Instruction

This section identifies common issues and risks when using non-IU third-party hosted (sometimes called "cloud") tools in instruction, and provides recommendations on steps for instructors to take to reduce the risks associated with such tools. This guide is not intended to be used for evaluating non-instructional purposes of such tools.

Introduction

The Short Version

The Long Version

For Assistance

INTRODUCTION

Instructors sometimes consider using non-IU applications and tools hosted by third parties ("third-party tools") in support of their teaching because they want to incorporate tools their students are already using; they want their students to learn how to use common publicly-available tools; they have a need to use very specialized tools; or they feel that tools provided within Indiana University do not meet their needs for some other reason. For example:

- An instructor wishes to have students create blogs in which they write about a course topic and present the information attractively. Because a number of students already maintain non-IU blogs, the instructor wants to allow students the option to use either the Oncourse blog tool, or to use their own non-IU blog tool. She requires that those students using non-IU blogs link to them from within the Oncourse wiki so that all course students can review them.
- Twitter is being used by the instructor to engage students in discussion about course readings. He creates a web page within Oncourse that displays tweets containing the course hashtag. This allows those students who do not want to fully engage in Twitter to read the tweets from within Oncourse.
- Students are required to create a survey as a part of the course. The instructor wishes them to experiment with SurveyMonkey.com, and then evaluate it as a medium for delivering surveys.
- An instructor puts students in teams to create business plans, and wishes the teams to work collaboratively using appropriate online tools. For the final presentations of their plans to the class, the instructor requests that they use the Google Docs presentations feature.

While IU-provided tools are designed to meet the standards of university policy and applicable law with regard to data privacy and security, protection of intellectual property rights, and records retention obligations, the tools provided by other entities may not. How a third-party hosting a tool handles and shares personal data...
and other records and intellectual property created or used by instructors and students when using that tool, may raise significant data privacy and security issues as well as other policy and legal issues. (For more detail on risks with these tools, see Use of Cloud Computing.) Thus, instructors need to carefully review the non-IU tools they wish to use, and take certain steps to reduce the potential risks associated with such use.

THE SHORT VERSION—SUITABLE FOR MOST INSTRUCTIONAL SITUATIONS

The biggest risks are all about the INFORMATION being put into the non-IU tool. For MOST instructional situations, these are the three most significant risks:

Risk #1 CRITICAL INFORMATION
Don't put any information classified at IU as Critical into a third-party tool without entering into a contract with the vendor.

Indiana University has a data classification scheme, which identifies the sensitive information elements that require the very highest level of security protection. Those elements are:

- Social Security numbers
- Credit card numbers
- Debit card numbers
- Bank account/financial account numbers
- Driver's license numbers
- State ID card numbers
- Student loan information
- Foundation donor data
- Protected health information
- Individually identifiable health information
- Passphrases/passwords, PINs, and security/access codes

(Often, but not always, one of these elements needs to be accompanied by an individual's name in order to result in harm.)

If the pedagogical objectives of the course require the instructor or the students to enter this type of information into the third-party tool, then DO NOT USE IT in the course before working through the appropriate institutional offices to get a contract with the service. (See the LONG VERSION for more information on whom to contact regarding this process.) Fortunately, very few instructional activities will require the use of these sensitive information elements, so the vast majority of instructors can move on to . . .
Risk #2 FERPA
Don’t put any data covered by FERPA into a third-party tool without entering into a contract with the vendor.

The Family Educational Rights and Privacy Act (FERPA) does not prohibit instructors from having students use third-party tools as part of the course activities. Content created by students when using such tools to fulfill course requirements (e.g., creating blogs on WordPress or posting videos to YouTube) do not constitute "student education records" under FERPA. However, copies of such records that are maintained by an instructor in his or her own files do constitute FERPA-protected "student education records."

If the pedagogical objectives of the course require the instructor or the students to enter FERPA-protected "student education records" into the third-party tool, then DO NOT USE IT in the course before working through the appropriate institutional offices to get a contract with the service. (See the LONG VERSION for more information on whom to contact regarding this process.)

