry established best practices/standards". The issue is that for the education vertical, no practices or standards exist.

The **Global Education Privacy Standard (GEPS),** is a PK-20 global set of data privacy obligations (obligations) that can be aligned to contractual clauses as well as technical control benchmarks. GEPS includes open XML code (PODS) to transfer privacy obligations between controllers and processors to bridge the gap in understand of education data protection expectations. GEPS allows for organizations to choose the SDPC standard suggestions or use other existing standards, (i.e. IEEE, NIST, ISO, etc.) to set their own expectations between vendors and customers on managing student data.

# FYI: The Global Education Privacy Standard (GEPS)



# Unity Enabling Privacy Expectations




UNITY

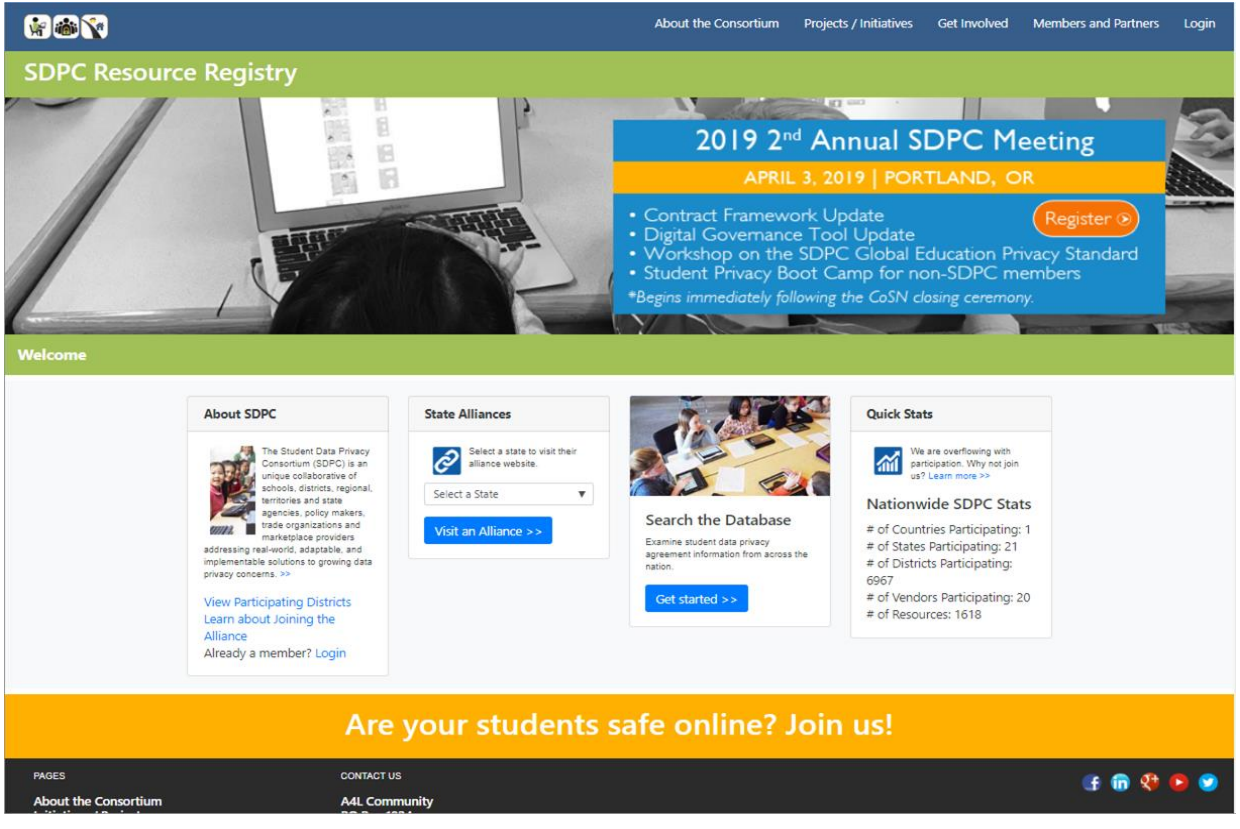
## Automate Contract Clause Expectations Exchange and Vendor Verification

