TCPA Features Guide

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Introduction

As school leaders, we know you understand the value and importance of school-to-home communications. Whether those communications are via text, phone call, email or social media, they are powerful tools for ensuring a strong school community, involving parents in their child's learning, alerting parents of changes in the school calendar, or notifying families when there are critical incidents at school, such as weather-related closings, evacuations or lockdowns.

*Important: This document provides an overview of the features provided by SchoolMessenger which relate to helping schools improve their TCPA compliance. **This document is not intended to, nor does it provide legal advice.** School leaders are urged to consult their legal counsel to best understand their school's risks and options under the law.*

The Telephone Consumer Protection Act (TCPA)

The TCPA was created in 1991 and is administered by the Federal Communications Commission (FCC). Updated in 2015, the rules, among other things, prohibit calls made using automatic telephone dialing equipment or a prerecorded message to any telephone number assigned to a cell phone or any service for which the called party is charged for the call without prior express consent, unless the call is for "emergency purposes" as defined by the TCPA.

In the quarter century since the TCPA was enacted, the variety of communications options available to both schools and parents has multiplied. Today, nearly two-thirds (64 percent) of U.S. adults own a smartphone, up from 35 percent in 2011, according to a 2015 study by the Pew Research Center. The same study reported that text messaging is the most widely and frequently used smartphone feature or app.

Important: The FCC considers a text message to be a call.

2015 Update

Over the summer of 2015, the FCC issued a Declaratory Ruling and Order (Ruling) related to the TCPA. In the Ruling, the FCC:

- *Reiterated that consent is required from the "called party," who is designated as the consumer (e.g., parent or guardian) assigned to the number dialed and billed for the call or the non-subscriber customary user of a number in a family or business calling plan;*

- *Reaffirmed that called parties must be able to revoke consent at any time and in any reasonable manner, and that the sender of the message (e.g., school or district) bears the burden of the proof of the consent; and*

- *Repeated that consent is not required for calls for "emergency purposes," defined as a call "made necessary in any situation affecting the health and safety of consumers."*

For schools using automated notification systems, this means ensuring processes for obtaining consent, managing opt outs, carefully considering what is and is not an emergency under the law, and integrating up-to-date records of consent information with their notification systems.

SchoolMessenger and Consent Management

To help you and your organization improve compliance with the FCC's latest TCPA clarifications, SchoolMessenger has implemented several simple and friendly features across its products which provide you, and the recipients of your telephone and SMS text messages, options to capture consent and customize the way individuals receive communications. Deciding on your organization's policies, procedures and strategy for improving your TCPA compliance, setting a plan and ensuring the responsible parties in your organization understand the importance of their role in that plan is paramount.

Multi-Level Tools

SchoolMessenger Communicate^SM provides a multi-point strategy to help manage TCPA compliance at a level configurable to align with your schools' policies and processes.
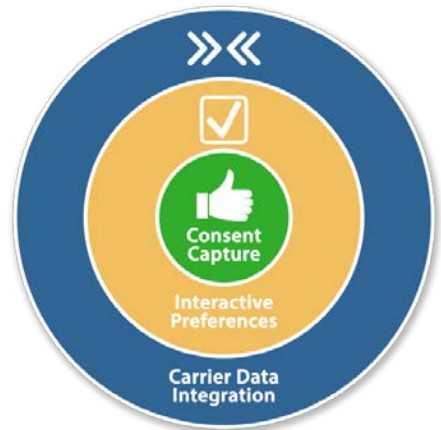
Consent Capture
Integrated campaign tools encourage and collect consent through multiple channels.

Interactive Preferences
Every message is an opportunity for recipients to further refine how, where and if they are contacted.

Carrier Data Integration
The system proactively monitors for high-risk phone numbers and progressively applies adjustments or blocking.

Compliance Mode

Schools looking for a more strict level of compliance have the option to ask to have "Compliance Mode" enabled. With this feature enabled on your SchoolMessenger Communicate account, numbers still "*pending*" consent, will not receive messages, <u>unless</u> the broadcast type is set to "***Emergency***".