But in most instructional situations, the use of the third-party tool is by the students only; for example, the students post to Twitter or Blogger, or create and post a survey in SurveyMonkey, or work on collaborative projects with their fellow classmates using GoogleDocs. It may take a few moments of thinking, but the instructor can usually figure out a way to maintain his FERPA-covered files on institutionally provided tools, and the Center for Teaching, Learning, and Assessment stands ready to help you if needed. This allows a majority of instructors to move on to . . .

Risk #3 INTELLECTUAL PROPERTY
Don’t give away Intellectual Property you are not entitled to give away, or that you don’t want to give away.

Many materials used in instruction are protected by copyright law, and, Indiana University has an Intellectual Property Policy that outlines who owns the rights to various types of materials created or used in support of IU’s missions. Are the instructors and students entitled to give away these rights to a third-party tool? If so, do they WANT to give away these rights? Review the Terms of Service or Terms of Use of the third-party tool and ask the following questions:

- Does the service provider claim any rights to use content created or uploaded to the tool? Typically, the service provider at least claims a license to copy, adapt and share content as needed to enable the user to access and use the tool. If the license exceeds this limited scope, then ensure that the owner of the rights in the content agrees to the scope of the license.
- Under the university’s Intellectual Property Policy, who owns the rights in and to content that is created or uploaded to the tool?
  - If the rights are owned by the university, then the instructors and students:
May upload that content only if (a) the terms of use for the tool do not grant the third-party host or other third parties rights in the content other than a limited license to use it for the purpose of enabling the user’s access to and use of the tool; or (b) the user has otherwise obtained permission from the university to upload the material to the site. Consult with the General Counsel’s Office (See “For Assistance” section below) to pursue the appropriate permission to upload.

Must include the following copyright notice on the uploaded content: "© 20XX The Trustees of Indiana University," together with "All Rights Reserved," or other licensing language approved by the relevant university officials.

- If the rights are owned by the individual instructors or students, they should review the terms of use to ensure that they understand and are comfortable with those terms. They should also consider placing copyright notices on their content. For assistance in drafting a copyright notice/license, see the Creative Commons website.

Be sure that use of other copyrighted materials incorporated into content that instructors upload complies with copyright law, and instruct students to do the same. For further information on compliance with copyright law, see Fair Use: Borrowed and Captured Media for Instruction, Posting copyrighted materials online, or contact the General Counsel’s Office (See "For Assistance" section below).

Finally, it’s a good idea to communicate your plans to use these tools to students by indicating this in the syllabus.

For most instructional situations, these three risks are all that need be considered before proceeding. However, if the instruction is very innovative, complicated, or extensive, the instructor should review the LONG VERSION before proceeding.

THE LONG VERSION—FOR MORE INNOVATIVE INSTRUCTIONAL SITUATIONS

This list of risks is more comprehensive, for your reference when considering more innovative, complicated, or extensive instructional uses of non-IU tools.

Privacy: Protect student privacy and identity.

- The Family Educational Rights and Privacy Act (FERPA) does not prohibit instructors from having students use third-party tools as part of the course activities. Content created by students when using such tools to fulfill course requirements (e.g., creating blogs on WordPress or posting videos to YouTube) do not constitute "student education records" under FERPA. However, copies of such records that are maintained by an instructor in his
or her own files do constitute FERPA-protected "student education records," and instructors must take care to not disclose in violation of FERPA, via non-IU tools, personally identifiable information from student education records. (For more on FERPA, see Student Privacy and FERPA.)

- If it is necessary to disclose FERPA-protected student education records to the non-IU tool to meet pedagogical objectives, IU must contractually require the service provider to comply with FERPA. Contact the General Counsel’s Office (See "For Assistance" section below) first for assistance in this process.

- Many personally-identifiable information elements are protected by laws, regulations, and university policies which require the very highest level of privacy and security protection. Indiana University has a data classification scheme which identifies these elements and classifies them as "Critical."

These elements are:

- Social Security numbers
- Credit card numbers
- Debit card numbers
- Bank account/financial account numbers
- Driver’s license numbers
- State ID card numbers
- Student loan information
- Foundation donor data
- Protected health information
- Individually identifiable health information
- Passphrases/passwords, PINs, and security/access codes

(Often, but not always, one of these elements needs to be accompanied by an individual's name in order to result in harm.)

