

STUDENT DATA



These scenarios have an explicit focus on the type of student data described in the scenario, and often discuss unique pieces of student data.

Accidentally Disclosing Student's Grade

Mr. Cane is teaching high school band in a virtual environment. He uses the SmartMusic platform to share music scores with students, have them record parts of their practice, and to provide two-way feedback. SmartMusic is approved for use by his school. The platform is very helpful with connecting with students, therefore, he also uses SmartMusic when working with youth through his own private trumpet classes, completely separate from his school classes. While he is returning comments and scores a school student has received for class, he accidentally sends the comments and a copy of the score to a private student he coaches, Jennifer, with the same name. The parents of the private trumpet student, Jennifer, are very upset about the comments.

Questions for discussion:

- How should Mr. Cane respond?
- What could Mr. Cane have done to prevent this problem?

USER'S GUIDE: Accidentally Disclosing Student's Grade

Here's how we see it:

- The student's whose score was shared had their privacy violated by sharing their education record. This is problematic from a FERPA perspective and will most likely be seen as a violation since there was most likely no parental consent. Mr. Cane should consult administration to discuss this accidental disclosure of student education records.
- Mr. Cane should use separate accounts and ideally different computers for school and private students.
- School licensed software should only be used for school projects.
- Mr. Cane must also now ensure that these comments are deleted from Jennifer's device and are not shared with anyone else.

For further discussion:

- What are the privacy concerns for students?
- Should teachers keep personal and private accounts for software platforms?

Unintended consequences:

- The private student who received the negative comments was harmed because the feedback was unwarranted as it was not for her score.
- The student and their family whose scores and comments were shared can feel a breach of trust and confidentiality. Jennifer may know the student and therefore can lead to social harm, such as stigmatization and bullying.

Administering Social-Emotional Wellbeing Student Surveys

Ms. Wang is concerned about how her students are coping with the rapid transition to online learning and in light of other major current events. She decides to learn about her students' social-emotional wellbeing by sending out individual student surveys to them.

Questions for discussion:

- What steps should Ms. Wang take in administering this survey?

USER'S GUIDE: Administering Social-Emotional Wellbeing Student Surveys

Here's how we see it:

- It is understandable for Ms. Wang to want to check in on her students' social-emotional wellbeing and try to glean information through surveys. It is very important that before Ms. Wang administers or even develops the survey, she seeks out her administrators' support and guidance. A survey that asks questions about the social-emotional wellbeing of students will reveal sensitive student information.
- Under federal law, the Protection of Pupil Rights Amendment (PPRA), schools and teachers are required to obtain consent from parents for any surveys that reveal certain sensitive information. There will be other PPRA obligations Ms. Wang must comply with, including the type of consent to be obtained (opt-in or opt-out) depending on if student participation is required and providing parents an opportunity to review the tool. In addition, many districts do their own surveys of social and emotional issues and are often picky about what is included. Teachers should check with their administrators on this issue also.

Unintended consequences:

- The surveys could ask questions and illicit responses that parents/caretakers are uncomfortable with or do not want asked of their children.

Annual Testing

Annual testing is coming up at Founder High School. Several students are struggling. Mr. Houdi is a teacher and he recognizes that his school and district face consequences if the aggregate scores are not satisfactory. Mr. Houdi has a discussion with other teachers whom he trusts about the poor prior performance of several of his students. He mentions the students by name to his colleagues, but he does not divulge his possible plan. He wants to do the best for himself, his school, and his district, so he decides to ask Ethel, Grady, Bradley, Millie, Bogie, and Mindy to stay home on testing day. They do, and his class scores are great. He knows these scores would have been much worse if those students had taken the test.

Questions for discussion:

- Was it appropriate for Mr. Houdi to ask these students to stay home? Why or why not?
- Was it appropriate for Mr. Houdi to discuss with other teachers the students' poor performance and identify those students? Why or why not?

USER'S GUIDE: Annual Testing

Here's how we see it:

- Mr. Houdi's actions were highly inappropriate. While he had the best interests of his school and district in mind, it is illegal and unethical to intentionally exclude students who may not score well. All students should have the right to exhibit their performance through testing.

