European Trade Union Committee for Education

Education International - Europe | the trade union federation and social partner for education in Europe

ETUCE Statement

Students are not for Data Mining: ETUCE urges EU member states to reject Irish Presidency proposal that allows Big Tech to exploit students' and educators' data to train AI

A recent leaked EU Council text prepared under the Irish Presidency that proposes the introduction of **Article 88bis** to the GDPR in the context of the Digital Omnibus negotiations.

The proposed article explicitly recognises **"legitimate interest" as a legal basis for controllers and deployers to use personal data for the development and operation of AI systems and models.** This will have the effect of further sacrificing the rights of citizens to increase the profits of commercial entities. In addition, **important safeguards contained in the EU Commission proposal have been removed in the Council proposal,** including an exclusion for children and protections related to data minimisation, transparency, and the right to object.

While the exception for children under Article 6.1(f) remains formally untouched, **it is not sufficient to protect all learners in education.** Indeed, the general legitimate-interest balancing test in Article 6.1(f) does not include education-specific safeguards and does not provide a harmonised coverage since **interpretation of GDPR varies across Member States leading to differences in compliance, interpretation, and oversight.** Besides, the proposed Digital Omnibus does not address the lack of clarity about what exactly constitutes "legitimate interest" or "public interest". **By recognising a broad legitimate interest for AI development and operation, the proposed Article 88bis risks creating a legislative presumption that such processing is of significant societal value**, thereby tilting the balance systematically against students and education staff, rather than limiting such processing to cases where it is strictly necessary and subject to robust safeguards.

In practice, this means that EdTech companies, including Big tech, will be able to exploit personal data of students and educators for the development of AI systems driven by their commercial interests. The proposal will allow the use of personal data far beyond the educational purposes for which it was

originally collected, while removing the ability of students and teachers to exercise effective control over their information.

Every day, schools, universities and other educational institutions collect and process personal data to support learning, well-being, inclusion, and educational success. Learners share information with their teachers. Parents trust educational institutions with sensitive information about their children. Educators use digital tools with the expectation that personal data will be used only for clearly defined educational purposes. The **proposed Article 88bis will break that trust.**

"This appalling proposal, under the aegis of the Irish Presidency is a deep and unacceptable betrayal of students and of the trust families place in our education systems every day. Allowing commercial interests, motivated by greed for market share and increased profit, to gain greater access to student's personal data for AI development amounts to pawning their future for short-term corporate gain.

The proposal shows a brazen lack of concern for the rights of citizens and, if adopted, will further erode public trust in democratic institutions.

European governments must reject this dangerous proposal and stand firmly on the side of students' rights. As teachers and education unions, we are entrusted with and committed to the protection of students.

"Education unions across Europe will oppose this craven and cynical proposal with one united voice," explained John MacGabhann President, of the ETUCE, which represents millions of education workers across every EU state. "Selling out our students is not an option" he added.

Students' rights must come before commercial interests

Students are among the most vulnerable users of digital technologies. Educational data can reveal highly sensitive information about learning patterns, educational attainment, special educational needs, socio-economic background, behavioural records, well-being, and personal development. Such information accompanies learners throughout significant parts of their lives and can have long-term consequences if misused. **A framework that allows to repurpose personal data for AI development will transform data collected in educational settings into a resource for commercial exploitation. Educational data must never be collected to become raw material for training AI systems**.

Europe has consistently pledged for students' protection in digital environments. At a time when policymakers are calling for trustworthy AI, Europe must match its words with action: safeguards around the use of students' and personal data must be strengthened, not removed. Trustworthy AI cannot be built on reduced protections for students.

“I am shocked by the extent to which this proposal opens the door for Big Tech to use data from our students and our schools. It raises a fundamental question about the values Europe claims to defend: do the European Union and national governments stand with people, or with the rich and powerful?” said Jelmer Evers, European Director of ETUCE.

Member states have the duty to ensure that learning environments are safe. Students must be able to participate fully in school life without worrying that the information generated through these activities could later be reused for purposes unrelated to education. Trust is not a technical detail. It is a precondition for learning. If learners and families lose confidence in how educational data are handled, the consequences will extend far beyond privacy concerns. It will break confidence and the social pact at the heart of education.

Educators also have a stake in this debate.
The proposed changes raise serious concerns for teachers, academics, and other education personnel. Educational institutions increasingly rely on digital systems that process information about teaching activities, professional performance, communications, and workplace practices. Removing GDPR safeguards will expose education workers to increased risks associated with workplace surveillance, profiling, algorithmic management, and automated decision-making. The weakening of GDPR safeguards would reduce protections against the collection and use of workplace data in AI systems and would undermine workers' ability to exercise their fundamental right to data protection.

ETUCE stresses that Europe's digital future cannot be built by lowering standards that protect learners and educators.

ETUCE therefore urges member states to reject the proposed Article 88bis in its current form and to oppose any similar amendments that weaken existing data protection safeguards.In particular, we call on the Government to ensure that any future provision relating to AI and personal data processing:

- does not create a broad or blanket authorisation for the processing of students’ and education workers' data for the development or operation of AI systems;
- guarantees that students’ and educators’ data will never be used to develop and operate AI systems and AI models without their explicit consent and, where applicable, parents’ consent;
- preserves meaningful safeguards, including an exclusion for students, data minimisation, transparency, accountability and an effective right to object;
- prevents the use of educational and workplace data for purposes unrelated to those for which the data were originally collected;
- maintains public trust in the deployment of AI in education; and
- remains fully consistent with the fundamental rights framework that underpins European data protection law.

Schools are places of learning, trust, and growth. They must not become reservoirs of data for commercial AI development. Education is a fundamental human right, a public good, a public responsibility, and one of the most powerful tools for building democratic, peaceful, and just societies. Education unions cannot remain silent when students' rights are threatened.