



Emily S. Tabatabai

Partner

Washington, D.C., Houston

T +1 202 339 8698

E etabatabai@orrick.com

Practice Areas

- Cyber, Privacy & Data Innovation
- Technology Companies Group
- Internet of Things
- CCPA and California Privacy Law

Honors

- *Chambers USA* - Nationwide, Privacy & Data Security, Up and Coming attorney (2018, 2019, 2020)
- *Chambers Global* - Privacy & Data Security USA, Up and Coming (2020)
- *The Legal 500*, Cyber Law - Including Data Protection and Privacy (2017, 2018), Tier 1 ranking (2019)
- *Chambers USA* – Nationwide, Privacy and Data Security Band 1 ranking; Privacy/Data Security Law Firm of the Year (2019)
- Member of IAPP Publications Advisory Board (2019)
- Member of *Law360* Privacy Editorial Advisory Board (2018)

Emily S. Tabatabai is a partner and founding member of the Cyber, Privacy & Data Innovation practice, which was named Privacy/Data Security Law Firm of the Year by *Chambers USA* in 2019. She has been recognized by *The Legal 500* for her “extraordinary depth of knowledge in student data privacy matters,” and by *Chambers USA* as “an invaluable resource to have when it comes to data privacy and security.”

Emily advises clients on an array of privacy and data management matters, helping clients navigate the complex web of privacy laws, rules, regulations and best practices governing the collection, use, transfer and disclosure of data and personal information. Emily works closely with client business teams and in-house counsel to assess and manage privacy risks, design and deploy compliance programs and implement privacy-by-design approaches to address key compliance objectives while supporting each client’s data innovation strategies and the development and use of cutting-edge digital technologies. She frequently guides child- and student-directed service providers through the complexities of compliance with the Children’s Online Privacy Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), California’s Student Online Personal Information Protection Act (SOPIPA) and similar state student privacy laws and advises companies across the industry spectrum as they work towards compliance with the California Consumer Privacy Act (CCPA). She also represents clients subject to regulatory investigations and litigation involving a spectrum of federal and state laws, including under Section 5 of the Federal Trade Commission Act (FTC Act), COPPA, the Fair Credit Reporting Act (FCRA), Gramm-Leach-Bliley Act (GLBA), the California Online Privacy Protection Act (CalOPPA) and others.

To make the CCPA more accessible, Emily developed Orrick’s CCPA Readiness Assessment Tool. The tool provides companies an opportunity to test their compliance with the CCPA and similar laws as a first step to constructing their strategic compliance roadmap.

Emily also has an active consumer protection practice, focused on marketing and promotional issues. She counsels clients on interest-based advertising, sweepstakes and marketing promotions, retail sales and e-commerce platforms, advertising

- *Law360*, Privacy Practice Group of the Year (2016)
- *The Legal 500*, Media Technology and Telecoms, Cybercrime (2014, 2015, 2016)

Education

- J.D., University of Virginia School of Law, 2006
- B.B.A., Emory University, Goizueta Business School, 2001

Memberships

- Texas Bar, Business Law Section, Privacy, Data Security and E-Commerce Committee
- Certified Information Privacy Professional (CIPP), International Association of Privacy Professionals

substantiation, new media and social media integration, and SMS text messaging and telemarketing, including matters involving the Telemarketing Sales Rule (TSR), the Telephone Consumer Protection Act (TCPA), the Restore Online Shoppers' Confidence Act (ROSCA) and state and federal consumer protection statutes.

Emily is a Certified Information Privacy Professional in both U.S. and European privacy law (CIPP/US and CIPP/E) and member of the International Association of Privacy Professionals (IAPP) Publications Advisory Board. She is a frequent speaker on data privacy matters, with a particular focus on children's privacy (COPPA), student data privacy and EdTech. She was featured as an "Up and Coming" Privacy & Data Security attorney by *Chambers USA* 2018, 2019, and 2020 and *Chambers Global – USA* 2020. Clients tell *Chambers*, "she's been an excellent partner. She has a very good understanding of the practical realities of implementing privacy policies for large companies." Citing her expertise in the field of educational privacy, student data and ed-tech matters, *Chambers* reports that clients regard her as "very knowledgeable and truly and expert in this space," with some saying, "On the student data side, she is unmatched."