Automated Blocking and Preference Settings

Your Communicate account can be optionally configured so requests initiated by recipients of voice broadcasts, to either unsubscribe from certain types of calls, or be blocked entirely, will automatically be processed and updated by the system. Numbers which have been blocked or unsubscribed can easily be unblocked or resubscribed by contacts or by school users (in the event of an unsubscribe error or parent request) at any time. This is an optional feature and a more hands-on, manual approach may be more suited to your organization.

Reporting

Keeping abreast of the consent, preferences and changes of your contacts plays a big role in efforts to improve compliance with TCPA. In the Reports section of Communicate, users can easily run a a variety of reports which display where consent is still pending, approved or denied for voice or SMS, along with dates, times and results. For schools not wishing to employ Compliance Mode and/or Automated Blocking and Preferences on their accounts, these reports provide the information needed to make manual adjustments to contact information.

Note: More information about the SchoolMessenger Communicate tools available to support each of these levels is available in this guide, supporting PDFs and in your account's online Help.

Important: Not all users will have access to all features. Please contact your system administrator for access to additional features.

Consent Capture

The **consent** of message recipients is the crux of the TCPA. Therefore, capturing consent before delivering voice or text messages is at the heart of SchoolMessenger Communicate's TCPA compliance features. And there are many easy and effective ways to obtain and record this required consent.

What is consent under the TCPA?

The TCPA requires that organizations sending prerecorded voice messages via telephone or SMS text messages require the advance, express permission of the recipients. Permission should be captured and stored, ideally in writing, before any voice or text message broadcasts are sent.

Here are some clarifying points to help you better understand how the TCPA views consent:

- Consent is required from the "called party"

- "Called party" is the consumer assigned to the number dialed and billed for the call, or the non-subscriber customary user of a number included in a family or business calling plan

- Called party must be able to revoke consent

- The caller bears the burden of proof of consent

- Consent must be in writing (and signed) if calls include telemarketing

Obtaining Consent

There are abundant opportunities to obtain and capture the permission needed to send voice and text notifications through SchoolMessenger Communicate. You may even already employ many of the easiest and most recommended methods of obtaining consent for other administrative functions, and they can be easily adapted to help with obtaining and storing a record of consent for both voice calls and SMS text messages.

Here are some suggestions on methods for obtaining consent records for use in Communicate:

Consent for Voice Calls

Student Enrollment

When parents and guardians are enrolling students in your schools, provide them with a *checkbox* alongside the fields for Phone and Mobile numbers which states something to the effect of "I give permission to be contacted using our school's automated notification systems." This information can then be easily used to apply contact elections to your Communicate account, especially if the forms are electronic.
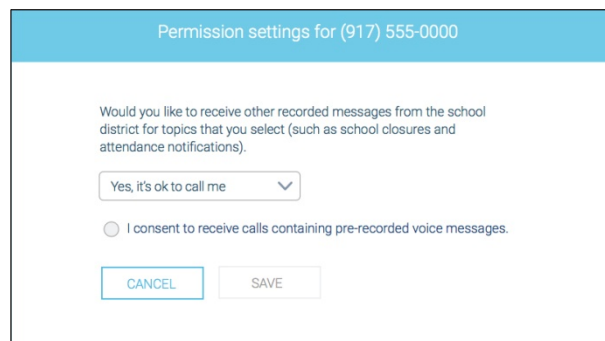
Email

Email provides you with a great avenue for pursuing consent. Using the built in email feature in Communicate, you can send an email asking for recipients to give permission for phone messages. The preferred (and easiest) suggestion for this is to send an email asking contacts to sign up for SchoolMessenger's InfoCenter and provide consent (as explained below). Alternately, you could ask them to click a link to your school's portal or permission form on your website. You could also send an attached form to be completed and returned via email, or printed and returned by a student.

InfoCenter™

InfoCenter provides a very simple interface where any of your contacts, for whom you have an email address imported to Communicate, can provide consent for voice calls, change their preferences based on broadcast types (ie: general, attendance, emergency) and add or delete phones and email addresses. Contacts will have the ability to edit their preferences and revoke consent at any time. InfoCenter also allows contacts to view and listen to any messages sent in the last 30 days, so they don't miss a thing.

