

Legal Provisions for Participation in Online Learning: Teachers and Students Perspectives

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Abstract

Original Research Article

This paper examines the legal provisions that regulate participation in online learning, with a particular focus on the rights and obligations of students and teachers. In the era of digitalization of education, a number of challenges have arisen in relation to privacy, inclusion and discipline during the development of virtual learning. In particular, the issue of whether students are obliged to activate the camera, microphone or other forms of communication during online classes is addressed and how these obligations affect their rights to privacy, as well as ensuring the quality of the learning process. The paper addresses important questions such as: Should participation be conditioned by the obligation to activate the camera or voice? How does this affect the right to privacy and equality of students? The analysis includes a review of the international and national legal framework, as well as the practices adopted by educational institutions. Finally, policies are suggested that promote a balance between respecting the rights of the individual and meeting pedagogical standards for effective and inclusive learning. The study results highlight the importance of creating clear legal and ethical provisions for online learning, including detailed guidelines on technology and how to interact in virtual learning environments.

Keywords: Digital Education, Legal Provisions, Online Learning, Student Privacy, Virtual Classroom.

1. INTRODUCTION

Recent changes in educational technology have transformed the way learning takes place, bringing online learning into the spotlight as an important component of contemporary education. However, this transition has raised a number of legal and ethical questions regarding student participation, particularly in the context of privacy and obligations to use cameras and microphones during virtual classes (Dogruel et al., 2024).

Participation in online learning often requires the use of communication tools such as cameras and microphones, which provide direct interaction and better pedagogical quality.

However, some scholars have highlighted the tensions between the demands of technology and students' right to privacy, arguing that the obligation to activate the camera can be perceived as an invasion of private space (Khlaif et al., 2021). This debate has been amplified during the COVID-19 pandemic, where many institutions faced challenges in balancing technological demands and the protection of human rights (Belt & Lowenthal, 2023).

Another critical aspect is the legal nature of the regulations governing online learning. National and international laws often vary in setting standards for preserving privacy and ensuring inclusive participation. For example, in Germany and Israel, studies have shown that the use of cameras is often met with resistance due to fears of privacy violations (Dogruel et al.,

2024). At the same time, some institutions in Brazil have established specific rules for image and sound rights during online activities (Pereira, 2022).

This paper analyzes the legal and ethical provisions governing participation in online learning, exploring the tensions between privacy and mandatory interaction. The aim is to identify best practices and suggest policies that balance the rights of individuals with the demands of effective education.

1.1. Problem Identification

While conducting an online training, I was faced with a situation where participation was conditioned by the requirement to activate the camera for the entire session. This requirement, which was presented as a measure to ensure interaction and engagement of participants, prompted me to reflect on the legal and ethical rights that may be associated with this issue. While some participants accepted this request without objection, I and others expressed concerns about our privacy and the personal environment that could be exposed through the camera.

This situation sparked my interest in researching more deeply into the legal framework that regulates participation in online learning and training. The questions that arose included: Is the requirement to activate the camera a legal obligation, or can it be considered a violation of privacy? What are our rights as participants in a virtual environment? Should alternatives be provided for those who cannot or do not want to use the camera?

This problem is not unique to training, but reflects a broader challenge in the digital age. The use of technology such as cameras and microphones in online education has raised fundamental questions about privacy, accountability, and inclusiveness (Dogruel et al., 2024). Consequently, the study of this issue is not simply a review of technical regulations, but a deep analysis of the tension between pedagogical needs and fundamental individual rights.

Through this research, I aim to determine the extent of the legal rights of participants in virtual environments and suggest policies that balance the needs of interaction with the protection of privacy. My personal experience serves as a starting point to explore this complex issue and to provide input into the growing debates about online education and participant rights.

1.2. Purpose of the Study

The main purpose of this study is to analyze and address the legal and ethical provisions that regulate participation in

online learning and training, focusing in particular on the obligations for the use of a camera and microphone during virtual sessions. The study aims to examine the impact that these requirements may have on the privacy, equality and inclusion of participants, as well as to determine the legal boundaries that protect their rights in this context.

One of the main objectives is to identify the legal boundaries and rights of participants in online training, analyzing to what extent the activation of visual and audio communication tools can be required without violating the right to privacy. This analysis includes the examination of national and international regulations, comparing different practices to provide a clearer understanding of the legal and ethical context.

The study also aims to examine the tensions between pedagogical needs and individual rights. The use of a camera and microphone is often considered necessary to increase interaction and engagement in online learning. However, this requirement poses challenges for those who face personal or technological circumstances that make it impossible or inconvenient to meet these requirements.