Representative Engagements

Recent Cybersecurity & Privacy matters:

- Successfully representing a global EdTech provider in non-public FTC investigation involving alleged COPPA violations in connection with student-directed services and adtech.
- Counseling global SaaS provider on development and deployment of big data analytics service offerings utilizing artificial intelligence (AI) and machine learning technologies.
- Advising major municipality on smart cities initiative and development of comprehensive privacy compliance program.
- Representing a major global fashion retailer in an enforcement action by the U.S. Federal Trade Commission's Bureau of Consumer Protection involving the client's online privacy policies and behaviorally-targeted advertising practices.
- Representing a social application developer in a confidential investigation by the FTC involving alleged breach of data protected by COPPA.
- Advising EdTech providers on compliance with FERPA and state student data privacy law obligations and cybersecurity matters.
- Advising a consumer electronics company in designing and implementing global Web site privacy policies and procedures.
- Representing a software developer in non-investigative discussions with the FTC regarding the developer's behaviorally targeted marketing program for bank transactions.
- Advising hundreds of start-ups and mature company clients across the business spectrum on design of online privacy policies, mobile privacy policies and data collection practices and procedures in accordance with FTC guidance, industry best practices and global data privacy regulations.
- Counseling hundreds of companies on proactive and reactive security breach incident protocols, including compliance with U.S. state and international data breach notification rules.
- Advising consumer-facing retailers and service providers on a range of consumer protection issues, including advertising substantiation, sweepstakes and contest design and regulation, social media marketing, mobile marketing, celebrity

endorsement agreements, and sales and advertising issues.

Publications

- Quoted, “Holding Class on Zoom? Beware of These Hacks, Hijinks and Hazards,” *EdSurge* (March 27, 2020)
- Co-Author, “California AG Releases More Modifications to CCPA Regulations Text,” *Orrick Trust Anchor* (March 2020)
- Co-Author, “California Attorney General Releases Updated Drafts of Proposed CCPA Regulations Text,” *Orrick Trust Anchor* (February 2020)
- Co-Author, “The CCPA is in Effect and it is Not Too Late To Get Started in 2020,” *Orrick Trust Anchor* (January 2020)
- Co-Author, “California Governor Signs CCPA and Breach Notification Statute Amendments into Law,” *Orrick Trust Anchor* (October 2019)
- Co-Author, “Up for Interpretation: Proposed CCPA AG Regulations Open for Public Comment,” *Orrick Trust Anchor* (October 2019)
- Co-Author, “Nevada Passes Opt-Out Law, Effective October 2019 – Three Months Before the CCPA,” *Orrick Trust Anchor* (June 2019)
- Co-Author, “Putting Individuals in the (Urth)Box: FTC Goes After Individual Executives for Unfair and Deceptive Practices,” *Orrick Trust Anchor* (May 2019)
- Quoted, “Behavioral Design Could Be Privacy Law’s Next Frontier,” *Law360* (April 2019)
- Quoted, “Musical.ly settlement indicates ‘FTC is willing to push beyond its past actions,’” *DataGuidance* (March 2019)
- Co-Author, “State Legislators Joining the Consumer Privacy Protection Party: Introduced CCPA-Like Bills,” *Orrick Trust Anchor* (March 2019)
- Co-Author, “Google to Pay \$57 Million for GDPR Violations,” *Orrick Trust Anchor* (February 2019)
- Quoted, “California Law Blurs Student Privacy Lines for Ed Tech Vendors,” *Bloomberg Law* (January 2019)
- Quoted, “California Legislation and Regulation to Watch in 2019,” *Law360* (January 2019)
- Profile, “How I Made Partner: Orrick’s Emily Tabatabai,” *Law.com* (November 2018)

