



Privacy Considerations for School Boards in the Era of Online Learning

April 21, 2020

While many school boards in Ontario and elsewhere in Canada begin distance learning in attempt to salvage the school year, many school boards wonder how to respect their duties in relation to the privacy of their students, their employees and their families.

As many school boards have turned their attention to software to dispense distance learning via live videoconferencing, it is essential to underline important privacy considerations that will ensure that the distance learning program is compliant with school boards' obligations.

Consent

School boards would be well advised to receive the written consent of the students' parents or guardians (or of the student if they reside in Ontario and are at least sixteen years old) before sharing personal information to service providers.

Not every parent or student will want to participate in distance learning by videoconference, in the same way that some will choose not to consent to be photographed. In such cases, alternative methods should be offered (e.g., participation via audioconference only, emailing assignments and homework, etc.).

Duty to protect personal information in the school board's possession

Throughout Canada, school boards are subject to one or multiple statutes regarding access to information and the protection of privacy. These statutes create a strict framework within which school boards must function in order to collect, use, retain and disclose personal information (e.g., student names, their age, email addresses, etc.).

These statutes also impose the responsibility to take reasonable measures to protect the integrity, confidentiality and security of the personal information under school board care or control.

It is preferable for school boards to take precautions to ensure that any personal information they share with third party service providers (e.g., Microsoft Teams, Google Hangouts, Zoom, etc.) are adequately protected from any intrusion, access, disclosure or unauthorized manipulation. On this matter, we recommend limiting the volume of the personal information shared with service providers



so that only necessary personal information required to ensure distance learning is shared with third party providers.

We also note that it is important to remind staff not to share their students' personal information on social media unless they do so in accordance with school board policies and administrative procedures.

Adequate training

Regardless of which software is chosen to dispense distance learning, school board staff should receive training in order to enable them to manage the virtual classroom in a safe manner and to prevent any situation that could put the health, safety and privacy of students and staff at risk.

We recommend that certain functions be reserved for the classroom moderator during distance learning sessions. Indeed, functions like screen sharing, inviting others to join the call, activating or deactivating user microphone and other measures that are essential to maintain a proper teaching environment should be limited to the teacher. We also encourage school principals, to the extent that it is possible, to continue to circulate in classes (virtually, of course) in the same way they would in their school.

In our view

Distance learning can be a powerful tool, but it is important to maintain safeguards to avoid that these tools put the safety or privacy rights of students and teachers at risk. Other measures, such as the adoption and implementation of policies and administrative procedures, as well as maintaining discipline in virtual classrooms, remain just as essential as in a real school. Indeed, school boards remain liable for the health and safety of their students and staff, whether school is held in a physical setting or by virtual means.

For further information or advice on your rights and obligations as an employer, please contact **Paul Marshall** at 613-940-2754, **Sophie Gagnier** au 613-940-2756, **Lynn Harnden** at 613-940-2731 or **Jennifer Birrell** at 613-940-2740.

Other useful links

- Ontario College of Teachers, *Maintaining Professionalism – Use of Electronic Communications and Social Media*.



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- Information and Privacy Commissioner of Ontario, *A Guide to Privacy and Access to Information in Ontario Schools.*