



## **To FERPA...and Beyond! Digital Safety in the Classrooms of Today**

On today's episode, we're joined by Elizabeth Laird from the Center for Democracy and Technology (CDT) and Amanda Morin from Understood.org. We discussed recent research that CDT conducted, in addition to the major findings. Amanda shared Understood's perspective on student and teacher privacy, for all educators, and both of our guests shared practical tips for developing school and classroom strategies that ensure student and teacher privacy. Our guests shared some of the potential risks that come from not prioritizing FERPA and other student privacy measures and how privacy impacts the relationships and trust with teachers/school admin.

### **Mentioned Resources:**

- 1) CDT's research: [here](#) + [parent's guide to privacy](#)
- 2) Understood + Colorin Colorado: [Privacy concerns about distance learning](#)
- 3) [Distance learning](#) on Understood

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### **Transcript of the podcast episode:**

**Gabrielle Oates:** Well hello everybody! Welcome back to the podcast. This is the Educating All Learners Alliance podcast. I'm Gabrielle Oates, and today I am joined by Elizabeth Laird, who serves as the Center for Democracy and Technology's Director of their Equity in Civic Technology. And also joined by Amanda Morin and who is the Associate Director of Thought Leadership and Expertise at Understood.org. So welcome Elizabeth, welcome Amanda. How are you both?

**Elizabeth Laird:** Hi Gabrielle, I am doing great. Thanks for having me on.

**Amanda Morin:** Thanks for having me Gabrielle. It's great to be here. I wonder if we should identify ourselves; I'm Amanda so you can recognize my voice.

**Gabrielle Oates:** Well how about this, I did want to as we share with the listeners for today, some of the research, recent research from the Center for Democracy and Technology, which we'll call CDT.



**Elizabeth Laird:** Great and thank you for indulging another acronym. I know we none of us need any more of those in our lives, especially in the special education community, so I'm sorry to introduce one more. But thank you, it is much shorter than saying the full name. So I am excited to chat with you today about some research that we've done and, in particular, focus on the implications for students with disabilities and special educators. But to do that I'll step back and just give you a little bit of background on why we did it. So, for those of you who have tuned in you know self selected because perhaps you care about privacy, but probably more importantly, you care about student safety and well being. At CT we think part of that means that you're engaging those who have the most at stake in these conversations who oftentimes have not been a part of them.

So last last year, we did some research of parents, teachers and students, because we found that their voices are really critical and oftentimes work that's happening, when it relates to data and technology and privacy, is being done in spite of them, not with and for them. And so we did some research on what their views are toward privacy and data and technology, and one of the things that we found, which I'm excited to share with you, is we found some bright spots! And so one of those bright spots was when we looked at what teachers knew about privacy, what kind of training, they were receiving, who who they were talking to - were they having these critical conversations with students and with families? We actually found that special educators were doing more of that. And candidly that was not something we necessarily expected to see and I've been working on data technology and privacy for a while and that dimension isn't one that's been talked about.

And I think it matters because I think it speaks to this professional mindset that special educators have of valuing privacy, understanding it's not just an issue of legal compliance ,but it's really about protecting and doing what's right for students, especially the most vulnerable. And I think it's also important because it means that most schools have this capacity, already. You already have privacy leaders and oftentimes when you're looking at changing practices, it can feel overwhelming and daunting but we heard in our focus groups that teachers are already looking to their special educator peers for advice on this. And so, in a time when we don't always have good news to share I'm excited to share that research, and in particular the leadership role that special educators are playing when it comes to student privacy.

**Gabrielle Oates:** Absolutely! There's been some incredible work in the field, and I know similar partners to EALA have recently been sharing that findings about some research from the past year and so, in sharing CDT research it's great to know like you said that some of those resources in schools, such as special education teachers, are already there they don't have to search for more



information or more support. And then Amanda, I would love to hear from you a bit on sort of Understood's perspective around, you know, the combination of special education and general education teachers in that space and what each you know, has to offer with implementing better learning for students.

