East Penn School District FERPA Notice for Remote Learning

The East Penn School District continues to work diligently to provide continued learning options for students at home under dynamic circumstances.

As always, the safety and security of our students and staff is our top priority. All planned instructional activities will continue to adhere to current East Penn district policies including the provision for instruction policy and the acceptable use policy. We will put into use several third party computer software applications and web-based services, not affiliated with the district. All software applications and web-based services are vetted through our East Penn Technology Department for appropriate use.

The East Penn School District will be using Zoom for video conferencing. The district has made reasonable efforts to ensure that such conferencing is confidential and access is limited to students in the assigned groups. However, some of these services will be provided in a group format and when this occurs, students will be able to see other students in the group. In addition, East Penn School District is unable to control who else may be in the room in which a student is receiving these services remotely, including other family members or others who are living with the students, who may observe the session and what other students are in the group.

Therefore, East Penn School District expects that all families will review and implement the following guidelines and expectations to ensure the confidentiality rights of all students are protected during instructional methodologies which will include group communications, and/or video conferencing.

1. Only the classroom teacher shall make or maintain recordings of the course content, classroom activity, or other group communication for instructional purposes that is conveyed via the video conferencing services.

2. Parents shall make every effort to ensure that no one other than the student scheduled to participate in a video conference service can see or
hear the conference.

3. If parental or other third-party involvement in a video conference is necessary to enable a student to participate, the individual assisting the student shall not re-disclose any personally identifiable information about any student involved in the video conference.

4. If the parents' electronic equipment malfunctions in any way, the planned video conference will continue as scheduled.

5. The parties agree that this Agreement does not apply to the video- or audio-taping of any course material by teachers that have been or may be made available to students.

Thank you for your continued support of our district. Be safe and stay healthy.

**EPSD Guidance on Livestreaming**

**Q:** Is it legal for teachers to livestream directly with students, even if they are in their own home?

A: Yes – this is legal.

**Q:** Isn't it a privacy violation if other students can see inside another students' home?

A: No – not a violation of any law or constitutional provision. If it makes a student or parent uncomfortable, they can be encouraged to set the video conference up so that only the student is visible, sitting in front of a wall.

**Q:** Can Zoom meetings be recorded?

A: Yes. Notification will be going out to all faculty, students, and parents that direct instruction can be recorded as it serves instructional purposes for asynchronous learning. If a student does not want to visually be recorded they can turn off the video component of the Zoom. Recorded lessons will be purged after three weeks.

**Q:** Our teachers are expressing reluctance to do videoconferencing in case they see child abuse or other problematic conduct in the background. Is that a legitimate concern?
A: This is similar to saying that teachers shouldn’t talk to students at all, for fear they will disclose child abuse. While mandatory reporting obligations continue into online education, it is unlikely that most teachers will encounter this type of scenario. If it makes teachers uncomfortable that they may see something in the background, teachers can encourage students to sit in front of a wall so that nothing is in the background.

Q: Is it a FERPA violation for Parents to see the other students in a special education class or group?
A: No – no student records are being disclosed. This is similar to a Parent walking through a school building and seeing students engaged in learning with a special education teacher. This does not violate FERPA.

Q: Does videoconferencing have to be accessible for individuals with disabilities?
A: Yes – if you are providing an online learning environment through either optional learning resources OR through mandatory online learning, you must ensure that all of the resources provided are accessible to students with disabilities. Deaf and blind students, students with seizure disorders, and other related disabilities have the same right as other students to access online learning content. Documents that are provided along with videoconferencing lessons must also be accessible.

Q: Can we use copyrighted materials in a video conference session on a shared screen or does this violate the copyright?
A: In an educational video conference that is only open to students/parents in their homes for educational purposes, it is permissible to use and share screens of copyrighted material without violating the copyrights to those materials.

Q: Is it legal for a teacher to take a screenshot or photo of students engaged in online learning and to post it to social media?
A: This is not a violation of any law or privacy right except in the rare instance where a Parent has opted the student out of sharing FERPA directory information. However, since nearly all school districts use a media release form to let parents decide when students may appear in photos online, those releases govern photos of online learning also. Teachers should ensure that any students who have opted out are not depicted in photos posted publicly.

Q: What if a Parent takes a screenshot or photo of students engaged in a video conference and it includes students who have declined the media release?
A: This is not a violation of any law or privacy right. This is similar to a Parent taking photographs in the classroom during a birthday celebration and posting to social media, or when a Parent takes a video at a school concert and posts to social media.
The District does not have an affirmative obligation to prevent parents from taking photographs of students in the classroom – whether the classroom is virtual or not.

**Q:** What if a student curses or shows inappropriate material to the video conference? Can the teacher mute the student and/or kick him/her out of the conference?

**A:** Student discipline is handled the same way in an online environment as it is in school, even if the activities are optional. If a student’s behavior is inappropriate, it should be brought to the attention of the administrator. Wherever possible, schools should refrain from kicking students out of the online classroom just as they would in a physical classroom. But if the student is overly disrupting the learning process, the student can be removed and referred to administration, just as they would in the physical classroom.

**Q:** Can we require that students wear appropriate attire for videoconferences?

**A:** Yes – you should set expectations both for students’ attire in accordance with the dress code and for students’ conduct for basic etiquette for video conferences.