You should take multiple opportunities, and use many outlets to remind parents and guardians to sign up at infocenter.schoolmessenger.com. You can find out more at infocenter.schoolmessenger.com/#/learn.

Permission Slips

Schools already send home forms asking for guardians to sign and return for permission concerning other school activities. Obtaining consent could be done similarly by sending a slip home with students asking for contact information, permission, preferences, and a signature. When returned, choices can be manually entered into your Communicate account.
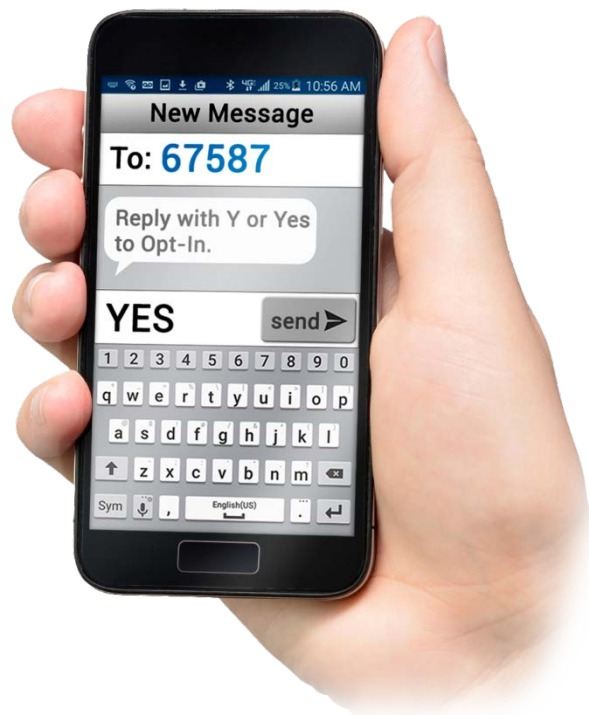
Consent for SMS Text Messaging

SMS (Text Message) Opt-In Campaign

Before any Communicate account can send an SMS text message broadcast, it must first complete its "Opt-In Campaign". This is a process that can be easily coordinated with SchoolMessenger support. For more information on SMS Text Opt-In Campaign, please contact SchoolMessenger support and/or read the comprehensive PDF guide: Launching an Effective SMS Text Opt-In Campaign

This same guide, along with further instructions, can also be found in the online Help section of your SchoolMessenger Communicate account.

SMS Opt-Out

Any mobile phone can opt out of SMS messages at any time by sending "STOP" to the SchoolMessenger short-code. Phones which have previously opted out can opt in again at any time by sending "Y" or "YES".

Interactive Preferences

The most abundant and flexible tools for maintaining your plan for TCPA compliance fall under the "Interactive Preferences" category. As peoples day-to-day lives change, so do the frequency and methods with which they wish to be contacted. Whereas they may have initially been happy to get a recorded phone message at any time of day, they may now be unable to accept calls and prefer they instead get a text message, email or push notification. Their interest in the types of messages sent may also change.

To make sure you can provide the recipients of your messages with the means to inform you of these preferences, SchoolMessenger has a number of always-available options for you and your contacts:

Telephone Voice Opt-Out

At any time, while listening to a phone message broadcast through SchoolMessenger Communicate, recipients can press "5" on their phone to initiate the opt-out process. After pressing 5, they will be given 3 choices:

1. *To unsubscribe from messages like these, please press 1*

2. *To unsubscribe from all Non-Emergency messages, press 2*

3. *To opt-out of all phone notifications, please press 3*

Following a recipient's completion of this process, a report of their election is sent to your Communicate account. There are two ways which your account can be configured to handle requests:

1. *Account administrator views the report and makes manual adjustments to individual contacts*