***The "POD"***

(Privacy Obligation Document)

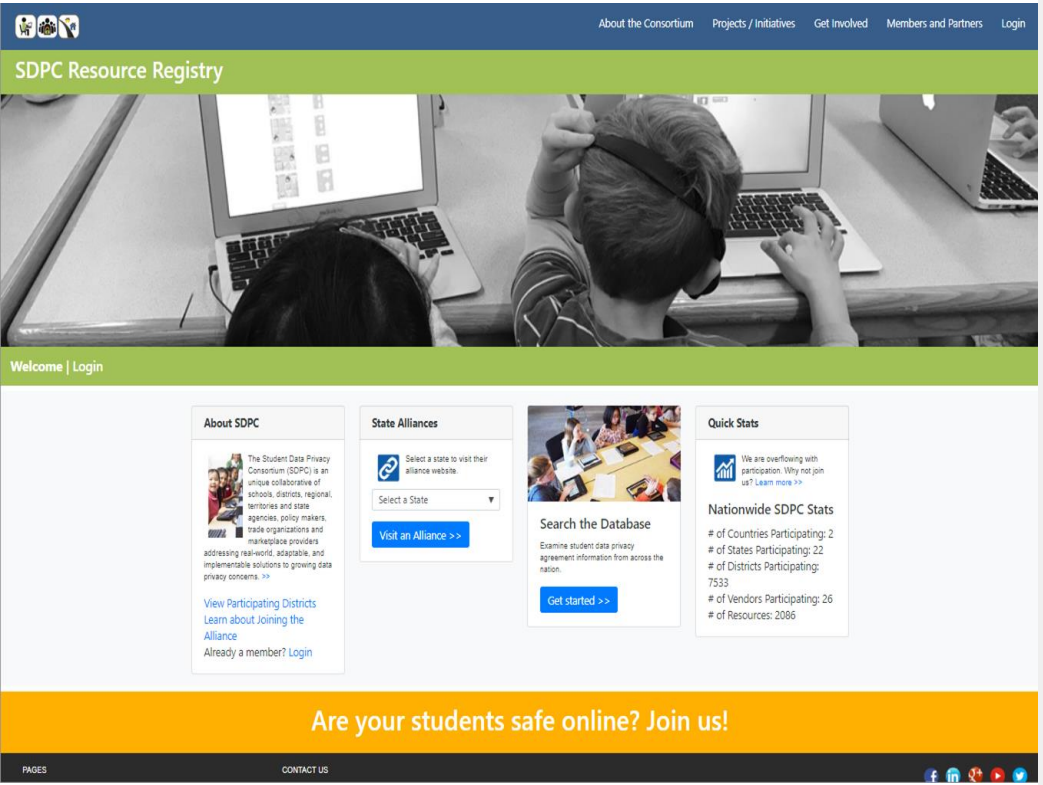
# Global Education Privacy Standard

## POD Creation from Resource Registry




GEPS Manager »

