

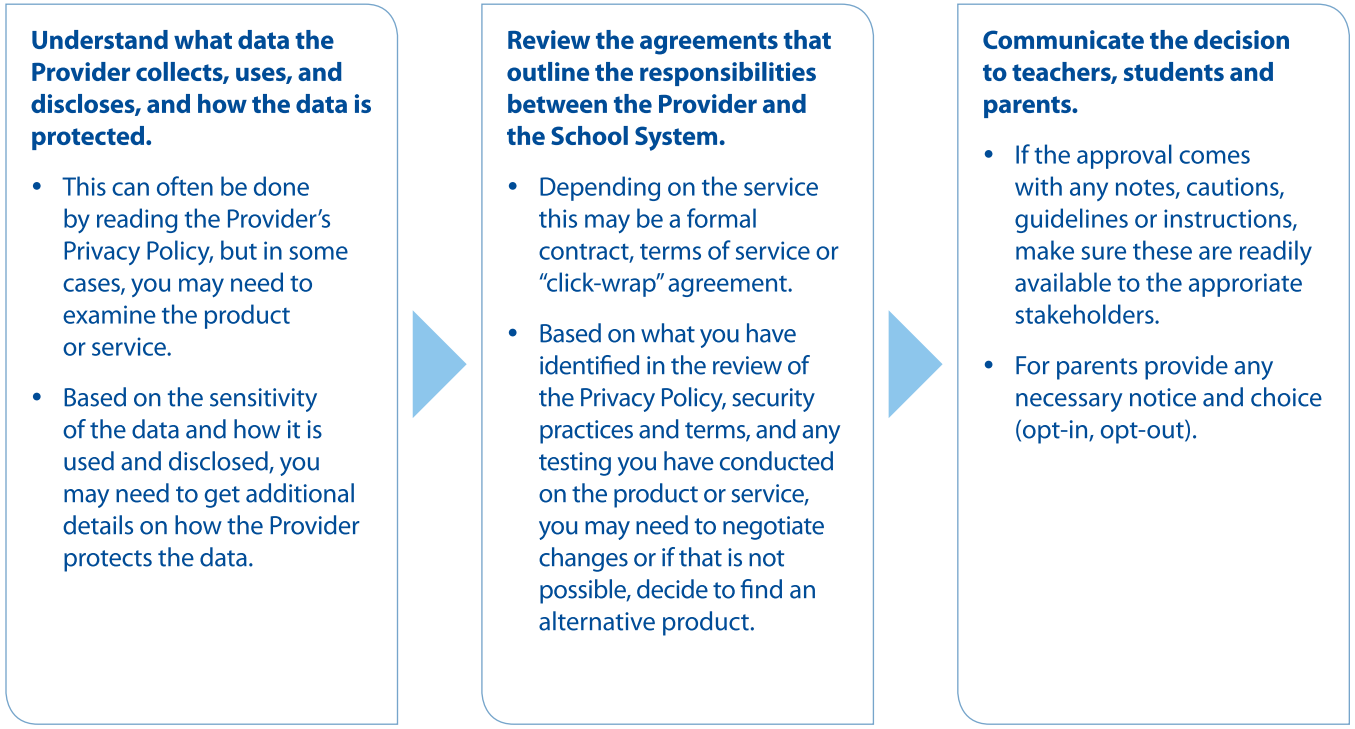


# Vetting Online Tools: Start with Privacy

This flowchart will help you understand some of the questions to ask and decisions you need to make when considering your responsibilities under the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA) and the Children’s Online Privacy Protection Act (COPPA).

It does not cover all privacy laws and does not detail all obligations under FERPA, PPRA and COPPA. It is simply a tool to use in getting started. Please check with your legal counsel to understand how federal, state, and local laws may apply to your school.