For further discussion:

- High-stakes testing is often stressful to students who don't expect to perform well. Might Mr. Houdi have been doing those students a favor?
- Suppose those and other students took the test and their poor performance helped put the school and district into sanctions. Does that make you feel any differently about Mr. Houdi's actions?

Unintended consequences:

- Mr. Houdi has co-opted the ethics of the testing process and by talking to other teachers, placed them at risk by bringing them into the discussion as they may be considered co-conspirators to his plan and be penalized for not bringing this to the awareness of administration.
- Mr. Houdi could have negatively impacted the self-esteem of the students he requested to miss the testing and has demonstrated low expectations in their capabilities.

Choosing College Major

Over the next few weeks, Ms. Cole's 11th-grade students have individual meetings with the guidance counselor, Mr. Freeman, to discuss what major they would like to pursue in higher education. One of her students, Quinton, comes back from his meeting visibly upset. Ms. Cole finds a time to talk with Quinton and learns that Mr. Freeman recommended this student pursue business instead of biology, dashing his hopes of becoming a biology professor. Ms. Cole decides to speak with the guidance counselor to learn more.

Mr. Freeman tells Ms. Cole that the school has recently acquired a new analytics-based advising tool to determine what career path is best for each student. This tool creates real-time, formative, and predictive assessments based on demonstrated interest, demographics, performance, and historical individual and institutional data points. The counselor lets Ms. Cole know that, based on the advising tool's assessment, Quinton is shown to be at risk of dropping out of higher ed if he were to pursue his major of choice, while he has a greater chance of success with the major Mr. Freeman has recommended.

Questions for discussion:

- How should Ms. Cole respond to this explanation? Should she support the recommendation made by Mr. Freeman and this new tool?
- What conversation should Ms. Cole have with Quinton? Should she have a conversation with his family as well?

USER'S GUIDE: Choosing College Major

Here's how we see it:

- Advising tools like those used by Mr. Freeman can provide valuable insight into a student's skills, strengths, and interests. However, it is important to remember that data is prone to bias, and any insight generated from these tools should be the start of a conversation, not the end. An important decision such as choosing a college major should not be decided by a black box of information with limited transparency on what data is being used to inform that decision and how this data is collected. Quinton, and his family, should have agency to challenge the tool's recommendation and make sure the decision is also informed by assessments from Quinton's teachers and with Quinton's interests and desires. Ms. Cole should ask how Mr. Freeman recommended the specific major to Quinton and what additional data, beyond the tool, he may have incorporated into the process.
- Quinton and his family should be a part of the conversation to craft his future options, not merely recipients of a recommendation. Quinton's teachers, family, and Quinton himself should work together to create a plan to help Quinton work towards his goals.

For further discussion:

- What are potential advantages and harms that come from using predictive analytics data?
- If you were in Ms. Cole's or Mr. Freeman's position, what other data would you incorporate into your decision making? How would you position/frame that decision to Quinton? His family?

Unintended consequences:

- Predictive assessment tools can lead to unfair and biased outcomes. There is severe potential harm to Quinton's future, and other students' futures, if the recommendation of this tool is taken without any other factors or considerations.

Concerns about Teachers Making Judgements on Student

Ms. Izzy teaches honors science classes at Murray High School. She has one particular student, Percy, who is outstanding. He has already aced honors biology and honor chemistry at his young age. As the end of the school year approaches, Ms. Izzy is concerned how his next year's teachers will see him. This is because she believes Percy looks older than he is and often comes to school with clothes that no longer fit him and have not been washed for some time. Ms. Izzy suspects that Percy is homeless. She has also noticed other colleagues say he often looks angry, though she knows that's just how his face looks when he's not actively smiling. Ms. Izzy somehow wants to convey to Percy's new teachers, Mr. Quincy, Mr. Cosmos, and Ms. Phoenix, not to make false assumptions about Percy and to convey his motivation and ability.

