

# An Update on Telemarketing Laws and New Agency Rules

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## **Telephone Consumer Protection Act – Consent Requirements**

- Schools need to obtain consent from students before placing calls or sending text messages using an autodialer or an artificial or prerecorded voice
- Marketing calls/texts – express written consent
- Written, signed agreement that contains clear and conspicuous disclosures
- Informational calls/texts – consent (oral or written)
- Emergency calls/texts – no consent required

## **Federal Communication Commission’s New “One-to-One Consent” Rule**

- The FCC has adopted a new rule that means consumers can provide consent to receive automated calls/texts to only one seller at a time
- Rule is intended to “close lead generator loophole” by which lead generators often get consent from consumers to be contacted by dozens of unrelated entities
- Consent obtained via lead generator only allows seller to contact consumer if call/text is logically and topically related to lead generator’s website where consent was provided
- Important consent from lead generator is valid because sellers often held responsible
- Rule is effective January 26, 2025

## **Federal Communication Commission’s New Revocation of Consent Rule**

- The FCC has also adopted a new rule that means schools cannot limit the methods by which students can revoke consent to receive automated calls/texts
- Schools must honor opt-out requests made through “any reasonable manner,” including call, text, or website submission
- Under current rule, schools must honor opt-out request within 30 days, but under new rule, must honor it within 10 business days
- Effective no sooner than November 2024

## **Federal Trade Commission’s Updated Recordkeeping Requirements**

- The FTC has updated its recordkeeping requirements that apply to telemarketing calls
- Under current rule, sellers and telemarketers have to retain certain records for 2 years, but new rule requires they be kept for 5 years
- Records include call detail records, marketing scripts, proof of consent, DNC lists, contracts with telemarketers, unique prerecorded voice messages, and more
- Sellers and telemarketers can agree to allocate responsibility for maintaining records
- Rule effective May 2024; call detail record compliance required in October 2024



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Roger represents institutions of higher education in a wide array of regulatory, accreditation, and operational issues. He has substantive experience representing clients from public, private non-profit, and proprietary institutions of higher education. Roger previously served nearly 14 years as general counsel and chief compliance officer for a multi-state system of colleges. He also worked at a nationally recognized accrediting agency for more than 13 years, eight of which he served as the associate executive director and associate executive director/in-house counsel. Roger is well-known across the country as a presenter on developments related to higher education accreditation, federal regulations, data privacy and numerous other legal issues.



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Brandt Hill defends educational institutions in student and employment litigation and arbitration on various issues including ADA and TCPA compliance. He also routinely advises schools on regulatory issues involving the U.S. Department of Education and the Higher Education Act.

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