## Application Vetting: An Overview

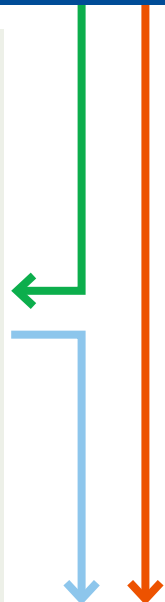


Disclaimer: CoSN is a professional association comprised of school system technology leaders, not lawyers. While we aim to provide valuable tools to help you navigate these issues, you should not rely solely on these tools for legal advice. In all circumstances, please seek appropriate legal or other professional advice regarding specific facts and circumstances pertaining to your school system. This document does not cover all privacy law or policy. You should always consult your legal counsel to understand how federal, state, and local laws and policies may apply to your school system.

■ Is Student Personally Identifiable Information (PII) Being Disclosed to a Provider?

**If YES, consider FERPA, PPRA and any State laws.**

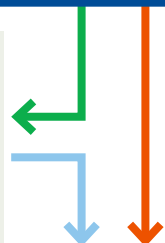
- When dealing with Education Records protected by FERPA, parental consent is required unless an exception applies.
- The most common exception is the School Official exception.
- What is or is not an Education Record is always not always clear-cut.
- Be sure to assess whether or not the information being collected, generated, stored or processed by a Provider qualifies as an Education Record with your School System’s legal counsel before proceeding.
- Be careful before disclosing data to create student accounts using the Directory Information exception, as the student may create data through the use of the product that should be treated as part of the Education Record.
- Will students be asked to disclose Sensitive Information protected by PPRA?
- Ask the Provider and review the product or service to determine if any other PII is collected (e.g. biometric, geo-location, financial, health)



■ Will the Provider Collect the PII Directly from Students?

**If YES, consider PPRA and COPPA.**

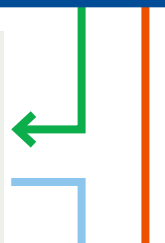
- PPRA applies when collecting data from students on certain sensitive subjects or when data will be used for marketing purposes.
- COPPA applies when data is collected online by commercial providers from children under 13..



■ Is Parental Consent Required to Disclose PII To The Provider?

**If YES, consider PPRA and COPPA.**

- PPRA requires parental notification and an opportunity to opt-out when data is collected from students for marketing or sale.
- COPPA consent, for students under 13 is described below



IF the School System is contracting with the Provider and data is used only for the benefit of the students and School System, the school may choose to provide consent on behalf of the parent, and the Provider may rely on the contract as indication that the School System will manage the consents.

**OR**

IF the Provider collects, uses or discloses data for commercial purposes not related to the provision of the services requested by the school, the school cannot provide consent. Pay attention to any language in terms that prohibit use by children under 13, or delegate responsibility for obtaining consent to the school.

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■ Will the PII be used for Marketing Purposes, and not for the School Purpose?

**Keep in mind that this is a case where the School Official exception would not apply, so consider...**

- Is the use consistent with your school's written policy?
- Have you managed any compliance required by PPRA?
- Have you consulted your state law?
- Has the Provider managed COPPA compliance if the information was collected from students under the age of 13?

■ Does the Provider's Privacy Policy Provide Clear Information About Collection and Handling of PII?

- What PII is collected (from the School System and from students)?
- Is PII collected by, or disclosed to 3rd Parties?
- How is the data used?
- How is the data protected?
- How long is the data retained?
- How does the School System access its data?
- What happens to the data when the contract ends?
- Is notice given before changes are made to the Privacy Policy?

■ Does the Provider's Privacy Policy, Terms (or Contract) Provide Sufficient Assurances to Make an Informed Selection?

**If YES, communicate the decision to teachers, students and parents.**

- If the approval comes with any notes, cautions, guidelines or instructions, make sure these are readily available.
- For parents provide any necessary notice and choice (opt-in, opt-out).

**If NO, you may need get additional information, negotiate changes to the contract directly or through an addendum, or if that is not possible, decide to find an alternative product.**

**COSN Protecting Privacy in Connected Learning**

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