Questions for discussion:

- What should Ms. Izzy do?
- What can Ms. Izzy say to Mr. Quincy, Mr. Cosmos, and Ms. Phoenix?
- Can she tell the new teachers what she suspects about Percy's home circumstances?

USER'S GUIDE: Concerns about Teachers Making Judgements on Student

Here's how we see it:

- Ms. Izzy should not share her suspicions with regards to Percy's home situation. These are purely suspicions, and disclosing such information could cause those teachers to unintentionally stigmatize Percy or assume that he cannot achieve as much as other students based on their own biases.
- Even if Ms. Izzy did know that Percy was experiencing homelessness, she still should not share this information with the teachers, as this could run into legal trouble under FERPA and the McKinney-Vento Act. A student's homeless status is a protected educational record. There is an exception under FERPA that allows sharing educational records with school officials who have a legitimate educational interest. Therefore it must be considered if the teacher has a legitimate educational interest in this. It is best practice to only share homeless status on a need-to-know basis and informing parents/caretakers and youth prior to sharing. Note that it is rare for a student's homeless status to be disclosed to a teacher.
- Ms. Izzy must also consider whether the information being shared and how it is being shared are in Percy's best interest. There are several approaches she could take that would achieve this goal without providing too much sensitive information. Ms. Izzy could just have an informal conversation with the teachers to say that they shouldn't assume anything based on Percy's appearance because he is an excellent student.
- It is also important to consider how Percy (and his family) might feel about the information being disclosed. No one likes being talked about behind their back, especially when the information may not be true. Percy may feel discouraged, like he needs to better hide his home situation, or like he can't talk safely with his teachers. Instead of talking about Percy in this situation, Ms. Izzy could instead introduce Percy to Mr. Quincy, Mr. Cosmos, and Ms. Phoenix in-person or via email, letting them know that Percy is one of her best students.
- Regardless of what Ms. Izzy decides to do, she should consider avoiding putting sensitive information, such as speculations about a student's home situation, in writing (such as an email) unless she is reporting something formally, for example to school administrators. Emails could be considered student records (which students and parents have a right to access) or be disclosed as part of open records laws and could be subject to a data breach.

For further discussion:

- What responsibilities do Ms. Izzy and others at the school have toward Percy's situation?

Unintended consequences:

- Teacher judgements and subconscious bias could negatively affect how they see and treat Percy.
- Ms. Izzy should take care not to disclose information in a way that violates the trust between Percy and her, and respects Percy's privacy.
- Disclosing a student's homelessness status (with no legitimate educational interest) is a legal violation of FERPA and the Mc-Kinney Vento Act.

Confirmation Bias

Mr. Chester teaches an advanced math class. Mr. Chester prefers to give open response questions in his exams so that students have to explain their work. He often does not create a rubric for how he will score these questions until only after starting to review students' responses and then scores with an informal, flexible rubric. As Mr. Chester predicts, his Asian and male students have the strongest responses in the open-ended questions, while his Black and female students have the least proficient responses.

Questions for discussion:

- What is the impact of using a flexible, informal rubric to grade student responses?
- How valid or invalid is Mr. Chester's scoring?

USER'S GUIDE: Confirmation Bias

Here's how we see it:

- There is value in assessing students through open-ended questions, though there is risk in the subjectivity of how they are scored. In this case, there is a significant risk since Mr. Chester does not create a rubric until after viewing student work. And this rubric is “flexible”, meaning there is significant discretion employed when scoring students.
- Significant confirmation bias is at play in this practice, meaning Mr. Chester is interpreting results in a way that confirms one's own biases, biases that have been socialized through racist stereotypes.
- Mr. Chester should create a well-defined rubric before even administering the exam to students to ensure there is consistency with how students are graded.

For further discussion:

- What do you think of Mr. Chester's predictions?
- Do you think the predictions are fair and accurate?
- Is this a case of confirmation bias? How would you describe this phenomenon?

Unintended consequences:

- The inconsistency of how students are scored will result in unfair grades, with either students undeservingly receiving a higher grade or poorer grade. Such practice perpetuates inequities that exist for the most marginalized students.