- Co-Author, “California Sets the Standard with a New IoT Law,” *Orrick Trust Anchor* (November 2018)

- Co-Author, “California Sets the Standard with a New IoT Law,” *Orrick Trust Anchor* (November 2018)
- Co-Author, “Making Your Head Spin: ‘Clean Up’ Bill Amends the CCPA, Delaying Enforcement But Making Class Litigation Even MORE Likely,” *Orrick Trust Anchor* (September 2018)
- Quoted, “California Privacy Law Changes Sent to Governor’s Desk,” *Law360* (Sept 2018).
- Co-Author, “Did California Open (Another) Floodgate for Breach Litigation?” *Orrick Trust Anchor* (August 2018)
- Co-Author, “Understanding California’s Game-Changing Data Protection Law: The CA Consumer Privacy Act of 2018,” *Corporate Counsel* (July 2019)
- Quoted, “California Privacy Law to Spark GDPR-Like Compliance Efforts,” *Law360* (July 2018)
- Quoted, “Why Some Children’s Apps Might Not Be as Safe As You Think,” *EdSurge* (May 2018)

- Quoted, “Blockchain Users to Walk Tightrope in an Age of GDPR,” *Law360* (May 2018)
- Co-Author, “The CLOUD Act, Explained,” Orrick Insights (April 2018)
- Quoted, “Education Department to Replace Chief Privacy Officer,” *Bloomberg Law* (Mar 2018)
- Quoted, “Cybersecurity & Privacy Predictions for 2018,” *Law360* (January 2018)
- Quoted, “How to Protect Education Data When No Systems Are Secure,” *EdSurge* (September 2017)
- Quoted, “Top Cybersecurity & Privacy Developments of 2017,” *Law360* (December 2017)
- Author, “States Continue to Expand the Definition of Personal Information,” IAPP Privacy Tracker (February 27, 2017)
- Co-Author, “Kids, Cookies and COPPA: Firms Pay a Price on Privacy,” *Law360* (October 2016)
- Co-Author, “FTC Makes Clear that NIST Cybersecurity Framework is not a Cure-All,” *Law360* (September 2016)
- Co-Author, “Seventh Circuit Revives P.F. Chang’s Data Breach Class Action Suit,” Privacy and Cybersecurity Law Report, Lexis Nexis (July 2016)
- Quoted, “USA: FTC’s Vulcun settlement shows false statements are not ‘mere exaggeration’,” *DataGuidance* (February 2016).
- Co-Author, “German DPAs Add Further Pressure to E.U.-U.S. Data Transfers,” *Intellectual Property & Technology Law Journal* (January 2016).
- Quoted, “USA: ‘Selfie’ valid as COPPA parental consent,” *DataGuidance* (November 2015).
- Co-Author, “Privacy Policies And Asset Sales: It Pays To Plan Ahead,” *Law360* (October 2015).
- Co-Author, “Privacy, Security, Risk: What You Missed At IAPP Conference,” *Law360* (October 2015).
- Co-Author, “Roadmap Offers Important Insights on How to Prepare for FTC Breach Investigations,” Orrick Client Alert (May 2015).
- Quoted, Google’s Agreement with Italian Regulators, *Daily Journal* (March 2015).
- Co-Author, “New California Law for Minors Went Into Effect: What You Need to Know To Comply,” Orrick Client Alert (February 2015).
- Co-Author, “Obama Administration Announced Cybersecurity Initiatives, Orrick Client Alert (January 2015).
- Quoted, “FTC & TRUSTe Settle Over Recertification,” *e-Commerce Law and Policy* (December 2014).
- Quoted, “Burden of School Privacy Protections Shifts to Corporations,” *Daily Journal* (November 2014).
- Quoted, “COPPA FAQs Focus on Privacy ‘Danger Zone,’” *DataGuidance* (July 2014).
- Quoted, “*FTC v. Amazon* – ‘App Developers Pay Attention’ to Disclosure and Consent,” *Data Guidance* (July 2014).
- Author, “White House Releases Big Data Privacy Report,” *The Secure Times* (May 2014).
- Author, “New COPPA Compliance Mechanisms Now Available,” *The Secure Times* (February 2014).
- Co-Author, “Mobile Apps Remain Regulatory Focus as FTC Enforces Data Privacy of Popular Program,” Orrick Client Alert (December 2013).
- Co-Author, “Pragmatic Approaches to Implementing California’s New ‘Do Not Track’ Law,” *IAPP Privacy Tracker* (November