# Automation & Enforcement




## Leverage SDPC

GEPS
PODS
Integration

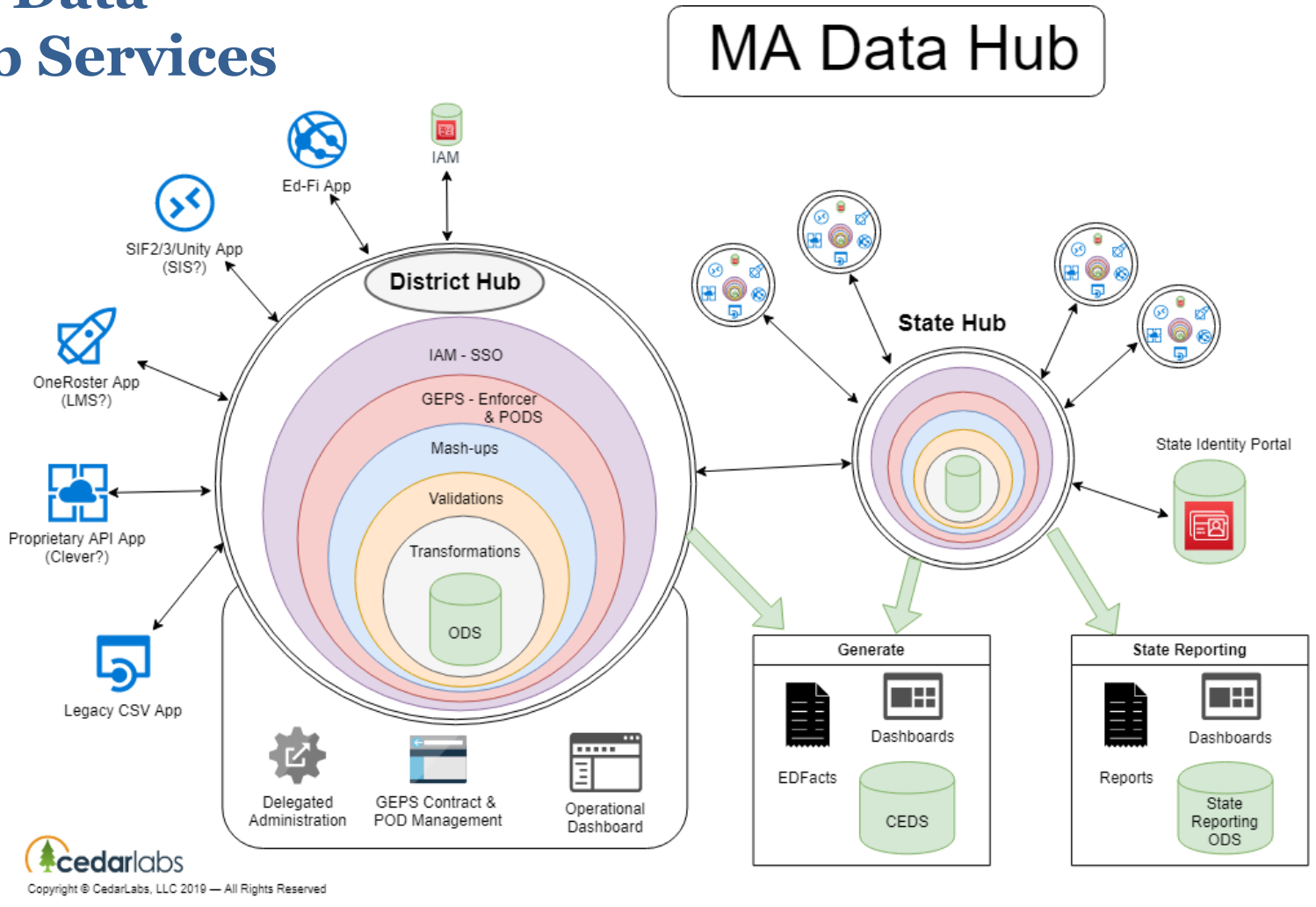
+

**Security Requirements**

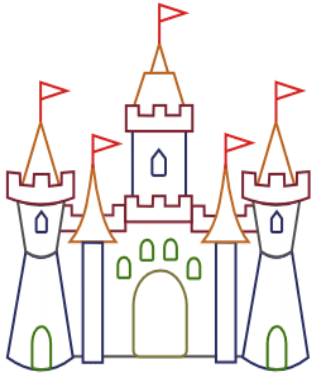
=

Enforcement &
Automation

# MA Data Hub Services



# So What Are The Issues?



## Who Can Access?

✔ Need to consider <u>both</u> inside areas of the castle/school (between rooms and/or between apps) and outside access to the castle/school (moat and drawbridge and/or firewall and security)

## What Can They Access?

✔ Once inside the castle/school where can they go? (i.e. to the butcher but not the church and/or to the SIS but not healthcare applications)

## How Can They Access?

✔ Does everyone enter in their own manner (password and by horse and/or API and remote access) or do we all use the same mechanism?