Contagious?

Mrs. Boss is a teacher at Grey Elementary School. She sees symptoms in one of her students, Opie, that she thinks may be the measles. Mrs. Boss knows that some parents in the school have chosen not to have their children vaccinated, so she thinks it may be possible that Opie has not been vaccinated. She wants to find out, but she doesn't have access to Opie's vaccination records. Further, Mrs. Boss knows she doesn't have any medical training and she might be wrong.

Questions for discussion:

- › What should Mrs. Boss do?
- › What data can she access about Opie's health?

USER'S GUIDE: Contagious?

Here's how we see it:

- Mrs. Boss should consult with the school nurse about this issue. Nurses generally have access to student vaccination records and, based on an initial diagnosis, could then recommend a course of action to the family. Depending on state law and district policy, Mrs. Boss may or may not be able to access these records. In this case, Mrs. Boss doesn't really need access to the records; all she needs to do is to flag for the school nurse and/or school administrators if she thinks a student may have measles symptoms.
- The nurse or school administrators may not be legally able to tell Mrs. Boss whether the student has been vaccinated and may not be able to tell her the final resolution with the family but can then keep her updated as much as legally possible.
- Mrs. Boss could also consult with the family. It is within her rights to call the student's caregiver if she has any concerns about the student. However, she does not have enough medical information and the conversation may not go as well as it might with the nurse.

For further discussion:

- What do you think would happen if Mrs. Boss went straight to the student's parent or guardian with his concern?

Unintended consequences:

- If left unattended, the entire school population would be at risk for contracting measles.
- Mrs. Boss should not disclose her suspicion to anyone but the necessary personnel, as this can lead to gossiping, further false information, and harm the student and the family.

Deployment

Ralphie is a student in Ms. Turbo's advanced math class. Recently, Ms. Turbo notices that Ralphie is especially reserved and withdrawn. His performance is not what it usually is. Ralphie's behavior is of concern to Ms. Turbo. In the quest to understand what is going on, Ms. Turbo talks to some of Ralphie's friends and classmates, Izzy, Jilli, Winnie, and Cali, to see if he can gain any insights into what is up with Ralphie. One student, Winnie, says that she thinks that Ralphie's father is deployed in military service. Winnie reports that Ralphie is anxious about the fact that his father may be in harm's way. Finally, Ms. Turbo talks directly to Ralphie to hear from him what the situation is.

Questions for discussion:

- How would you have handled this situation if you were Ms. Turbo?
- Was it okay for Ms. Turbo to have talked to the other students? Why or why not?

USER'S GUIDE: Deployment

Here's how we see it:

- Ms. Turbo should determine if the district has a military status indicator that will provide information about whether Ralphie comes from a military family.
- If the district does not have such an indicator, and many do not, then one source of information could be the guidance office or the administration office, rather than speaking to students.
- Speaking to students could violate privacy law if the teacher divulges personal information about Ralphie to the students and could be unethical or break trust between Ralphie and Ms. Turbo.

For further discussion:

- Does the district have a data element that is a military status indicator?
- Does the teacher have access to this indicator?
- Should Ms. Turbo have contacted Ralphie's parents as a potentially critical conversation?
- Is making known military status, as an indicator, a violation of Ralphie's privacy?

Unintended consequences:

- The conversations could be considered prying or inappropriate, especially from the perspective of Ralphie's parents/caretakers.
- Ralphie could feel as though trust was breached by his teacher speaking with his friends first rather than speaking with him directly. Ralphie may have shared different or no information at all with this teacher.
- There is the potential that Ms. Turbo received misinformation from the other students.

Diagnostic

Mrs. Ginny is an experienced teacher at Cody Elementary School. She has been working with one student, Randy, and is concerned about his reading skills. Based on her experience and her observations of Randy as he is reading, Mrs. Ginny strongly suspects that Randy has dyslexia. Mrs. Ginny lacks definitive evidence of a diagnosis and wants to get a formal diagnosis. However, she doesn't know with whom she can share Randy's information and she is concerned that, in asking for help, that she may improperly disclose information about Randy.