2. *System automatically adjusts preferences and/or blocks phone numbers*

Detailed information and instructions about opting out from voice messages, as well as instructions on configuring your account to take full advantage of these options, please review the comprehensive PDF guide, Voice Call Opt-Out Guide. This same guide, as well as further instructions, can be found in the online Help section of your SchoolMessenger Communicate account.
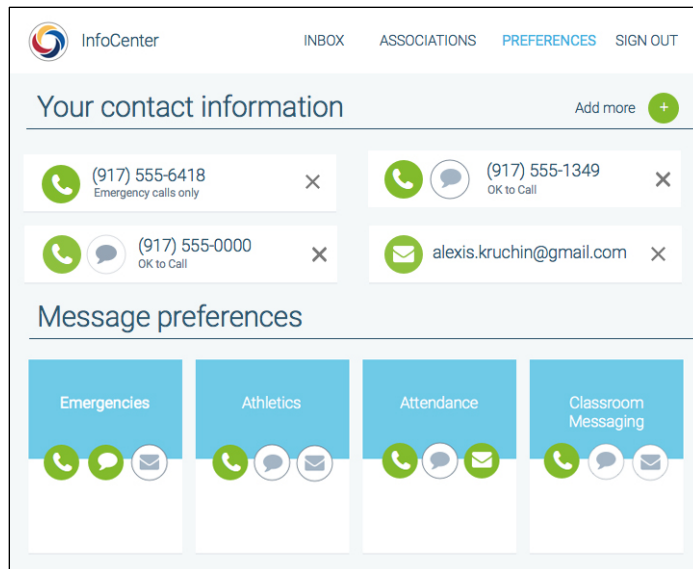
SMS Opt-Out/Opt-In

From a mobile phone, a contact wishing to opt out of further text messages can send "STOP" to your organization's SchoolMessenger SMS "short-code". Immediately following that, they will receive a message confirming their election and will no longer receive any of your broadcast text messages. If a contact later wishes to change that preference, they need only to send "Y" or "YES" to subscribe again.

🛑 *Important: Opting-Out, for both Voice and SMS Text, is done on a phone-by-phone basis and will only initiate a request for the phone number upon which the recipient is currently receiving a message. They must complete the process from every phone for which they wish to change preferences or opt-out.*
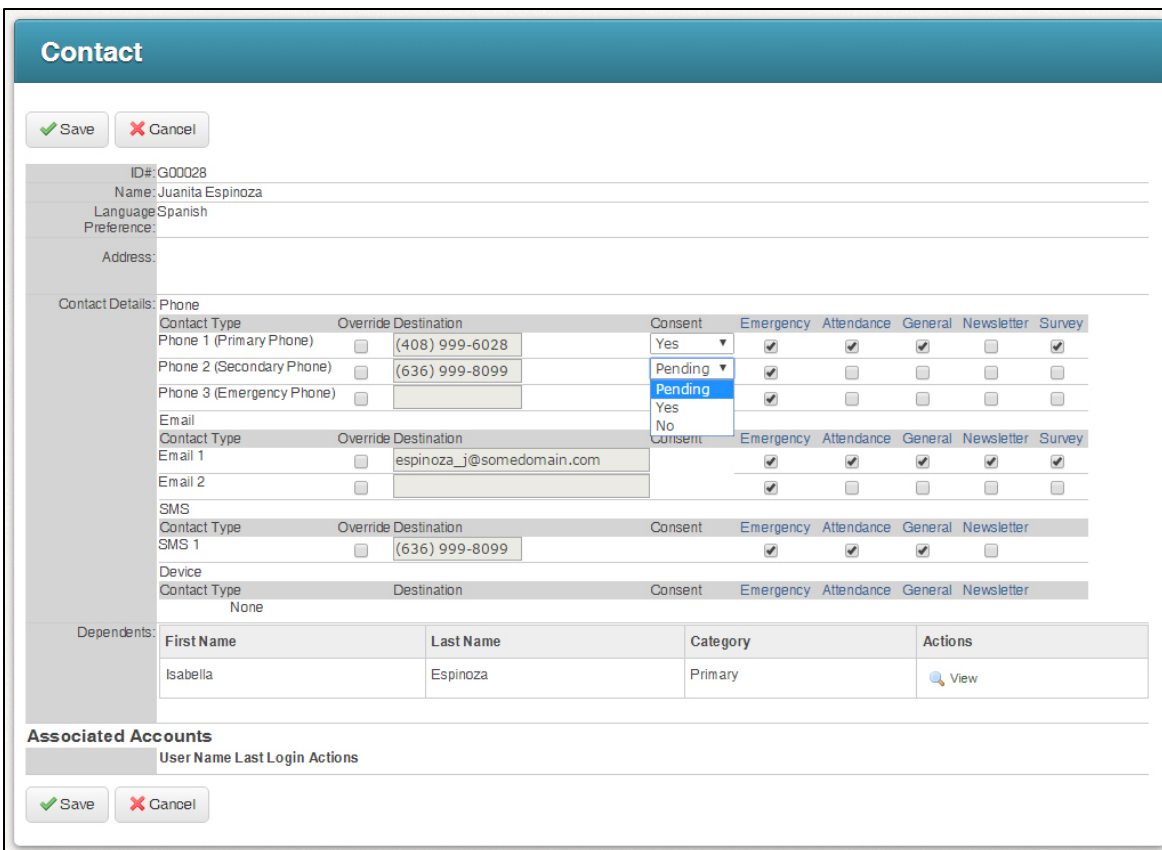
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InfoCenter^{TM}

