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TO: School District Superintendents
BOCES Superintendents
School District Data Protection Officers

FROM: Louise DeCandia, Chief Privacy Officer

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Ex Officio Members of the Board

As of July 1, 2025 New York State school districts with a high school will be required to include at least one ex officio student member on their school board.¹ Boards of Cooperative Educational Services (BOCES) are also required to have one or more ex officio student members on their governing board, depending on their number of component school districts.²

Recently, the New York State Education Department's (NYSED) Privacy Office received numerous inquiries as to whether boards may use streaming video services such as YouTube to broadcast board of education meetings when a student member is present. Both FERPA and Education Law § 2-d protect personally identifiable information (PII) in student education records. Education records are those records that are directly related to a student and are maintained by an educational agency or by a party acting for the educational agency.³ Broadcasted board of education meetings are open to the public and video capturing the ex officio student's participation is incidental and not directly related to the student. Thus, a recording that includes a student's participation in a board meeting does not constitute an education record. Further, the use of a streaming video service does not involve the transmission of PII derived from an education record. Accordingly, a board may use a streaming service to broadcast public meetings when a student member is present without violating Education Law § 2-d. The best practice, however, would be to have the parent or eligible student indicate their understanding that board meetings are recorded and made available to the public via a video streaming service.

This document is not meant to serve as legal advice from NYSED. For additional information on Education Law § 2-d and data privacy and security requirements in New York schools, please visit NYSED's [data privacy and security website](#). Questions can be sent to privacy@nysed.gov.

¹ Education Law §§ 1702 (3), 1804 (12), 1901 (2), 2502 (10) and 2553 (11).

² Education Law § 1950(2-c).

³ 20 USC § 1232g (a) (4) (A); 34 CFR 99.3; <https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>.