Questions for discussion:

- What should Mrs. Ginny do?
- What data or evidence does Mrs. Ginny need?
- Is her experience sufficient evidence? Why or why not?

USER'S GUIDE: Diagnostic

Here's how we see it:

- › Mrs. Ginny's observations combined with her experience are enough to warrant further testing. However, Mrs. Ginny is not formally trained in diagnosing dyslexia and needs to contact the professional on her school's staff that is responsible for these diagnoses.
- › The school nurse or counselor should be consulted first. They will be aware of procedures that Mrs. Ginny should follow such that she can recommend an evaluation but not violate Randy's privacy. There is a legitimate educational interest here, but Mrs. Ginny must confirm the staff member she should speak with regarding this situation.
- › There are procedures for gathering evidence from testing practices that need to be undertaken to make the determination and diagnosis.

For further discussion:

- › Is professional intuition a valid source or evidence?
- › Are Mrs. Ginny's observations valid evidence?
- › With whom should Mrs. Ginny share her observations and suspicions? With Randy's parents/ caretakers? Other educators?
- › Should Mrs. Ginny discuss with Randy what she has observed to provide him some student agency?

Unintended consequences:

- › Discussing this matter informally and without following proper protocol can significantly harm Mrs. Ginny's relationship with Randy and his family, especially if her suspicions turn out to be incorrect, potentially breaking trust, hurting Randy's confidence, and leaving the family and Randy feeling inappropriately misjudged.

Erratic Behavior

Ms. Randolph teaches at Calypso Middle School. She has been teaching for many years. There is one student, Cujo, who has been diligent and motivated, but lately, Cujo seems off. He has been having difficulty concentrating, has an increase in absences, and is turning in incomplete assignments. Another teacher mentions that she thinks Cujo has some sort of medical issue that requires medication, so Ms. Randolph decides to ask the school nurse.

Questions for discussion:

- › What if the teacher's statements about Cujo are inaccurate?
- › Is the nurse the correct person for Ms. Randolph to seek further information from?
- › What information can Ms. Randolph expect from the nurse?

USER'S GUIDE: Erratic Behavior

Here's how we see it:

- Generally, medical information kept by schools about a student is subject to the same rules as any other student personal information, so the nurse could (but does not have to) disclose to the teacher what medical conditions the student has, so long as the teacher has a legitimate educational interest in the information.
- However, some states may have stricter laws that limit who can have access to medical information, and nurses, in particular, may be subject to licensing requirements or laws that restrict what they can share (as opposed to a school administrator who has access to student medical information).
- Ethically, information should be disclosed when it needs to be and it is in the best interest of the student. Ms. Randolph likely doesn't need to know exactly what is happening with Cujo to help them, but it is valuable for her to raise an alert with school administrators, perhaps the nurse, and perhaps Cujo's parents/caretakers so they are aware of the change in Cujo's behavior and academic performance.

For further discussion:

- Would it have been a good idea for Ms. Randolph to discuss this issue with Cujo and his family?

Unintended consequences:

- Erratic behavior may be a sign of a deeper issue the student is going through. Left unaddressed can lead to various harms, academically, socially, and more.
- If the teacher's judgments were inaccurate—that Cujo's behavior is a result of a medical issue—this could lead to false interpretations, bias, further inaccurate conversations about Cujo, and a huge breach of trust with Cujo's family if they hear about it.



Free Lunch Eligibility

Mr. Dusty is a teacher working cafeteria duty and notices that Rex has not had any lunch all week long. Rex just sits at the table while his classmates eat. Sometimes some of the students may share their food with Rex. He does not look happy. Based on a conversation with the food services director, Mr. Caleb, Mr. Dusty finds out that Rex's family qualifies for free and reduced lunch, yet they have not applied.

Questions for discussion:

- Does Mr. Dusty have legal access to free and reduced lunch data rosters?
- Should Mr. Caleb have discussed Rex's lunch status with Mr. Dusty?