Any contact, for which you have an email imported into your Communicate account, should be encouraged to sign up for and log in to the SchoolMessenger InfoCenter at infocenter.schoolmessenger.com. Not only will they find the options to provide consent to deliver notifications to their various phone numbers, but they will also be able to view previous messages, manage individual communication preferences for each phone number and email address, as well as notify the school of changes to contact information. Visit infocenter.schoolmessenger.com/#/learn or contact SchoolMessenger Support if you have further questions about InfoCenter and how to implement it within your organization.

Manually update contact info in Communicate

No matter which way school officials are informed of a contacts preferences, there is always the option for an authorized user to log in to SchoolMessenger Communicate and adjust those preferences manually. The Contact Details for each person can be found in your "System" tab under "Contacts", and every phone has a series of checkboxes indicating their "Consent Status" and settings for upon which broadcast types that phone will be called. More information and instructions on manually updating contact information can be found in the online Help for your Communicate account.
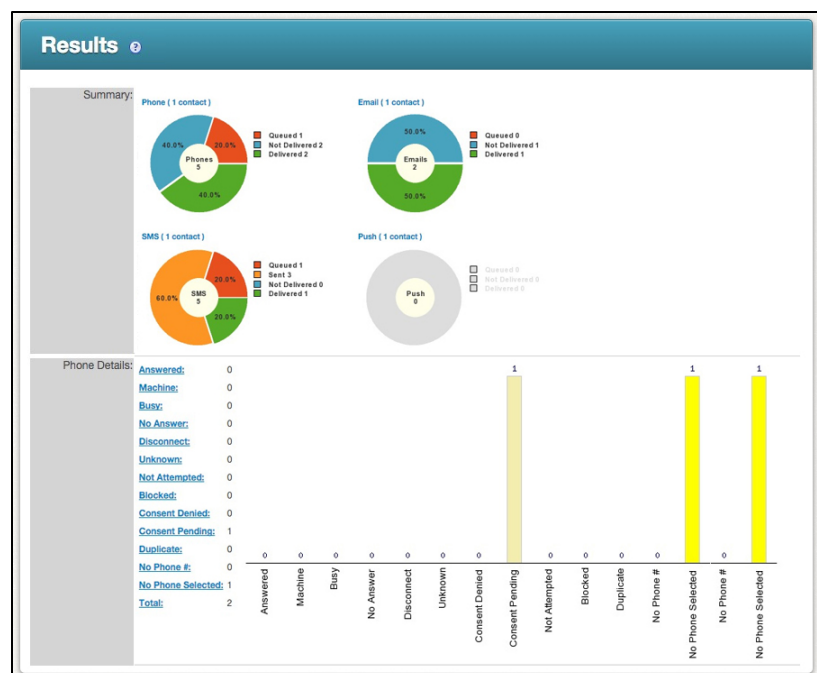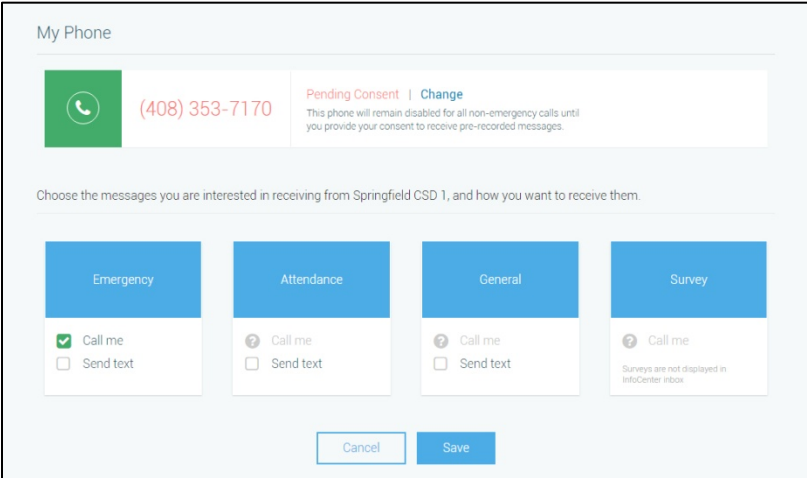
Carrier Data Integration

