AI Policy Landscape

United States Policy and Guidance Examples

State and local policymakers should be aware that existing federal and state laws apply to the use of AI in education and take steps, like issuing guidance, to enable local decision-makers to identify and manage risks and safely pursue opportunities to advance education using AI. Read more at tech.ed.gov/privacy.

Federal

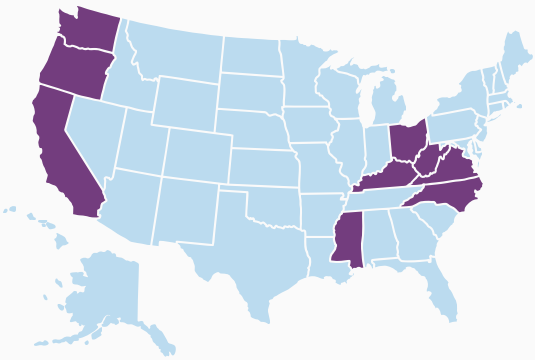
	What does the law say?	What are some policy implications?	What can state and local authorities do?
Family Educational Rights and Privacy Act (FERPA)	FERPA grants parents and students rights regarding access to and sharing of their educational records and personally identifiable information (PII).	AI tools may require the input of education records and PII to be effective. AI service providers could use this data for training purposes.	Issue guidance to help school systems properly evaluate, procure, and monitor AI tools to ensure FERPA compliance.
Children's Online Privacy Protection Act (COPPA)	COPPA imposes restrictions on websites and online service providers that collect, use, or disclose personal information from children under 13, such as requiring parental or school consent.	With new consumer and education-focused AI tools built upon large language models, children's data may be unintentionally exposed to underlying AI model providers, who may not be directly subject to COPPA restrictions.	Reaffirm that AI tools and service providers must properly manage children's data to ensure COPPA compliance.

What Other Federal Laws Influence AI Policy?
The implications of AI extend beyond data privacy laws. For example, the Individuals with Disabilities Education Act (IDEA) Part B provides grants that can be used to train educators on how AI can assist students with disabilities. Additionally, the Every Student Succeeds Act's (ESSA) Tiers of Evidence can help policymakers identify programs, practices, and policies that enhance student outcomes. Civil rights laws may also extend to protect students from algorithmic discrimination. See the Public Interest Privacy Center for more information.

State

As of April 2024, nine states have published AI guidance: CA, KY, MS, NC, OH, OR, VA, WA, and WV. Many of the 40 state education agencies participating in TeachAI are developing guidance.

AI will also complicate the evaluation of how student data is used and protected per many state student privacy laws and other privacy laws with provisions for minors. Policy and guidance should address transparency, accountability, ethical uses of AI, and data security.

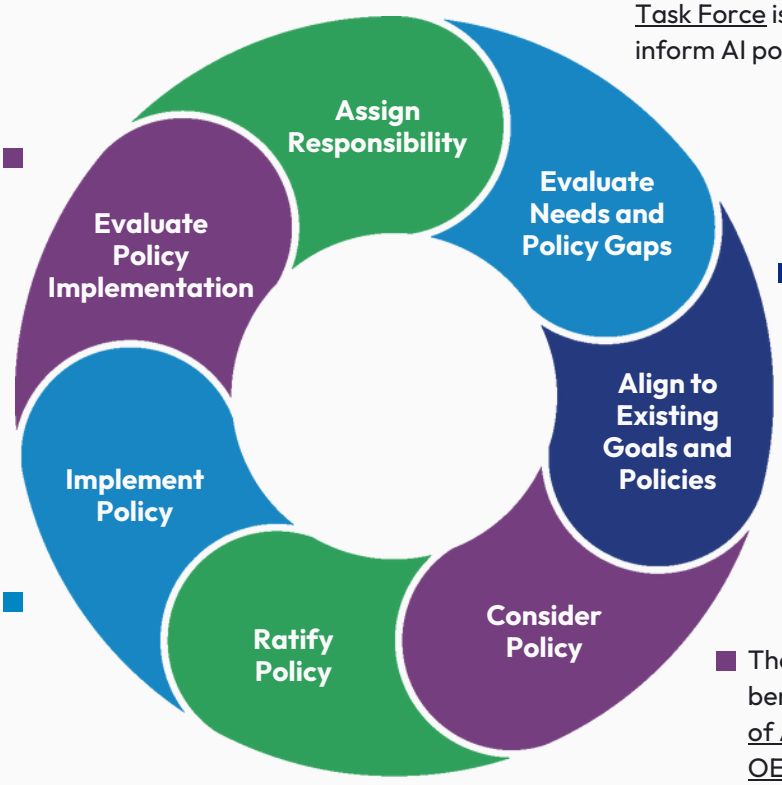


Examples in the Policy Development Process

This US Executive Order directs the Secretary of Education to help education leaders implement previously released recommendations.

The Nevada A.I. Alliance has held listening sessions to evaluate needs and the Los Angeles County AI in Education Task Force is developing guidelines to inform AI policy and practice.

Virginia's Guidelines for AI Integration through Education calls for policies and protocols to be continuously updated and clarifies the roles and responsibilities of the state education agency, boards of education, and educators.



The North Carolina Department of Public Instruction released AI guidance aligned with the state's existing digital learning plan and profile of a graduate.

Issuing guidance like the US National Educational Technology Plan can help implement policy by providing concrete examples, resources, and recommendations.

The EDSAFE S.A.F.E. benchmarks, UNESCO Ethics of Artificial Intelligence, and OECD Guidelines are useful for evaluating potential policy ideas.

The EU AI Act takes a risk-based approach to regulating AI tools and certain educational uses. See memo.

The US Department of Education is expected to release guidelines that call for developers and educators to share the responsibility of building trust in the AI ecosystem. See https://tech.ed.gov.

TeachAI is led by Code.org, ETS, the International Society for Technology in Education, Khan Academy, and the World Economic Forum.

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