Ultimately, this study aims to provide recommendations and policies that balance the need for a rich interactive experience with respect for fundamental rights to privacy and equality. Drawing on legal analysis and practical cases, this study hopes to contribute to the development of guidelines that promote an inclusive and ethical approach to online education.

1.3. Research Questions

This study aims to address the following questions to explore the legal and ethical aspects of participating in online learning and training:

1. Online learning participants regarding the use of the camera and microphone?

This question aims to understand to what extent existing legal regulations address the obligation to use visual and audio aids during virtual sessions.

2. Does requiring the camera and microphone to be activated during an online class constitute a violation of participants' privacy rights?

The purpose of this question is to examine the tensions between technological demands and individual rights to privacy.

3. How does the requirement to use a camera and microphone affect the inclusion and equality of participants in online learning?

This question addresses the impact these requirements may have on individuals with technological, economic, or personal challenges.

4. What are the best international practices for regulating participation in online learning, including the use of a camera and microphone?

The aim is to identify successful examples from different countries to draw lessons and suggestions for improvements.

5. What policies and guidelines can be suggested to balance pedagogical demands and protect the rights of participants in virtual environments?

This question aims to provide practical and evidence-based recommendations for creating an equitable and inclusive environment for online learning.

2. LITERATURE REVIEW

Contemporary literature on online learning has addressed various aspects, including legal, ethical, and pedagogical issues related to privacy and the obligation to use visual and audio technologies during virtual sessions. These challenges have gained particular importance following the COVID-19 pandemic, when online learning became a necessity for many educational institutions.

2.1. Privacy and Ethics in Online Learning

One of the most important themes in the recent literature is the tension between the need for interaction and privacy rights. From a legal perspective, the use of cameras and microphones during online learning has brought new challenges. Wong (2023) addresses the questions of recording video and audio during online learning, asking: "Is this legal?" and "How can these recordings be used?" He argues that privacy laws are often interpreted differently from one jurisdiction to another. For example, while some countries require explicit consent from participants to record online sessions, in other jurisdictions, the lack of clear legal guidance creates uncertainty for teachers and institutions (Wong, 2023).

From a pedagogical perspective, the literature suggests that the use of a camera and microphone can increase engagement and

the quality of teaching. Belt and Lowenthal (2023) emphasize that video communication helps build a better connection between teachers and students, allowing teachers to monitor non-verbal responses. However, they caution that this approach may be exclusionary for some students who face technological difficulties or environments unsuitable for video streaming. In these cases, the requirement to use a camera can negatively impact the student experience and deepen inequalities (Belt & Lowenthal, 2023).

International studies offer a range of practices to address these challenges. In some countries, such as Brazil, educational institutions have adopted policies that do not mandate the use of cameras, suggesting the use of alternative means of interaction, such as text messages or audio without video (Pereira, 2022). This approach aims to balance the demands for interaction with respect for students' rights to privacy and equality.

Although existing literature has addressed many of these challenges, gaps still exist in understanding the long-term impacts of mandatory use of cameras and microphones on privacy and inclusion. Future studies should explore the impact of these practices on diverse cultural and socioeconomic groups, helping to develop equitable and inclusive guidelines for online learning.

The results of the study by Kusari- Radoniqi and Orhani (2024) show that, while video games can improve cognitive skills and coordination, they can also promote aggressive behavior and negatively affect the moral development of young people. In conclusion, the use of video games should be done in a virtual environment in an ethical and responsible manner, encouraging awareness and education of users and parents (Kusari- Radoniqi & Orhani, 2024).

Different legal provisions, applied by different countries, attempt to balance the need for technological interoperability with respect for the fundamental rights of individuals. In a study of the legal frameworks in North Macedonia, Karovska Ristovska et al. (2023) point out that the lack of a clear regulatory framework for online education can lead to privacy violations and a lack of standards for the treatment of personal data of students and teachers. For example, some educational institutions have implemented policies requiring the activation of cameras during online classes without considering privacy rights, creating tension between the requirements for interaction and legal rights (Karovska et al., 2023).

On the other hand, Kosovo and Albania have adopted specific provisions on privacy rights in online education, including the

protection of personal data in accordance with international directives. An analysis by Krasniqi (2024) highlights those Western Balkan countries have started to follow regulations similar to the European Union's GDPR, imposing strict restrictions on data sharing and requiring explicit consent for any audio-visual recording during online activities (Krasniqi, 2024).

