


# Hot Topics in Student Data Privacy

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## FERPA and Data Privacy

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Privacy Technical Assistance Center

- PTAC.ed.gov
- 2011 Amendments to FERPA Regulations
- Provides Guidance on Data Issues



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## FERPA and Data Privacy

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Publications

- Checklist for School District Privacy Program
- Model Terms of Service
  - Shrink Wrap Agreements
  - Issues to be Aware of
  - Restriction on Collection and Use of Data



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## FERPA and Data Privacy



### Directory Information

- Limited Directory Information
- *State ex rel. School Choice Ohio, Inc. v. Cincinnati School District*
- Springfield adopted limited directory information
- The form provided that student information could be subject to disclose only "for purposes approved by the Superintendent or his designee"

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## FERPA and Data Privacy



### Directory Information, cont.

- It identified two categories of approved purposes: (1) school-directed events or activities, such as yearbook publication or theater presentations, and (2) "educational, health, service, or other non-profit programs which may provide a benefit to the students of the District" that are directed in part or in full by third-party "community leaders, community organizations, and school-related organizations" approved by the superintendent as "partnering" organizations.

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## FERPA and Data Privacy



### Directory Information, cont.

- Court held School Choice Ohio fits within the approved purposes
- Allowing the superintendent to make discretionary limitations *after* consent has been given does not limit the scope of parental consent.

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## FERPA and Data Privacy



FERPA and Drones

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## Major Areas of Focus



1. Regulation
2. Liabilities
3. Opportunities



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## History



1. Balloons
2. Kites
3. "Kettering Bug"



Copyright: Air & Space Magazine  
 Available at: <http://www.airspacemag.com/photos/brief-history-of-manned-aircraft/17672843/1a-1a>

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## History



1. FAA Authority
2. "Air-Rights"



Available on: <http://www.brickerlaw.com/research/reports/2014/11/01/navigable-airspace>

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## Definitions



### Alphabet Soup (with Numbers!)

- |       |       |
|-------|-------|
| • FAA | • UAS |
| • COA | • UAV |
| • NAS | • VO  |
| • PIC | • 333 |
| • UA  | • 107 |



Via: <http://report4all.com/wp-content/uploads/2013/10/10alphabet-soup.jpg>

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## Major Areas of Focus



### Regulation

- Hobbyists
- Registration
- Licensure

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## Regulation

Hobbyist

- Register
- Label
- ≥13 y/o
- Inspect
- Safety Guidelines

Available at: www.faa.gov

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## Regulation

Small UAS - Commercial

- Register
- Label
- ≥16 y/o
- Pilot TSA tested
- Inspect

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## Regulation

Small UAS - Commercial

- Line of Sight
- Daytime
- Not over people
- 100 mph
- 400 ft.

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## Regulation



### Certificate of Waiver (COA)

- Exempts most small UAS requirements.
- Pilot certification.
- Registration.

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## Regulation



### Waivers and Authorizations

- 81 Authorizations
- 36 Waivers

#### BUT

- Rejected 854 Authorizations
- 71 Waiver requests



Source: [http://www.faa.gov/uas/section333\\_exemption\\_process.cfm](http://www.faa.gov/uas/section333_exemption_process.cfm)

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## Regulation



### Large UAVs

- Over 55 lbs.
- Pilot certification.
- Registration
- Section 333 exemption.

*"The Section 333 Exemption process provides operators who wish to pursue safe and legal entry into the NAS a competitive advantage in the UAS marketplace, thus discouraging illegal operations and improving safety."*

-www.faa.gov

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## Major Areas of Focus



**Liabilities**

- Injury
- Privacy
- Other?