Instructors must take care to not disclose, via non-IU tools, these personally identifiable information elements. (For more, see Protection of Sensitive Institutional and Personal Information.)

- If it is necessary to disclose information classified as "Critical" at IU to the non-IU tool to meet pedagogical objectives, IU must contractually require the service provider to comply with data privacy and security requirements. Contact the General Counsel’s Office (See "For Assistance" section below) first for assistance in this process.

- If consistent with pedagogical objectives, restrict access to student content on non-IU tools to those enrolled or involved with the course, whenever possible.

- Suggest that students use aliases when creating accounts for non-IU tools, particularly if access to student work will be public. Remind students not to use their SSNs or IU usernames and passphrases when creating such accounts.

- Avoid referring to students by full name in the non-IU tool.
• Advise students to limit their postings to course-related content, and that any use of the tool for non-course-related purposes is considered outside the scope of the course.
• Delete student content from third-party tools when no longer needed (but be aware, and make students aware, that doing so may not remove such content from the third-party's archives, nor from caches and search engine results).

Use: Communicate plans to use non-IU tools to students.

• Instructors should communicate to students in the course syllabus their intent to require the use of non-IU tools, along with pertinent issues, conditions, or risks. This allows a student to decide whether to withdraw from the course, or request alternate solutions. Consider that withdrawal from the course may not be possible because the course is required, the course is offered in a sequence, the course is not offered regularly, or the course is offered by only one instructor.
• Instructors should weigh the needs of the course activity against the student’s privacy rights, especially when non-IU tools have policies and practices on collection, use, and security of personal information that do not offer strong protections. The decision to require the use of non-IU tools should not create an unnecessary burden for students who do not agree with the third-party's policies and practices.
• Consider making the use of the non-IU tool optional for your students. For example, suggest that students may use the Oncourse blog tool for their assignments, but if students want different functionality they can use a tool like Google Blogger or WordPress.
• Informing students of the issues, conditions, and risks of using these tools and of best practices for using them safely also provides an opportunity for the instructor to educate students on using publicly available online tools in general.

Support: Consider that non-IU tools are not fully supported by IU.

• Traditional campus support models may not be able to help you resolve technical issues that arise while using non-IU tools. Because of unfamiliarity with the tool, or lack of access to the underlying technical configuration, the UITS Support Center, the UITS Knowledge Base and other online documentation, the Center for Teaching, Learning, and Assessment, or the IT Helpdesk may not be able to help you or your students troubleshoot and resolve issues. Understand that instructors and students may receive only generic help from IU.
• Instructors and students will need to rely on the third-party directly, or on other outside support, for assistance. Be aware of the options available, such as helpdesk phone or email support, or user forums. Experiment with using these options prior to committing to use the non-IU tool, to determine whether they will meet your needs and the needs of your students.
• Note that UITS IT Training & Education is unlikely to provide training on how to use these outside tools. If training is needed, instructors may need to arrange for it themselves.

**Terms of Service: Understand the risks to you and your students.**

• Providers of non-IU tools generally require users to "click through" their agreement to certain Terms of Service or Terms of Use. These terms are generally considered legally binding on the users; therefore, it is important that users (including instructors assigning students to use a third-party tool as part of a class) read these terms carefully. Instructors should consult with the Center for Teaching, Learning, and Assessment or General Counsel's Office (See "For Assistance" section below) if they do not understand any of those terms or their potential impact on students and their activities.

• Instructors, researchers, and students are not authorized to enter into legal contracts on behalf of IU. In many cases, instructors and students are agreeing as individuals on their own behalf only, and are personally responsible for complying with the terms of use and for any penalties that result from noncompliance. If a tool’s Terms of Service or other agreement for accessing the tool requires an institutional signature, it must be obtained from the Treasurer's Office; contact the General Counsel's Office (See "For Assistance" section below) first for assistance in this process.