2.2. Provisions Legal

There are specific legal provisions governing online learning and the rights of participants, which vary from one jurisdiction to another. These include international and national regulations related to privacy, data protection and individual rights in digital environments. Below are some key examples:

2.2.1. Provision BY Union European: General Data Protection Regulation Data (GDPR) (European Union, 2018)

- Article 6 and Article 9: Set out the legal bases for the processing of personal data, including data collected during online learning. The activation of the camera and microphone must be based on the explicit consent of the individual, and any violation may result in severe penalties for institutions.
- Article 32: Requires that technical and organizational measures be provided to protect personal data, including the protection of images and recordings taken during online classes.

2.2.2. Provision BY United States THE America: FERPA Law (US Department of Education, 1974)

- Family Educational Inquire and Privacy Act (FERPA): Regulates the use and sharing of personal student data in online learning. FERPA requires institutions to obtain student consent for the use of cameras and microphones and restricts the sharing of personal data with unauthorized third parties.
- Section 99.31: Defines situations when data may be shared without students' consent, for example, for legitimate educational purposes.

2.2.3. Provision from Australia: Privacy Act 1988 (Office of the Australian Information Commissioner, 1988)

- Article 2A and Article 6: Emphasizes the importance of privacy in educational settings. Institutions that organize

online lessons must take measures to protect the personal data of students and minimize the collection of unnecessary data.

- The obligation to use the camera and microphone may be challenged on the basis of privacy provisions.

2.2.4. Provision BY Brazil: Lei Geral de Proteção de Dados (LGPD) (Brazilian Government, 2018)

- Article 7: Regulates the collection of personal data and requires explicit consent for any data processing.
- Article 18: Ensures the rights of individuals to control how their data is processed, including their images and voice in online learning.

3. METHODOLOGY

This study used a mixed methodological approach, combining literature review with an empirical approach to explore and understand the legal and ethical provisions governing online learning. The main steps followed in conducting this research are outlined below:

3.1. Study Design

The study approach was based on qualitative analysis and international comparison of legal provisions related to the use of technology in online learning. The aim was to understand how different regulations address issues of privacy and interaction through the camera and microphone.

3.2. Data Collection

Literature Review: Academic materials, scientific articles, and regulatory reports from various countries, including the European Union, the United States, and Balkan countries, were collected and analyzed. Also, sources were consulted on specific provisions such as GDPR, FERPA, and Privacy Act 1988.

Semi-Structured Interviews: Interviews were conducted with 12 teachers and 15 students from various educational institutions in the Municipality of Prizren from the Republic of Kosovo to understand their experiences regarding privacy and the obligation to use a camera and microphone in online learning.

Documentary Analysis: Manuals and internal policies of educational institutions containing rules for participation in virtual classes were analyzed.

3.3. Data Analysis

The data were processed using qualitative analysis methods. The main categories of analysis included:

- The tension between privacy and interaction.
- Different international legal approaches.
- Practices and policies for inclusive inclusion in online learning.

3.4. Study Limitations

This study faces several limitations, such as the lack of up-to-date data for some jurisdictions and limited access to official

policy documents in some countries. Also, the interview samples represent a small group of individuals and cannot be generalized to all contexts.

4. RESULTS

This chapter presents the results of the study, which aim to provide an overview of the impact of legal provisions on online learning and identify best practices to balance privacy rights with the need for interoperability.