# Student Privacy – The How: Questions

**Questions:**

- Does the product collect Personally Identifiable Information?
- When you cancel the account or delete the app, will the vendor delete all the student data that has been provided or created?
- Do reviews or articles about the product or vendor raise any red flags that cause you concern?
- Does the vendor/product:
  - promise that it provides appropriate security for the data it collects?
  - commit not to further share student information other than as needed to provide the educational product or service? (Such as third-party cloud storage, or a subcontractor the vendor works with under contract.) **The vendor should clearly promise never to sell data.**
  - create a profile of students, other than for the educational purposes specified?
  - show ads to student users? Ads are allowed, but many states ban ads *targeted* based on student data or *behavioral ads* that are based on tracking a student web use.
  - allow parents to access data it holds about students or enable schools to access data so the school can provide the data to parents in compliance with FERPA?
  - claim that it can change its privacy policy without notice *at any time*?
  - say that if the company is sold? The policy should state that any sale or merger will require the new company to adhere to the same protections.

# Student Privacy – The Where

**ConnectSafely Educator's Guide to Social Media** explains how educators can use social media in the classroom without risking their professional reputation.
**FERPA|SHERPA** specific resources for classroom practitioners inside a much larger site that provides service providers, parents, school officials, and policymakers with easy access to materials and resources to help guide responsible uses of student's data.
**Department of Education PTAC** videos resource for education stakeholders to learn about data privacy, confidentiality, and security practices related to student-level longitudinal data systems and other uses of student data.
**Protecting Student Data** – Common Sense Media Brief and short checklists for teachers
**Utah Board of Education Privacy Videos** - GREAT video resources for all audiences

# Join the Ohio Alliance Work

Learn 21
Leadership · Learning · Logistics

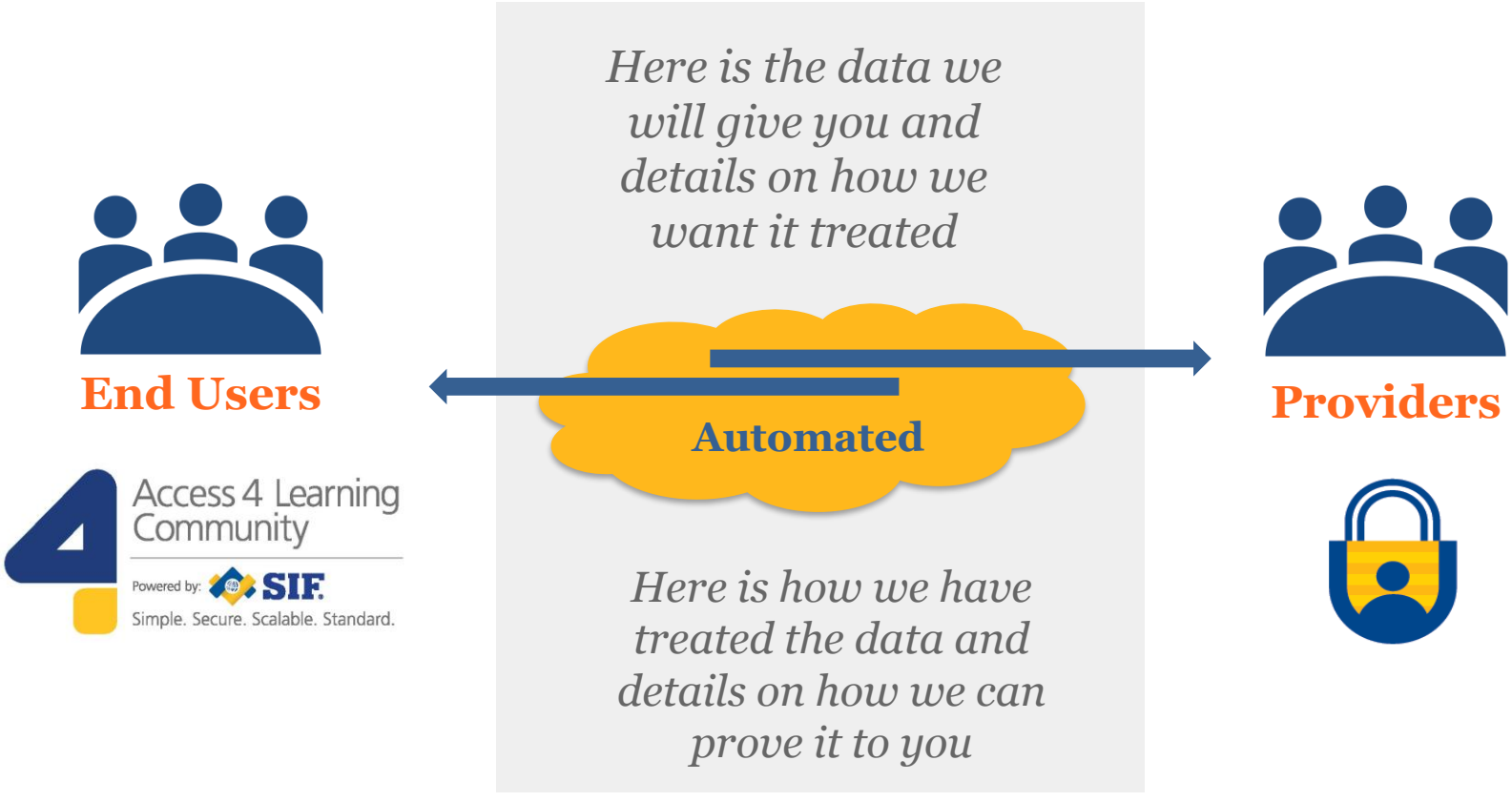
1. Check out the Resource Registry – No Password Needed! www.SDPC.A4L.org