USER'S GUIDE: Free Lunch Eligibility

Here's how we see it:

- › Under the National School Lunch Act (NSLA), only people who need to know a student's free and reduced lunch status to administer or enforce the program can receive that information without parental consent. The NSLA is much stricter than FERPA in terms of who information can be shared with and has severe penalties that apply when information is shared inappropriately. Mr. Dusty did not need to know this information as part of his cafeteria duty, and therefore he should not have access to that information, and Mr. Caleb should not have discussed Rex's status with Mr. Dusty.
- › However, there is nothing stopping Mr. Dusty from reporting his observations about Rex to Mr. Caleb or other school administrators who legitimately have access to free and reduced price lunch status information, and then they could have discovered that Rex's family is eligible to apply.

For further discussion:

- › What are the ethical and privacy implications beyond the requirements of the NSLA of Mr. Caleb sharing Rex's status?
- › How could having this information be more widely available to school staff harm student privacy?

Unintended consequences:

- › Sharing student's free and reduced lunch status to unauthorized persons violates NSLA and can result in severe penalties.

High-Stakes Testing

Students at Sedona Elementary School are taking the state achievement test. The district has put in a performance pay structure that evaluates teacher performance in part through student performance on these tests. As he is watching his students take the test, Mr. Atticus fields an occasional question from students about the test. He considers his answers and he wonders how much help he should give them. The rules are that teachers are not allowed to answer questions. But Mr. Atticus knows his students, he knows that sometimes even just a simple answer could help, and he is afraid without such support, student scores won't be representative of their actual learning. Further, student performance reflects on his teaching performance and is tied to his bonus pay.

Questions for discussion:

- A student, Chai, says he does not understand a sentence. Chai is reading two words in the wrong order and Mr. Atticus knows Chai is prone to this. Can Mr. Atticus point that out?
- A student, Ruth, asks a question about a fraction problem and Mr. Atticus can see that Ruth has made a mistake with common denominators. Mr. Atticus knows it is a common mistake for Ruth, one that he and Ruth have joked about sometimes. Can he hint that she's done this before?
- The proctor, Ms. Otis, has not picked up the student tests yet. Mr. Atticus knows he has time to change some wrong answers to right answers and nobody will ever know. Is it ok for Mr. Atticus to change a few answers so he can get that bonus?



USER'S GUIDE: High-Stakes Testing

Here's how we see it:

- We are sympathetic to Mr. Atticus' desire to help his students do their best. We also agree that he knows his students very well. Regardless of what one thinks about high stakes tests, the fact is that they are conducted under very concrete rules and penalties. Violation of these rules puts Mr. Atticus and his students in jeopardy. He needs to stick to the procedure and not answer any of the questions.
- There are strict test administration boundaries that Mr. Atticus would be violating if he answers these questions, tantamount to cheating.
- We acknowledge that there are issues around the ability of state summative tests to measure student knowledge and link that knowledge to demonstrated performance in classrooms.

For further discussion:

- A student, Katy, says she does not know the meaning of a word. This is a word they had on a quiz just a week earlier and Mr. Atticus remembers Katy getting it right on the quiz. Can he remind her?
- A student, Shlomo, does not understand a paragraph in a reading passage, and if it is not solved, the student will miss the entire block of questions. Mr. Atticus knows that Shlomo could do well on the rest of the test if Mr. Atticus were to explain that paragraph. Can he explain this to Shlomo?
- What if Mr. Atticus firmly thinks that the state test should be a learning opportunity for the students, rather than one only for accountability, and he wants his students to gain deeper insights into the questions being asked and how to solve them? Do the testing procedures outlined above conflict with Mr. Atticus' responsibility as a teacher?
- Do the testing procedures outlined above conflict with Mr. Atticus' responsibility as a father and husband?
- What if the situation were some other sort of test, rather than state accountability test? Would there be any differences in what kind of help Mr. Atticus might provide to the students?