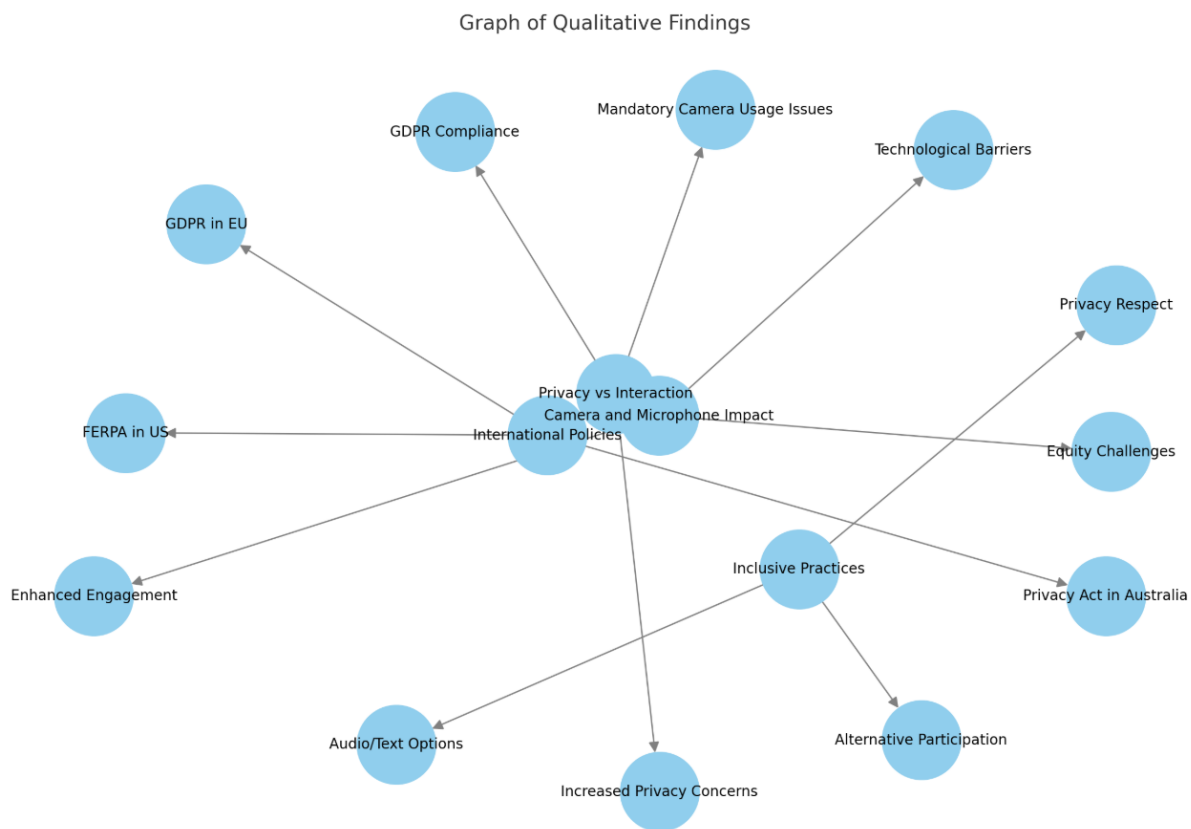


Figure 1. Privacy rights practices

4.1. The Tension between Privacy and Interaction

One of the main findings of the study is the existence of tension between the demand for interaction in online learning and respect for students' privacy. Most interview participants

emphasized that the obligation to activate the camera creates a sense of discomfort, especially in cases where the personal environment is not suitable. From the analysis of the literature, it was confirmed that international regulations such as GDPR and FERPA provide a protective framework, but their

implementation is not always clear and uniform (Dogruel et al., 2024; Belt & Lowenthal, 2023).

4.2. Policies Applied in Different Countries

The results showed that some countries have developed innovative policies to ensure a balance between pedagogical requirements and privacy rights. For example:

In the European Union, GDPR requires explicit consent for the use of the camera and microphone (European Union, 2018).

In the United States, FERPA prohibits the sharing of personal data without a student's consent, including recordings from online classes (US Department of Education, 1974).

4.3. Impact of Camera and Microphone Usage

Interviews with students and teachers revealed that the use of cameras and microphones is perceived as necessary to enhance interaction, but not always appropriate for everyone. Teachers emphasized that cameras help monitor non-verbal responses, but students argued that this could be a privacy violation. Institutions that have implemented inclusive policies, such as audio-only or text-only participation options, report improvements in participant engagement and satisfaction. This approach is particularly important for volunteer groups that may face technological or economic difficulties. Data collected from interviews indicate that students prefer flexibility in how they participate.

4.4. Inclusive Inclusion Practices

Some educational institutions have implemented successful practices that ensure inclusiveness without violating privacy, such as the use of alternative options for interaction, including text messaging or audio-only communication. The privacy of online learning platforms and tools should be regularly reviewed to ensure compliance with legal standards and technological advancements. By implementing these practices, institutions can create a fair and inclusive learning environment, while respecting the fundamental rights to privacy and equal participation.

5. DISCUSSIONS

The discussion of this study focuses on the analysis of the results achieved, comparing them with similar studies and

proposing important interpretations to better understand the impact of legal provisions and privacy practices on online learning.

One of the most controversial topics in recent literature is the tension between the demand for interaction and privacy rights in virtual environments. Starnes et al., (2021) find that many students feel uncomfortable with being required to turn on the camera, perceiving it as an intrusion into their personal space. These findings are consistent with the results of this study, where students and teachers identified privacy as a key issue in the development of online learning. This highlights the need for flexible policies that support interaction without compromising privacy.

