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P r e s s e release

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Digital lessons - grievances must be remedied as quickly as possible

After the renewed school closures, the high number of inquiries about

data protection-compliant use of digital learning materials by schools, teachers, parents and

Media representatives who work for the Berlin Commissioner for Data Protection and Freedom of Information

reached, increased again. The Data Protection Authority notes with regret that in

Educational area still has not managed to function and the current law

to provide appropriate digital infrastructures as well as legally compliant software solutions

select and procure.

The Berlin Commissioner for Data Protection and Freedom of Information, Maja Smoltczyk, makes it clear that

that distance learning - using digital teaching and learning materials - in these difficult

times must nevertheless be possible. It will therefore continue its supervisory activities in the current

As in the past few months, follow the pandemic situation with caution and a sense of proportion

and of action against individual schools using problematic services, to the extent

possible foresee.

The temporary waiver of drastic measures against the responsible schools

does not mean, however, that the use of digital services that do not comply with data protection regulations

This makes it lawful and generally accepted by the data protection supervisory authority

becomes. The current use of digital products whose data protection compliance is not guaranteed

must by no means become permanent in Berlin schools. The upcoming summer months must

are used intensively by those responsible to ensure a data protection-compliant and

to enable trouble-free digital lessons until the new school year.

According to the European General Data Protection Regulation (GDPR), data may only be

processed if the requirements of this directly applicable in Berlin are met

law are complied with. According to the law, it is the task of the respective Responsible bodies to ensure before data processing that the processing takes place in accordance with the GDPR. This must be proven by the responsible body can. According to the applicable Berlin state law, the individual schools are currently themselves responsible for the use of digital services in the classroom. Specifically, this means that each individual school for each product to be used a comprehensive test with regard to the Compliance with data protection requirements and data security must before using the product.

This assignment of tasks is not appropriate because it is highly inefficient if a large number of schools must carry out the same examinations in case of doubt.

On the other hand, however, schools are regularly completely overwhelmed with these tests because This is not about a purely pedagogical assessment of digital teaching aids, but goes far beyond that

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goes beyond examining and evaluating highly complex legal and technical issues Issues that teachers are not usually trained for and for which they are not have the necessary time resources. This task can therefore be useful are only managed centrally by the specialist authority that is superior to them. This is in the obligation to set minimum standards for digital teaching and learning materials and such pre-selection of pedagogically and legally appropriate digital services and products

meet. This is the only way schools can be given the necessary legal certainty.

The data protection supervisory authority cannot take over this task from the educational administration. The

The legal task of the data protection supervisory authority is to ensure the application of data protection

to control and enforce the Basic Regulation (Article 57 (1) of the Data Protection

basic regulation). In addition, she has the task of those responsible for them from the

to raise awareness of the obligations arising from the General Data Protection Regulation and e.g. Parliament and

to advise the government on legislative and administrative measures on data protection.

About the very important process of digitizing school lessons in the pandemic-related

The Berlin Commissioner for Data Protection and

Freedom of information accordingly early last year a number of

Help published and a large number of inquiries from individual schools, teachers and

parents answered. As early as spring 2020, she developed and published concrete information

on the data protection-compliant use of digital learning platforms and the use of

Video conferencing services for Berlin officials. In parallel, she conducted a detailed

Audit of various video conferencing services, the result on July 3, 2020

was published and received nationwide attention ([www.datenschutz-](http://www.datenschutz-berlin.de/corona-pandemie)

berlin.de/corona-pandemie). This overview will be updated shortly.

Maja Smolczyk:

“Data protection is not an end in itself. Children and young people are among the most

protective members of our society. For me, from the beginning of my tenure, it has been a

been a central concern that students wisely and sustainably to the

Challenges of the digitized society are introduced and a solid

Develop awareness of the dangers hidden within. In times when the use

algorithmic processes and artificial intelligence is spreading rapidly in all areas of life,

must therefore be ensured that the digital services used in schools

come, offer the children a safe space to learn and develop. The

The use of digital services that do not comply with data protection regulations is illegal and therefore permanent solution is not acceptable. Such services represent a serious endangerment for the pupils. This situation must be rectified as soon as possible be terminated. I expect that those responsible in this area will continuously and with Working hard to ensure that by the start of the next school year at the latest, all Berliners schools can operate legally.”