Unintended consequences:

- Accountability pressures, especially when they are tied to teacher evaluations and compensation, can sometimes elicit inappropriate behavior. Teachers must uphold the integrity of the test. If Mr. Atticus violates rules, penalties could include loss of his job and even punitive repercussions for students, such as a failing test score, suspension, or stigmatization.

Of Age

Charlie's parents have reached out to Mr. Green asking to see his grades in the class. Charlie turned 18 two months ago.

Questions for discussion:

- Can Mr. Green share Charlie's grades with his parents? Why or why not?

USER'S GUIDE: Of Age

Here's how we see it:

- › Under FERPA, all rights to inspect education records pass from the parent to the student when the student turns 18 (or enters higher education). There are certain exceptions under FERPA, the parents *may* still be allowed access to the child's education records. It is recommended for Mr. Green to check with administration for guidance.
- › Mr. Green would have to communicate that consent is now needed from Charlie in order for his parents to access his grades.

For further discussion:

- › What if Charlie was under the age of 18 and concurrently enrolled in the local community college?

Unintended consequences:

- › It is a legal violation to grant access to Charlie's education records to his parents without Charlie's consent.

Posting Student Videos on YouTube

Ms. Kowalski is putting together a virtual mini theater performance with her middle school theater class. She has each student record a short video of them performing their lines of the play and send them to her. Once she has all the videos, she edits them together and posts them on her school district YouTube channel as a public video to make it easier for students and parents to find. She also shares it with parents/caretakers and staff members via email. The next day, she receives an angry email from Jacob's mother saying she was very upset that his likeness was on YouTube. Jacob's mother says she had not consented to have him appear in video format. Ms. Kowalski reviews the school's video and photo release data and realizes that Jacob's mother is correct, she had only agreed to photographic representations.

Questions for discussion:

- What should Ms. Kowalski have done to prevent this problem?
- How can she remedy a solution?
- Would it be different if it was Ms. Kowalski's personal YouTube account rather than the school's account?

USER'S GUIDE: Posting Student Videos on YouTube

Here's how we see it:

- When using student likeness in any public setting teachers must verify what permissions parents have given for each student.
- Ms. Kowalski should immediately take the video down to edit out the video of Jacob. Ms. Kowalski should also seek guidance from administration to amend the breach of trust and harm that was done.
- The harm would have been worse had it been from Ms. Kowalski's personal account.
- The main point of harm is the platform that the video was shared on. Anything posted on YouTube, be it privacy or unlisted, would still be considered public. There would be different implications if the video had been posted to an internal district drive or learning management system, which has much stronger access limitations.

For further discussion:

- Would sharing a student likeness within a physical class for a project have different requirements?
- If Ms. Kowalski had posted the video as Unlisted or Private on her YouTube channel would this change the issues?

Unintended consequences:

- There is potential for student likeness posted on YouTube to be shared infinitely, even if it is a school account, especially if the settings are public. Anyone can watch these public videos, it can be reshared on social media accounts, and people can comment on the video.
- There is potential for legal and personal harm to Jacob as his parents did not authorize the use of his image on video.

Recording Attendance at End of Day

Teachers at Frazier High School are required to report daily attendance data for homeroom and class periods each week. Many of the teachers find that taking attendance is a tedious practice. They know it is necessary. Mrs. Houdi is an administrator and has seen some teachers filling in a day's worth of data at the end of the day or even the next day rather. Some of the Frazier parents/caretakers have challenged the accuracy of the attendance data, insisting that their children have not been absent when the records show they were.

Questions for discussion:

- What are the risks of teachers delaying the collection of attendance data?
- Are the teachers within their rights to do this data collection in a delayed manner?
- What are the consequences for parents and students if attendance is not reported accurately?

USER'S GUIDE: Recording Attendance at End of Day

Here's how we see it:

- Reporting of attendance data is complicated as noted in the National Center for Education Statistics (NCES) Forum Guide about attendance data. Absence and attendance can have varying definitions depending on the reporting.
- It is essential that the recording and reporting of attendance be done with accuracy in a timely manner. Under FERPA, parents have the right to inspect and correct attendance records with the appropriate documentation, as these are defined as education records.
- There are consequences for the students whose attendance is not reported accurately.