• Providers of non-IU tools may reserve the right to change their Terms of Service at will and without notice to users. Be aware of how changes are communicated, and monitor for changes, to ensure that the Terms of Service continue to be acceptable. Be aware also of alternative tools, in case the chosen tool chosen terminates or changes unacceptably prior to completion of the course.

• If it is necessary for IU to enter into a contract with the third-party service (e.g. when it is necessary, to meet pedagogical objectives, to disclose FERPA-protected student education records or information classified as "Critical" at IU to the non-IU tool), contact the General Counsel's Office (See "For Assistance" section below) first for assistance in this process.

• Be aware that even after a legal contract is signed, instructors and students may still be required to "click through" an End User License Agreement that obligates them to comply with particular rules or standards in their individual use of the tool.

• IU has signed agreements to allow use by IU personnel of some non-IU tools. Check first to see whether the tool has already been licensed for IU, and under what terms. Check IUware and the Purchasing web site for lists of existing agreements, or contact the Center for Teaching, Learning, and Assessment, which may have more information.

**Intellectual Property: Understand who owns the content and what they can do with it.**
• Review the Terms of Service or Terms of Use and ask the following questions:
• Does the service provider claim any rights to use content created or uploaded to the tool? Typically, the service provider at least claims a license to copy, adapt and share content as needed to enable the user to access and use the tool. If the license exceeds this limited scope, then ensure that the owner of the rights in the content agrees to the scope of the license.
• Under the university’s Intellectual Property Policy, who owns the rights in and to content that is created or uploaded to the tool?
  o If the rights are owned by the university, then the instructors and students:
    • May upload that content only if (a) the terms of use for the tool do not grant the third-party host or other third parties rights in the content other than a limited license to use it for the purpose of enabling the user’s access to and use of the tool; or (b) the user has otherwise obtained permission from the university to upload the material to the site. Consult with the General Counsel’s Office [LINK TO "FOR ASSISTANCE" SECTION BELOW] to pursue the appropriate permission to upload.
    • Must include the following copyright notice on the uploaded content: "© 20XX The Trustees of Indiana University," together with "All Rights Reserved," or other licensing language approved by the relevant university officials.
  o If the rights are owned by the individual instructors or students, they should review the terms of use to ensure that they understand and are comfortable with those terms. They should also consider placing copyright notices on their content. For assistance in drafting a copyright notice/license, see the Creative Commons website.
• When and how are rights to content claimed by the service provider terminated? Be sure you or the copyright owner finds these terms agreeable.
• Be sure that use of other copyrighted materials incorporated into content that instructors upload complies with copyright law, and instruct students to do the same. For further information on compliance with copyright law, see Fair Use: Borrowed and Captured Media for Instruction, Posting copyrighted materials online, or contact the General Counsel’s Office (See "For Assistance" section below).
• Recognize that placing content on a non-IU tool may constitute "publication" of that content in a manner that may inhibit publication of the work through other means (as may putting the content on a publicly available IU website).

Accessibility, Recovery, and Retention: Comply with regulations and campus policies.

• When asking students to use non-IU tools in instruction, ensure that such tools meet campus accessibility requirements or that suitable
accommodations are available for students with disabilities. Consult with the Adaptive Technology and Accessibility Center if needed, at 812-856-4112 or 317-274-6482 or email iuadapts@indiana.edu. (For more, see Web Accessibility at Indiana University.)

• Regularly back up materials residing on non-IU tools. Many providers assume no responsibility for backing up or archiving content.
• Be sure that any use of third-party hosted tools permits retention of university documents in accordance with departmentally defined records retention schedules, or that you make copies yourself for retention purposes. For example, if you are required to keep copies of graded work, ensure that either the service retains the necessary documents, or that you retain them.

FOR ASSISTANCE

• With general issues, to figure out how to get started, for advice on tools, or for pedagogical and technology assistance, contact the Center for Teaching, Learning, and Assessment.
• With instructional or student-related issues: contact the Office of Academic Affairs.
• With contractual, copyright, or legal issues: contact General Counsel's Office at 855-9739.
• With general information policy, security, or privacy issues: contact the University Information Policy Office at 812-855/UIPO or uipo@iu.edu.