

Below is a list of Q&A's regarding the use of videoconferencing with students. These questions were posed to and answered by the Capital Area Intermediate Unit Tech Pool Attorney.

Q: Is it legal for teachers to videoconference 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: Should videoconferences be recorded?

A: We recommended that videoconferences not be recorded. Recordings raise potential FERPA access questions and potential labor concerns.

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: Do school districts have to provide internet access and devices for students to access videoconferencing?

A: It depends. If the District is providing *optional online* learning opportunities and resources to ensure continuity of education, you do not necessarily need to provide devices and internet connections. However, not doing so increases the disparity between the haves and the have-nots because those who need continuity of education the most will not have access to the District's online learning resources. On the other hand, if you are moving to online learning entirely, as a mandatory way to continue education for all students in the District, you must ensure that every student has access to a device and internet to provide equal access. Note that ensuring that

each family has a *device* is not sufficient if you're expecting multiple students from the same household to be educated online at the same time. Each student needs to have a device with an internet connection (can be a shared internet connection) where instruction is mandatory during certain hours.

Q: If we provide an internet connection to some students who don't have one (such as a wireless hotspot), do we have to reimburse families who don't get one for part of the cost of their internet?

A: No – this is not required.

Q: If we provide an internet connection to students, must we filter that internet connection?

A: No, not unless the internet connection is provided through E-rate funds. CIPA only requires that E-rate funded connections be filtered. You certainly *may choose* to filter the connection, but it is not required unless funded by E-rate. If you provide an unfiltered internet connection to a student, it is recommended that you advise parents that they are responsible for supervising the use of that unfiltered connection in the home and that the District's AUP still applies requiring the appropriate use of *all* District technology.

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 and 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 concern 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 and for students' conduct for video conferences.

Q: Zoom's terms of use state that users must be of legal age to consent to the use of the service. Does this mean that we can't use Zoom with minors?

A: Not necessarily. Zoom has drafted their terms to avoid having to secure explicit parent consent as required by the COPPA law. But so long as students are using Zoom along with their parents/guardians' assistance, we don't recommend that school districts avoid Zoom for this reason alone. Zoom does not collect any personal information from students who are merely invited to a video conference and students do not have to create an account in order to use the service. The District is not breaking any law or regulation by using Zoom with students. If strict compliance with the terms of use is a concern, this can be remedied by providing the following language along with the instructions for joining the video conference: "Students and parents/guardians should work together to set up access to the videoconference."

Q: We have heard that Zoom video conferences are not private, and that random people can join a conference. Is that true?

A: Anyone with the proper meeting credentials for a Zoom conference can join that conference, but that does not mean that all meetings are public. Anyone with the proper credentials can also access your e-mail account, but that doesn't make your e-mail public. If you want to ensure you have a private conference, create a unique meeting

ID for each meeting – rather than using your personal meeting ID. If teachers create a unique meeting ID for a class, and don't share that meeting ID with anyone outside of the class, it's extremely unlikely that a random person could join the conference. For an extra layer of protection, you can also require a password to access a Zoom meeting. This is an option you can choose to select when you schedule a meeting. Teachers should be provided with instruction on how to set up a unique meeting ID and for how to require a password for this purpose. Never share a Zoom meeting ID on social media if you don't want random people coming to your meeting!

Q: What if someone joins a conference and they are not supposed to be in a conference, or someone who is supposed to be there is being disruptive. Can I remove a participant?

A: Yes – the meeting host can remove participants through the Zoom participant controls if they are not supposed to be in the conference. If someone is being disrupted, they can be muted, their video can be stopped, or they can be removed depending on the severity of the disruption.

Q: We have heard horror stories about video conferences where the host controls are hijacked and taken over by someone other the person who is supposed to be in charge. Can that be prevented?

A: Yes – teachers should never assign the “host” duties in the meeting to another person, nor should they give up control over screen sharing. When a meeting is started, the host should click the arrow next to “Share Screen” and then choose “Advanced Sharing Options”. Under “Who can share?” choose “Only Host.”

Q: Zoom has a chat feature. Should we be concerned about that?

A: It depends on the audience. If you have concerns that the Chat feature is distracting or otherwise problematic, the host can turn off private chat in the meeting setting. This means that any chat would be visible to the entire group, but would not allow private chatting between participants.