For further discussion:

- Can teachers rely on their memories to report these data?
- Why is having accurate data so important here?
- What happens if a student comes late after attendance is taken? Or if a student leaves after attendance is taken?
- How does tardiness factor in there?
- What counts as attendance?

Unintended consequences:

- Students can be negatively impacted by not having their attendance and absences recorded accurately. Their permanent records will be impacted in negative ways.
- There are very real consequences for having such inaccuracies in the data for the student, parent, and school.
- There are also legal consequences for such inaccuracies.

Students Experiencing Homelessness

Ms. Clark has noticed that the pandemic has put unprecedented financial strain on many of her students' families, including loss of income and having to take care of other family members. Ms. Clark is worried about any students in the school who may be experiencing homelessness. She requests a list of all students experiencing homelessness in the school from her administration with the thought of providing resources and gift baskets for the upcoming holiday.

Questions for discussion:

- Can Ms. Clark request a list of student names who are experiencing homelessness? Why or why not?
- What are the risks of creating and distributing such a list?
- What if Ms. Clark was asking for a list of students experiencing homelessness only in her classroom?

USER'S GUIDE: Students Experiencing Homelessness

Here's how we see it:

- Even with the kind intent that Ms. Clark has in making this request, asking for an entire list of students experiencing homelessness in the school is very likely to run into legal trouble, specifically with FERPA and the McKinney-Vento Act. A student's homeless status is a protected educational record. There is an exception under FERPA that allows sharing educational records with school officials who have a legitimate educational interest. Therefore, school officials must decide if Ms. Clark's request is a legitimate educational interest—and it is unlikely that providing a gift basket would qualify. It is best practice to only share homeless status on a need-to-know basis and informing parents/caretakers and youth prior to sharing.
- Ms. Clark should also consider the perspective of families experiencing homelessness and if they would want this personal and sensitive information revealed for this purpose.
- It does not matter whether Ms. Clark is requesting a list of all students experiencing homelessness, or just those students in her classroom as the sharing of this information solely depends on whether there is a legitimate educational interest in the records.

For further discussion:

- Why would a teacher need to know homelessness status of a student?
- How could a teacher's awareness of homelessness status benefit delivery of education for the student?

Unintended consequences:

- There is the potential the student names on this list could be leaked outside of Ms. Clark, to other teachers and even students. This could result in legal violations, huge breaches in trust and confidentiality with students and families, and bullying and stigmatization.
- Knowing that a student is homeless, could lead to implicit bias on the part of the educator, in terms of how the student is seen and treated.

Working on Public Transportation

Ms. Elena is a teacher at Einstein Middle School. She uses public transportation to get to and from school. This requires taking a fairly long train ride from home. She uses the time in the morning to prepare for school and then uses the ride home to grade student assignments, quizzes, and projects. Sometimes the documents are in electronic format and other times they are paper versions. Public transportation typically is crowded, so strangers may be able to see some of the student products.

Questions for discussion:

- Are there any problems with Ms. Elena grading student work on public transportation?

USER'S GUIDE: Working on Public Transportation

Here's how we see it:

- Credit to Ms. Elena for her work ethic to maximize her time and effectiveness. Even so, there are problems with Ms. Elena having students' work out in public as it can be a violation of student privacy law, specifically FERPA. Elena should find a way to shield the student work from public view because of the potential harm, or find other schoolwork that doesn't involve student personal information, such as lesson planning.
- There have been instances of grading in public places, where people have seen the grades and posted announcements on social media about the student and their grade. This kind of inadvertent disclosure is possible given the public nature of social media. Care must be taken.

For further discussion:

- What further steps can Elena take to protect student privacy while working and grading on the train?
- What is the potential harm that could come from this situation?

Unintended consequences:

- In a real case, a professor was grading student work on a plane and someone saw the grades and then proceeded to blast a student's failure all over social media. This is beyond harmful to the student in question.