One of the biggest challenges with TCPA compliance is that consent must come from the person who owns the phone number, it is not just with the phone number itself. The 2015 FCC Ruling related to the TCPA states that consent is required from the "called party," who is designated as the consumer (e.g., parent or guardian) assigned to the number dialed and billed for the call or the non-subscriber customary user of a number in a family or business calling plan.

People change phone numbers, some of them frequently, and those numbers are often very quickly reassigned to new people, people from whom you have not captured consent, who likely do not have children in your schools. And too often, parents and guardians fail to inform schools when they have either changed a number or disconnected service. All of this can easily lead to your organization sending broadcast calls to numbers belonging to individuals for whom you do not have consent.

To help you improve your compliance under these real-world conditions, SchoolMessenger Communicate applies unique **Consent Lapse Intelligence**, synchronized with available telephone carrier data to proactively identify when a number has been disconnected or has likely changed ownership. When a change has been identified, the system will revoke consent for that number, both for voice and SMS text. If a disconnected number is detected, the system will revoke consent and prevent calls and SMS messages from going to that number.

Once a phone number has had consent revoked or been blocked by the Consent Lapse Intelligence feature, that information will be logged and available in the Reports section of Communicate. Reports can be customized and run at any time, and have scheduling options to help make them part of your regular routine.

If a person whose phone has been blocked or had consent revoked visits InfoCenter, they will see clear indications of these actions and be provided with options to renew consent and instructions on how to have the number unblocked.

FAQs

⚠️ _**Important**: The content below is for information purposes only and is not intended to be legal advice._

Why is parent or guardian consent for school communications more important now?

While it's always been a good idea to get parent or guardian okay for the preferred method of reaching them with school communications, recent clarifications by the Federal Communications Commission (FCC) to the Telephone Consumer Protection Act (TCPA) have re-emphasized there are legal reasons, too.

Specifically for telephone calls and SMS text messages, **prior express consent** is required from the called party if the school's call is made using automated dialing systems to any telephone number assigned to a mobile phone. The only general exemption is when calls are made for "emergency purposes" – that is, a call or text made in a situation affecting the health and safety of consumers.

Keep in mind TCPA only covers automated telephone calls and SMS text messages. Laws or regulations regarding email or other communications have not changed as a result of the TCPA ruling.

What are the requirements for telephone or SMS text message consent?

Consent – ideally in writing, whether it's on paper or provided digitally – is tied to an individual phone number a person uses. So for SMS text messages, for example, requiring someone to opt in by texting "YES" may be considered express consent. For automated voice calls, express consent for specific phone numbers could be granted on a paper form a parent or guardian returns at the start of the school year, through an emailed form with a digital signature, or in some other manner.

Recipients also have to be able to revoke consent, or opt out, at any time from SMS text messages or automated phone calls, and those numbers must be blocked by the school.

How can SchoolMessenger products help us improve TCPA compliance?

There are three types of consent management tools for the SchoolMessenger Communicate notification service (some tied to the free InfoCenter web and mobile app for recipients), providing a multi-point strategy. They include tools for capturing initial consent, managing opt outs and contact information as recipients update information, and behind-the-scenes monitoring of potentially reassigned phone numbers on an ongoing basis.

