

May 11, 2020

The Honorable Tom Wolf
Governor of Pennsylvania
225 Main Capitol Building
Harrisburg, PA 17120



Pennsylvania

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Pedro A. Rivera, Secretary
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126

**RE: Ensuring Privacy Protections in Remote Learning for All Students
During COVID-19 School Closures**

Dear Governor Wolf and Secretary Rivera:

On behalf of the American Civil Liberties Union of Pennsylvania (ACLU-PA), I am writing to ask you to ensure that adequate and uniform privacy protections are in place to protect students when they are engaged in remote learning.

Many of the technologies needed for remote learning, including hardware, software, internet services, and educational learning platforms, are capable of collecting massive amounts of private, personal information on students and/or spying on students using surveillance technologies.

Students must not be required to surrender their privacy or consent to being spied upon as a condition of receiving a remote education during the COVID-19 crisis. All students must feel safe to learn remotely, and that simply cannot happen if the tools used for remote learning are allowed to collect information simply so those who provide them can use the data to generate future income or for other non-instructional purposes.

It is important to note that for some students and their families, privacy is not just a preference; it is a necessity. For example, undocumented and first-generation immigrant students may feel the need to forego the use of educational technologies and services if they believe the tech's information gathering or surveillance capabilities will place them and their families at risk.

To that end, in addition to ensuring all students have full and equitable access to remote learning, the state and school districts must ensure every remote learning tool used by students fully protects their privacy and that of their families.

Specifically, you should mandate that all contracts and agreements governing products and services used for remote learning, whether they are provided to the government or directly to students and their families, include the following enforceable requirements:

One: All computer hardware/software/ISP/EdTech companies who provide or sell any of the above-listed remote learning technologies should be prohibited from collecting, using, or retaining any private, personal information about a student or their family members unless doing so is directly necessary for their platform's remote learning functionality. Moreover, these companies should be required to expunge all the personal information they gather during this health crisis when it resolves, unless a student's parent or legal guardian specifically opts-in to it being retained (via a clear, post-crisis request, and not as part of a broad user agreement they sign now under pressure).

Two: All computer hardware/software/ISP/EdTech companies who provide or sell any of the above-listed remote learning technologies should be required to remove or permanently disable any surveillance functions that accompany their products/services, including communications and social media monitoring, search term and browsing history monitoring, keyword alerts, surreptitious access capabilities including video and audio surveillance, facial recognition and other biometric identifying capabilities, and web filtering functions. Students and their families need these technologies to learn at home, not to enable companies and school districts to spy on them.

Three: To ensure the computer hardware/software/ISP/EdTech companies abide by these mandates, each should be required to consent to government auditing of their compliance with the above privacy conditions.

While the aforementioned privacy protections should be applicable to student information whether we are in the midst of a public health crisis or not, at a minimum, they should be made mandatory while the use of remote learning tools is, for all practical purposes, compulsory.

The existence of a public health crisis, no matter how daunting, does not suspend students' legal and constitutional rights. You must act now to ensure that the privacy rights of our students and their families are protected.

The ACLU-PA would be happy to assist the Pennsylvania Department of Education and other state offices in crafting responsible privacy policy and guidance for schools. Harold Jordan (hjordan@aclupa.org), on our staff, would be happy to assist Pennsylvania officials in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "R Shuford". The signature is fluid and cursive, with the first letter "R" being particularly large and stylized.

Reggie Shuford
Executive Director