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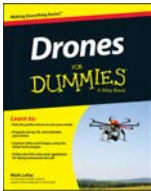
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## Liabilities



**Injury**

- Persons
- Property
- Transfer of liability



Available at: <http://www.dummies.com/store/products/Drones-for-dummies-productCategory-110884776.html>

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## Liabilities



**Privacy**

- Expectation
- Navigable airspace
- Government intrusion
- Student privacy



Photo: <http://www.shutterstock.com/blog/100151276/How-Security-of-Privacy-Is-Complicated-for-Real-Estate>

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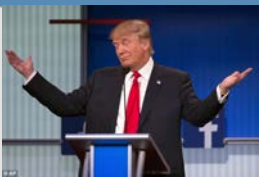


# Major Areas of Focus



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## Liabilities



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# Major Areas of Focus



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## Opportunities

- Military
- Innovation
- Private Sector
- Public Sector
- Education

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# Opportunities

Military/Innovation

- Safety
- Humanitarian
- Innovation



via <http://www.flightglobal.com/content/dam/flightglobal/aviation/2014/04/20140420predator.jpg>

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## Opportunities



### Private Sector

- Delivery of goods
- Real Estate
- Insurance
- Oil & Gas
- Renewables
- Safety/Security
- Media/Advertising

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## Opportunities



### Public Sector

- Safety/Security
- Government Services
- Education



<http://www.fox4.com/content/uploads/2016/11/11-11-16-fox4-photos.jpg>



<http://www.fox4.com/content/uploads/2016/11/11-11-16-fox4-photos.jpg>



<http://www.fox4.com/content/uploads/2016/11/11-11-16-fox4-photos.jpg>

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## Opportunities



### Education

- General Use
- Research
- Instruction
- Clubs



Via <http://www.fox4.com/content/uploads/2016/11/11-11-16-fox4-photos.jpg>

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## Opportunities



### Education

- General Use:
  - Safety
  - Building Maintenance
  - Marketing

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## Opportunities



### Education

- Research:
  - Alliance for System Safety of UAS Through Research Excellence (ASSURE)



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## Opportunities



### Education

- Instruction:
  - Students
  - Instructors



<http://www.wrl.com/Articles/Drone-Use-Playing-In-School-040211015>

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## Opportunities

### Education

- Instructors:
  - Small UAS Requirements.
  - No Compensation.
  - Must be a certified pilot.
  - No student "proxy".
  - Community events allowed.



**Federal Aviation  
Administration**

#### Memorandum

Date: May 4, 2016  
 To: Earl Lawrence, Director, Unmanned Aircraft Systems Integration Office, AFS-1  
 John Duncan, Director, Flight Standards Service, AFS-1  
 From: Reginald C. Govea, Chief Counsel, AGC-120  
 Prepared by: Dean E. Giffels, Attorney, AGC-120  
 Subject: Educational Use of Unmanned Aircraft Systems (E-UAS)

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## Opportunities

### Education

- Students:
  - Clubs.
  - Community Events.
- Faculty advisors:
  - No compensation.
  - No piloting.\*



**Federal Aviation  
Administration**

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## Other Considerations

### Regulations

- State regulations
- Local regulations

### Future

- 2.5 Million Drones by 2017
- >7 Million by 2020
- Apps/Autonomy/???



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## Fact Pattern #1



### Classroom Instruction

An art instructor at Bricker High School decides to teach a class on drone photography. Students may sign up for the class as an elective, but the instructor gets paid for his work. As part of the preparation for the class, the instructor buys his own drone and practices at home. Then, during the class, the instructor uses the drone to take multiple pictures, including of students, that are then used and manipulated by the students when back in class.

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## Fact Pattern #2



### Student Club

Students start a drone club at Bricker High School. They hold their meetings on school grounds, after the school day, but enlist a teacher to help them with the club. The teacher does not get paid for her assistance and only occasionally helps the students navigate their drones.

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## Fact Pattern #3



### School Business Use

The facilities director at Bricker High School decides to bring in her drone from home to inspect the roof of the school on a regular basis. She flies the drone where she can see it and makes sure to never fly it over students or when there are other aircraft in the area.

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## Fact Pattern #4



### Non-sanctioned use on school grounds

The Principal at Bricker High School asks a student to fly their 4 lb. drone around the field to get video of a football game that can eventually be used by the school for promotional purposes. Nothing happens during the filming, but the pilot does fly over the crowd and players and takes photos and video of everyone from parents, to students, to instructors.

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