What tools are available to capture consent?

It depends on whether the consent is for SMS text messaging or voice calls. SchoolMessenger Communicate has long had automated SMS text message opt in capability. For voice calls, there are email templates schools can use to inform parents about consent tools, the InfoCenter web app for parents to provide consent and adjust contact numbers, and areas within the Communicate interface for schools to record consent (such as in the Contact Info tab).

What if a parent changes his or her mind, or contact information?

Different interactive preference tools support both SMS text messages and voice calls. For SMS text messages, there is a text-message based opt out. For voice calls, there is fine-grained touch-tone opt out – even for specific categories of messages – that is signaled by parents pressing certain phone keypad numbers during a received call, captured in a block report. And both SMS text message and voice call preferences (along with email and app push notifications) can be set in the free InfoCenter web app, which allows parents to adjust contact methods and details. Overall, recipients have greater control over if, why, and where they're contacted.

Can our schools and parents use the free InfoCenter app?

Yes. InfoCenter gives parents access to school notifications of all types (text message, voice, email) on either a web app or a mobile app for Apple's iOS and Android devices.

How can we know if a phone number has issues, or has been reassigned to someone else?

Communicate does pro-active, behind-the-scenes monitoring and automatically revokes consent for numbers at a higher risk of having been re-assigned or ported to a new owner (such as those with frequent disconnects) for which consent may no longer be valid. This new carrier data integration feature, using innovative Consent Lapse Intelligence (CLI), provides an additional layer of protection.

How does Communicate combine all of these approaches to help improve TCPA compliance?

While each set of tools can be used individually, Communicate includes a unique Compliance Mode that intelligently combines and leverages various consent inputs for voice calls. Compliance Mode can be toggled on or off at the district level for all voice phone notifications to parents. When toggled on, Compliance Mode only initiates phone broadcasts to numbers for which consent is on file if the notification is not flagged as an "emergency" broadcast type. One approach may be for a district to undertake a campaign to build a good base of consent records, then contact us to activate Compliance Mode to have peace of mind that it is no longer calling parents or guardians for whom it cannot verify consent.

Can Compliance Mode be turned off?

Yes. A district may have reasons to not use Compliance Mode based on their other record keeping procedures, policies, or processes. Schools can continue using Communicate as they do now.

Do the tools in SchoolMessenger products ensure TCPA compliance?

No. Compliance is as much about school practices – how a school uses the tool – as it is the tool itself. However, our tools are designed to streamline coming into, and maintaining, compliance.

Additional documentation and resources

More information and detail about the main features your organization can use to improve TCPA compliance is available. SchoolMessenger suggests that all staff and faculty in your schools who will be using Communicate to send notifications familiarize themselves with this document as well as these others:

Voice Call Opt-Out Guide
Complete instructional and decision making guide for managing voice call opt-out requests.
>Found in your Communicate account's online Help or here: Phone_Opt-Out_Guide.pdf

Launching an Effective SMS Text Opt-In Campaign
Comprehensive guide for completing the campaign required before sending SMS messages through SchoolMessenger.
>Found in your Communicate account's online Help or here: SMS_Text_Opt-In_Guide.pdf

Summary of TCPA Rules
An overview of TCPA rules written and provided by the FCC. Your legal team can review this robust summary document to learn the basics about this regulation: TCPA Summary.pdf

TCPA Communications Best Practices White Paper
Overview of how the TCPA and recent FCC rulings effect schools, along with expert suggested 'best practices' for improving compliance in regards to school-to-home communications: TCPA Communications Best Practices white paper - SchoolMessenger SM1016.pdf

Training
SchoolMessenger strongly encourages our customers to schedule trainings with all staff and faculty who will be using the Communicate system. Once your organization has decided on how you will approach TCPA compliance, schedule a training session with SchoolMessenger support.

Important: *Neither this guide, nor other TCPA-related materials from SchoolMessenger, provide or are intended to provide legal advice. We encourage you to consult with your legal counsel to best understand your organization's risk and options under the law.*