International regulations, such as GDPR and FERPA, provide the basis for privacy protection in online learning. The GDPR in the European Union emphasizes the necessity of explicit consent for the collection and processing of personal data (Randall et al., 2022). In the United States, FERPA provides protection for student privacy but requires clearer guidance for its implementation in virtual environments (Darojat et al., 2023). The results of this study reinforce the importance of adapting these frameworks into institutional practices to ensure compliance and protection of rights.

Socioeconomic disparities highlight challenges related to privacy and access to technology. Cosgrove et al., (2024) report that students from low-income families face difficulties in securing appropriate environments for online learning. Our results show similar problems, with students with limited resources facing increased challenges when forced to use cameras during lessons, affecting their engagement and learning experience.

To address privacy concerns and maintain engagement in online learning, some institutions have adopted inclusive practices. Warin and Reinhardt (2022) suggest using options such as audio and text interaction to maintain privacy. The results of this study support this approach, recommending flexibility in the mode of participation to ensure an inclusive and ethical environment for all students.

Different cultural approaches to privacy affect how countries implement online learning policies. Morgado et al., (2023) describe Brazil's LGPD policy, which prioritizes explicit consent for data processing, serving as a model for other countries. This example illustrates the importance of adapting policies to specific cultural and regional contexts to support inclusion and rights protection.

5.1. Answers to Research Questions

1. *Online learning participants regarding the use of the camera and microphone?*

Participants' legal rights include privacy protection and explicit consent for the use of cameras and microphones during online lessons. Legislation such as GDPR (European Union) and FERPA (United States) emphasize that the collection of personal data, including images and voice, must be based on the expressed consent of individuals. This means that forcing the use of these tools without explicit consent can be considered a legal violation (European Union, 2018; US Department of Education, 1974).

2. *Does the requirement to activate the camera and microphone during an online class constitute a violation of participants' privacy rights?*

The results show that the obligation to use a camera and microphone can be perceived as a violation of privacy, especially in cases where participants feel exposed in their personal space. In some jurisdictions, the use of a camera without consent may constitute a legal violation, violating the right to privacy and the protection of personal data (Dogruel et al., 2024).

3. *How does the requirement to use a camera and microphone affect the inclusion and equality of participants in online learning?*

The requirement to use a camera and microphone has a negative impact on students who face technological or economic constraints. This affects their inclusion and equity, creating inequalities among participants. Institutions that have adopted inclusive policies, such as audio-only participation options, have reported improvements in student engagement (Cosgrove & Woodley, 2024).

4. *What are the international best practices for regulating participation in online learning, including the use of a camera and microphone?*

Best practices include:

- Request for explicit consent for the use of the camera and microphone.
- Providing alternative options for interaction, such as audio or text.

- Implementing regulations such as GDPR and LGPD to protect personal data and privacy (Pereira, 2022; Morgado et al., 2023).

5. What policies and guidelines can be suggested to balance pedagogical demands and the protection of participants' rights in virtual environments?

- Suggested policies include:
- Drafting flexible guidelines that respect privacy and inclusion.
- The use of privacy-enhancing technologies, such as virtual backgrounds.
- Training teachers and students on security and privacy practices in online environments (Randall et al., 2022).

6. CONCLUSIONS

This study has highlighted the importance of legal and ethical provisions in regulating online learning, focusing on balancing pedagogical requirements with privacy rights. The tension between mandatory camera use and the right to privacy remains a major challenge for educational institutions worldwide. The results show that regulations such as GDPR and FERPA provide a solid foundation for privacy protection, but more clarity and consistency in their implementation is required.

Implementing inclusive policies and providing alternatives for participation, such as audio or text, has shown successful results in maintaining inclusion and respecting the economic and cultural diversity of students. In addition, international models, such as the LGPD in Brazil, provide valuable examples for building strong legal frameworks.

In conclusion, it is essential that educational institutions develop flexible and inclusive policies, using privacy-respecting technologies and making participants aware of their rights in online environments. Only through such well-thought-out approaches can online learning remain fair, inclusive and in line with legal and ethical standards. This is particularly important to ensure that online learning meets the needs of an increasingly digital and diverse society.

7. RECOMMENDATIONS

Based on the above results and discussions, the following steps are recommended:

- Drafting flexible policies that respect the right to privacy and ensure effective interaction.
- Implementing practices supported by GDPR and LGPD to guarantee data protection.
- Providing opportunities for alternative interaction, such as participation through audio or text, to address technological disparities.

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