**Amanda Morin:** I think the first thing I just I love that it that this research uncovered the general education teacher can be a leader here. Because I think it's such a boon to lift up the expertise of teachers and really show that there's expertise beyond teaching in the classroom. That there are things that special education teachers know, that they can become teacher leaders in their classroom. I think, right now, everybody needs to feel that boost and it's even better, to be able to feel that boost in response to something that has been really remarkable in a way that we've never seen it in the world before. To Elizabeth's point about acronyms, I think special education teachers are very aware of FERPA, which is the Family Educational Rights and Privacy Act.

And they are using FERPA daily when they do Individualized Education Programs, another acronym, IEPs. They're looking to make sure that they're protecting student data. They're very aware of confidentiality and how what is said here stays here. And that changes in a virtual kind of environment right, because what is said *here*, is a different here. And I think that here at Understood, one of the things we want to make sure of is that special educators have the ability to talk to general educators, and families, about how do we keep kids safe. And I think privacy is less about hiding things and more about protecting kids and data and making sure that it's going and being used in ways that is really supporting learning.

**Gabrielle Oates:** And so, as we think of the value of prioritizing privacy, what are some of the risks that are posed by not prioritizing FERPA?

**Amanda Morin:** I think that there, especially in a world where we're looking at virtual learning and virtual teletherapy, in particular, when we talk about students who are in special education, there's a risk of sort of exposing their environment or exposing them. Depending on where you as a teacher or service provider are providing teletherapy or where that student is, having that come to them in their house right. So there's a risk of sort of exposing their information in inadvertent ways. You don't always know who's listening. You don't always know who is around.

In general education classrooms there's always the opportunity to sort of take a child aside and have a private conversation. In virtual classrooms that's not always an option, so teachers have to think



twice. And a little bit more thoughtfully, not that they're not thoughtful to start with, but more thoughtfully about 'how am I going to address issues as they come out without disclosing details about accommodations and disabilities that might not be disclosed in other ways.' So I think it's about its safety, and I think there are things that we can do to make sure that we are giving kids, and families, the opportunity to sort of consent. They have choice. I think about privacy in three C's right; it's about consent, context, and choice. And it's making sure that people are consenting to what's happening and what's being exposed around them, but they have choice in when that happens, and where that data goes. And the context around privacy matters. If a student has a parent listening into their teletherapy, it may not be as concerning to their safety, as if they have multiple teachers in the teachers environment listening to their telatherapy at the same time.

**Gabrielle Oates:** So you're thinking, even for teachers who are in a physical room with other teachers and they're on a telatherapy appointment, even that situation is something to consider. That's a good point.

**Amanda Morin:** I do. And I think that there are some ways to do that. I think Elizabeth has some thoughts on that too, so i'm going to kick it to Elizabeth. I know she has some some great conversation around that.

**Elizabeth Laird:** And I just wanted to reinforce what Amanda was saying and Gabrielle, your question. Sometimes I think I'm a bad privacy advocate because as much as I, as I care about the law and and actually to add to our alphabet soup, we have, FERPA, we also have IDEA which has its own set of privacy requirements and at the State level, we have almost 130 states student privacy laws. And so, as much as I care about not violating the law, I think what Amanda's talking about, and what's your question is getting at is, this is really about what's doing right for students. And something can be perfectly legal, it can even be secure, and it could still be a bad idea. And so some of what Amanda's talking about is how do we center students and these conversations, especially those who are different, or who have different needs that need to be protected.

And you know I think about the harms around, you know, bullying or further stigmatizing students and you know they're coming to school to help them, you know, help them be the best that they can be and that's how I think about privacy. And, of course, as part of that, let's not break the law. But really I think the law is the floor, not the ceiling and where we want to be in our North star is how do we center equity and all students in these conversations, especially those who have historically been marginalized.



**Gabrielle Oates:** That's a great way to visualize it - with the law as the floor and not the ceiling. I like that perspective as something to go off of and frame your actions, but not necessarily to stop your actions from exceeding and progressing, you could say.

