

March 11, 2024

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex E)
Washington, DC 20580

RE: COPPA Rule Review, Project No. P195404

This letter is in response to the January 11, 2024 Notice of Proposed Rulemaking (NPRM) from the Federal Trade Commission (FTC) to amend the Children's Online Privacy Protection Rule (COPPA). We write today on behalf of the undersigned members of the Federal Education Privacy Coalition (FEPC), a coalition of nationwide education membership and privacy-focused organizations interested in advancing principled student privacy practices, to thank the FTC for explicitly codifying schools' authority to consent to the use of educational data under the "school authorization exception."

As organizations committed to leveraging privacy-protective technologies and data practices to promote better outcomes for students, we strongly support updates and revisions to child privacy protections. At the same time, we also recognize that protections for children must reflect the realities of technology and its use in schools across the nation. We applaud the FTC's proposed codification of the "school authorization exception" and believe that this is an appropriate solution to bolstering online privacy protections for children while maintaining schools' ability to effectively incorporate educational technologies (edtech) into the classroom.

School districts have consistently relied on the [FTC's COPPA FAQs](#) and the [FTC's Statement of Basis and Purpose to the 1999 COPPA Rule](#) for the authority to consent to data collection and use on behalf of parents in educational contexts when the technology services are solely for the use and benefit of the school and for no other commercial purpose. We strongly support the FTC's explicit codification of this long-standing policy, which has become fundamental to the basic administrative and educational functions of school districts. There has been a push by some stakeholders to change current practices to prohibit school consent and require parental opt-in or opt-out of edtech use and subsequent data collection, which would create a massive administrative and educational burden for schools. It can be a very difficult process for schools to obtain parental consent, often resulting in low response rates. If parental consent were required to use edtech in the classroom, teachers may choose to forgo using edtech with their students altogether. The burden of evaluating potential advantages and risks of collecting and using student data in the education context should not fall on parents; rather, schools should retain the responsibility of thoroughly vetting the edtech used in their classrooms. For this reason, codifying the "school authorization exception" is crucial to both preserving the ability of schools to consent to edtech use and to ensuring children continue to experience the benefits and opportunities of technology-enhanced educational services at school.

Additionally, in response to question 16,¹ we appreciate the FTC's careful consideration of how to appropriately limit the definition of "school-authorized education purpose." However, we caution that overly stringent tailoring of this definition may hinder schools' ability to provide opportunities and resources for students. Nearly all schools rely on technologies that play a crucial role in supporting students and school administration despite not being "directly related" to teaching. For example, learning management systems and technology used for school counseling would fall under this category. These technologies are critical to school administration and have positive impacts on students' overall experience, but are not directly related to teaching. Therefore, we ask the Commission to include these types of administrative services in the new definition of "school-authorized education purpose." This would allow schools to continue providing essential educational services and support to students while still limiting the scope of activities that require parental consent for non-essential, extracurricular, or optional activities involving technology.

Thank you for your dedication to strengthening privacy protections for children online while ensuring that schools can continue to provide students with beneficial, technology-enhanced educational services. If you have any questions, please feel free to reach out to us at avance@aasa.org.

Sincerely,

AASA, The School Superintendents Association

AFT

Association of Educational Service Agencies

Association of School Business Officials International (ASBO)

National Association of Pupil Transportation

National Center for Learning Disabilities

National Rural Education Association

National School Boards Association

Public Interest Privacy Center

¹ Question 16 states: *"The Commission proposes to include a parental consent exception to permit schools, State educational agencies, and local educational agencies to authorize the collection, use, and disclosure of personal information from students younger than 13 where the data is used for a school-authorized education purpose and no other commercial purpose. What types of services should be covered under a "school-authorized education purpose"? For example, should this include services used to conduct activities not directly related to teaching, such as services used to ensure the safety of students or schools?"*