- 2013).
- Author, “Mobile Location Analytics Companies Agree to a Code of Conduct,” *The Secure Times* (November 2013).
- Co-Author, “FTC Dot Com Disclosure Update – What’s New for 2013,” Orrick Client Alert (April 2013).
- Co-Author, “California Introduces ‘Right to Know’ Privacy Law, Seeking to Increase Transparency,” Orrick Client Alert (April 2013).
- Co-Author, “FTC Assesses \$800,000 Fine Against Mobile App Operator and Issues Mobile Privacy and Security Guidance,” Orrick Client Alert (February 2013).

Speeches and Programs

- Presenter, Last-Minute Amendments – Changes to California’s New Privacy Law Ahead of the Effective Date, Webinar, October 30, 2019
- Panelist, The Changing World of Children’s Privacy, IAPP P.S.R. September 25, 2019
- Presenter, Spotlight on EdTech – How the New California and California Privacy Laws will Impact Data in EdTech, Webinar, August 27, 2019.
- Panelist, Fact Check: What’s Changed Since the GDPR for Canadian Companies? Canadian Bar Association Webinar, June 2019
- Panelist, COPPA at 20: Protecting Children’s Privacy in the New Digital Era, Institute for Technology Law & Policy at Georgetown Law, October 24, 2018
- Presenter, Future of Privacy Forum and SIIA: Student Privacy Bootcamp, June 26, 2018
- Presenter, What EdTech Start-ups Need to Know About Privacy Laws, EdSurge Immersion, April 2018
- Panelist, Navigating Online Perils, Digital Advertising, Trademarks, and Cybercrime, September 21, 2017
- Panelist, A Date with Data Privacy, Security & Sensibility in Edtech, presented by EdSurge, September 20, 2017
- Presenter, Understanding Data Privacy in K12, EdTech Austin, November 2, 2016
- Panelist, Beyond FERPA: What California and New York Require of EdTech Providers, October 25, 2016
- Presenter, Are you ready for the notification requirements of upcoming EU legislation? BrightTalk Webinar, September 23, 2016
- Panelist, Future of Privacy Forum: Student Privacy Boot Camp for Ed Tech Vendors, March 3, 2016.
- Panelist, Back to School in the Digital Age: How Educators and Entrepreneurs Use and Protect Student Data Under Fast Changing Student Privacy Laws, October 7, 2015.
- Speaker, COPPA, FERPA and State Laws: Compliance for Companies in the EdTech Industry, ImagineK12, October 6, 2015.
- Panelist, FTC Calling? How to Navigate an FTC Security Investigation Before, During and After, IAPP P.S.R. September 30, 2015.
- Panelist, Cybersecurity Updates, National Association of Women Lawyers (NAWL), March 17, 2015.
- Panelist, Big Risks with Big Data, Orrick In-House Academy San

Francisco, January 29, 2015.

- Panelist, Big Risks with Big Data, Orrick In-House Academy New York, January 15, 2015.
- Speaker, COPPA and FERPA: A Guide for EdTech Providers, ImagineK-12, November 19, 2014.
- Panelist, Big Data and Wrongful Collection, NetDiligence CyberSecurity Conference, October 9, 2014.
- Panelist, Troubleshooting Regulatory and Advertising Issues, Orrick and CircleUp for Start-Ups, October 7, 2014.
- Panelist, Privacy Law: Compliance and Best Practices, BridgePoint Education Webinar, July 30, 2014.

Admissions

- District of Columbia
- Texas