**Amanda Morin:** I think that's a special education thought process as well, to be honest. There are many, many special education teachers who are well aware that when it comes to implementing special education services there's compliance. There are laws around compliance. But what they do is go above and beyond, and they're making sure that students learn, so in that regard, compliance, the law is also the floor, but the ceiling is making sure they're doing everything they can to make sure students are learning, they're thriving, they're really getting the support and services they need. So I think it is a really good analogy that carries across all facets of teaching actually.

**Elizabeth Laird:** Yeah, I totally agree.

**Gabrielle Oates:** Absolutely. So then just to go even further, what are some of the ways that privacy can impact the relationships, and therefore trust, with teachers, admin?

**Elizabeth Laird:** I can speak to the parent perspective and to call back on our survey, I've talked about what we saw in terms of teachers, but what we saw in terms of parents is that, of the stakeholder groups who we talked to they are the most concerned about privacy. Six in ten parents have some level of concern around privacy. And not only that, as they learn more about it, they get more concerned. But the good news is that they generally do trust their school with that information, however, if something goes wrong or they get misinformation from another source, they are, they are susceptible to believing those things and having their concerns were perhaps there shouldn't be. And so, one of the things I think with privacy, which is not not legally required, but is a best practice is, you know when it comes to collecting data or using technology, how can schools be transparent about about what they're doing and how they are protecting students in that process.

Because parents, they do have a certain level of trust, but that trust can be broken if the school doesn't take care of that data or perhaps they get information in that school they're not doing a good job of that. And so I think part of the trust here is just being transparent and proactively communicating. Even though it's not legally required is, it is a guardrail to make sure that those things are used responsibly and students are protected.



**Amanda Morin:** I think you know as a parent I would jump in and say that that that's exactly the way, I feel. And I know that our school district has been very transparent about their policies and it's been a tremendous relief to me. I also know that teachers, I know who are working in school districts have really appreciated that transparency as well. Because a lot of teachers are also in remote situations. They have home lives as well right, and they are trying to make sure that their privacy is protected the same way the privacy of their students is protected. Because they don't necessarily want to reveal everything about their lives, which is of course contextual. There are contextual circumstances in which you really reveal everything about your lives. You know, a dog here and there is not a privacy issue, but you don't want to have your child's Zoom class going on in the background, while you're doing a Google meet with your classroom too.

So I think one of the things that really helps administrators and teachers work together is to have an understanding of what protections are in place for everybody, everybody in the situation. How are the students being protected? How are teachers being protected? What data is being collected and for what purpose? And I think that in itself is really important and I know a lot of school districts are working with technology platforms to make sure they understand what data is collected by the technology platform itself and not just through the school district. Because we want to make sure that that data that's being collected is really going back into making sure students are learning, it is being used to support really smart decisions about how we teach, and not just to have that data.

**Gabrielle Oates:** Now outside of the actions that individual teachers could take, do you have recommendations of questions that teachers could ask their school, or that parents could ask their teachers, to know some of these privacy standards that are being upheld?

**Elizabeth Laird:** I can speak to the the parent equation, because we did set of focus groups on this very question. And so some of the things that we learned, we actually produced a guide of questions that parents could go and ask their schools, so perhaps listeners, they can find that on our website at [cdt.org](http://cdt.org). But we found a few things; one is that parents really want to understand and know what their legal rights are, and they want to be empowered to use them and that there's not always awareness, even though the law that Amanda mentioned, FERPA, is actually from 1974 so it's not a new law it's anything but a new law, there's still not a lot of awareness around the rights that it affords parents therefore they're not exercising them.



So I think one thing is is and through this guide you know, can help parents do that, but just familiarize yourself with what your legal rights are, but then also, you know as the laws, the floor, not the ceiling also asking questions about how your school is doing some of the things that we've been talking about. What are their policies? What data are they collecting? How are they keeping it safe? How long are they keeping it? One of the things that we hear fears around is students will accumulate a permanent record that will follow them around, and you know, what happened to you when you in first grade will be used by your high school guidance counselor to decide and maybe limit opportunities for you. And so it sounds technical and boring but actually it's really important because the way you address that is you don't keep data forever or you don't keep data that isn't isn't needed or could be used, out of context.