2. Check the Ohio Alliance Site https://sdpc.a4l.org/view_alliance.php?state=OH

3. Request – or push your tech support – to get an account and join free! https://sdpc.a4l.org/add_district_account.php?state=OH

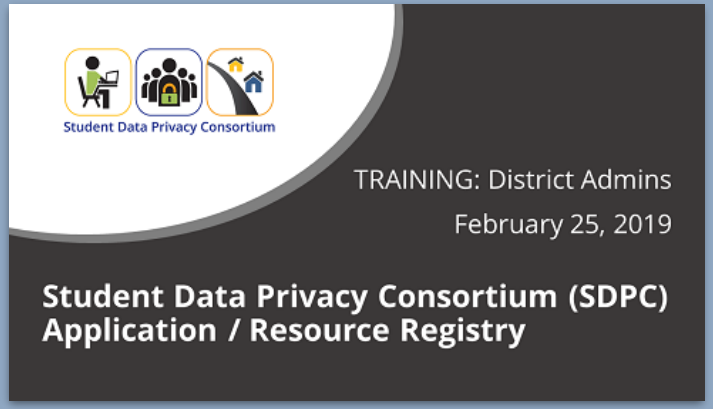
4. Email sent to Learn 21 and will provide you with account info to Access the Digital Governance Tools

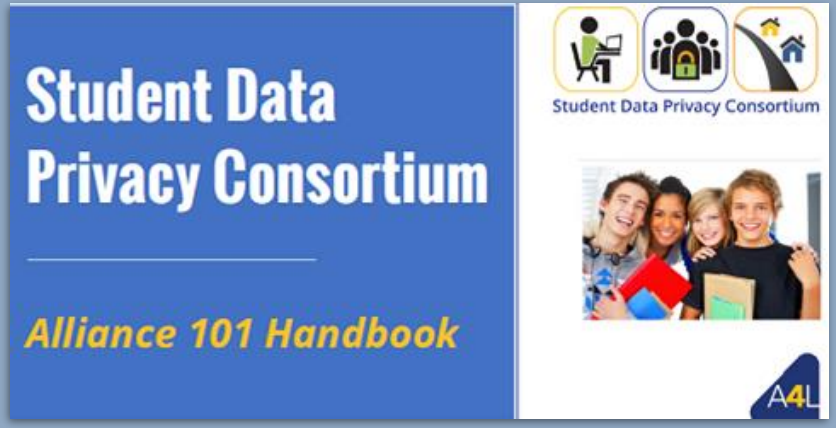
# The Result – Common Expectations!




*Increased interoperability without the inclusion of privacy requirements = increased RISK. Both data sharing and privacy parameters must be identified and communicated.*

# Resources





Frequently Asked Questions

# Find Out More


- **Steve Smith**

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- **Larry Fruth II, PhD**

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https://privacy.a4l.org