So I think when it when it came to our conversations with parents, they wanted to understand their rights. They wanted to understand what other kinds of questions that they should ask and also like what's a reasonable response. Right? You know, sometimes what a parent what may not be entirely reasonable and so explaining why that is. An example is there's a parental right around correcting inaccurate data. Well you can't say I think my child's F is wrong and instead they deserve an A plus. Like you know that's not a right that parents have, but if there's some kind of inaccuracy, they do. So I think that's part of what we heard from parents is wanting to know their rights and wanting to know your other kinds of questions about what schools are doing to keep them safe and what what reasonable responses could look like to have a constructive dialogue. What they did not want is someone to tell them the answer. They wanted to to know the questions to ask and and take that information and then decide for themselves what they think is right for their child. And that's a lot of what privacy is about. It's about not keeping something secret. It's about individuals getting to decide what is shared or not shared about them.

And so, if you are a parent of a student with a disability, you can totally tell people that That's your choice. And that's the right we're protecting in that that decision is not made for you by a school or bureaucracy, of which I, you know worked for five years. So anyway, so that's what we've heard from parents and I would encourage parents to get involved and ask questions with the caveat that the burden to protect privacy does not fall on their shoulders. That is a school responsibility with which they are responsible. And so schools should have good answers to these questions.

**Gabrielle Oates:** And this is only going to become increasingly and important and pertinent for schools, so we really encourage parents and then teachers, similarly, to ask some of those questions of your schools, if you don't already know.



**Amanda Morin:** And I think the questions that teachers asked can be the same ones that parents are asking. I think sometimes we think there are parent questions and there are teacher questions. But they're actually much closer together than we we really think about sometimes. You know, how is it protected, who has access, even simple things like how are we password protecting documents that go out to parents. You know IEPs, the individualized education programs, there are electronic consent and parents can consent to have them sent to them electronically, but they still need to be password protected. And one of the things that I think both teachers and parents need to ask is, what is the password that we're using, not for not for every IEP, but is there a consistent way in which we're doing that. So if a parent is stuck trying to get into that document, is there a format that we can go back to and look at that is personal to each student, but a predictable format, and I think that works for teachers too.

We don't want to overload people with different ways of protecting privacy. But I think to make sure that there are standards in place is incredibly important. I do want to mention that Understood.org worked in conjunction with Colorin Colorado to talk about this issue, in particular with English language learners. There were some privacy concerns that came around families who may be undocumented or families who may have concerns about domestic violence in their family and that there are reasons why sometimes it's okay for kids not to be on camera. That there are reasons why we don't want their faces shown. That there are reasons why there are screen capture tools that can record just what a teacher is presenting, as opposed to the entire class that's happening on the screen with them as well. And that's actually that's um that pieces on our site, as well as Colorin Colorado's. And I think it was really valuable to think through the extra steps that may happen in certain types of families as well.

**Gabrielle Oates:** Yeah those are great points. And now I know you both mentioned them briefly, but if you could share for everybody, where can they find more information on CDT and Understood and find these resources that you've mentioned.

**Elizabeth Laird:** Well, I will I guess end where we started, which was, which is with an acronym so our website is CDT.org and a number of the resources that I talked about, including the research, our parents guide to privacy, and other other guidance that we've put out is available there.

**Amanda Morin:** And I think I'll add to the acronyms and you can just go to u.org or understood.org and we do have a section specifically on distance learning and all of the information





around privacy can be found in that section on distance learning. And u.org is very easy to remember. I like that one a lot.

**Gabrielle Oates:** Yes, so definitely check out the resources that were mentioned. Check out Understood and CDT's websites. Thank you both for joining us today. And for listeners, of course, you can always find more information on what we've discussed on the [educatingalllearners.org](http://educatingalllearners.org) website. You can follow the Educating All Learners Alliance on Twitter, our handle is [@educateall\\_org](https://twitter.com/educateall_org). And you can watch some of our webinars, recordings, and other information on our YouTube channel at Educating All Learners. Until next time, this is the Educating All Learners Alliance podcast!