



**FUTURE OF  
PRIVACY FORUM**

# THE NEEDS OF THE BUYER

PRIVACY POLICIES AND THE ROLE OF CONTRACTS

**Student  
Privacy  
Boot Camp  
for Ed Tech  
Companies**

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# AGENDA

- What Matters to Schools?
- Contracts vs. “Click Through” Terms of Service
- Contract Considerations
- Contract Addendum vs. Contract
- COPPA, FERPA and The Contract
- Privacy Notice Good And Bad Practices
- Where Schools are Going
- Additional Resources

# What Matters to Schools?

- Depends on who you are talking to....
  - Teachers, Administrators, Central Instruction, Technology, Procurement
- Balancing risk and innovation
- Transparency
- Maintaining Trust =
  - Compliance (with laws, policies, contracts, etc.)
  - Actual Security, Safety and Privacy
  - Perceptions about Security, Safety and Privacy

# What is the Difference Between...

- Contracts
- Click Through Terms Of Service
- Privacy Policies

## **This is a contract, right?**

Yep - you've done your homework! These Terms of Service (the "Terms") are a binding contract between you and Edmodo, Inc. ("Edmodo," and sometimes, when we're feeling especially friendly, "we" and "us"). You must agree and accept all of the Terms, or you don't have the right to use the Services. Your using the Services in any way means that you agree to all of these Terms, and these Terms will remain in effect while you use the Services.

These Terms include the provisions in this document, and in the [Edmodo Privacy Policy](#), [Acceptable Use Policy](#), [DMCA Takedown Policy](#), [Edmodo Store Policies](#), and [Apple Application Terms](#) (don't worry - each of those is explained in more detail below).

# **Contracts: Yours, Mine or Addendum?**

# CONTRACTING CONSIDERATIONS\*

- Contract Scope and Purpose
  - Designation as a “school official”
- **C.U.P.S** = Data Collection, Use, Protection and Sharing
- Data ownership, Responsibilities for granting end-user access and correction requests (FERPA)
- Security requirements, breach notification responsibilities and Audit Rights (required by many states)
- Modification, Duration, and Termination Provisions
  - Notification of Changes
  - Prohibition on unilateral modification
  - Bankruptcy or Acquisition
  - Data Retention and Disposal
- Governing law and jurisdiction
- Liability (e.g. Data Breach)

\* Based on Content from the CoSN Privacy Toolkit

# COPPA, FERPA AND CONTRACT/ToS

## WHAT MAKES IT EASY FOR SCHOOLS?

- The COPPA FAQ asks “When can educational institutions consent to a website or apps terms ?
  - The answer is when ALL of the following are TRUE .
    1. Schools are **contracting** with the vendor and
    2. The tool is used for the **sole benefit** of the school or student and
    3. The vendor is complying with **all other COPPA requirements** and
    4. The school/district also considers its **obligations under FERPA**
- Consider providing tools for communicating privacy policies
  - <https://assets.edmodo.com/privacy/privacy-toolkit-for-admins.pdf>
- So what does this mean from a Vendor terms/contracting/privacy policy perspective?

# Challenges and Discussions

- Who in a school can contract/designate a school official?
  - Pros and cons of marketing directly to teachers
  - COPPA has “verified parental consent”





# **Privacy Policies and ToS**

## The Good, the Bad and the Ugly

# Privacy Notice GOOD

**kickboard™**

[What is Kickboard?](#)

[Resources](#)

[Blog](#)

[About](#)

[Get Started](#)

[FOR PARENTS](#)

[Company Website Privacy Policy](#)

[Company Website Terms of Use](#)

[Platform Acceptable Use Policy](#)

[Platform & Service Privacy Policy](#)

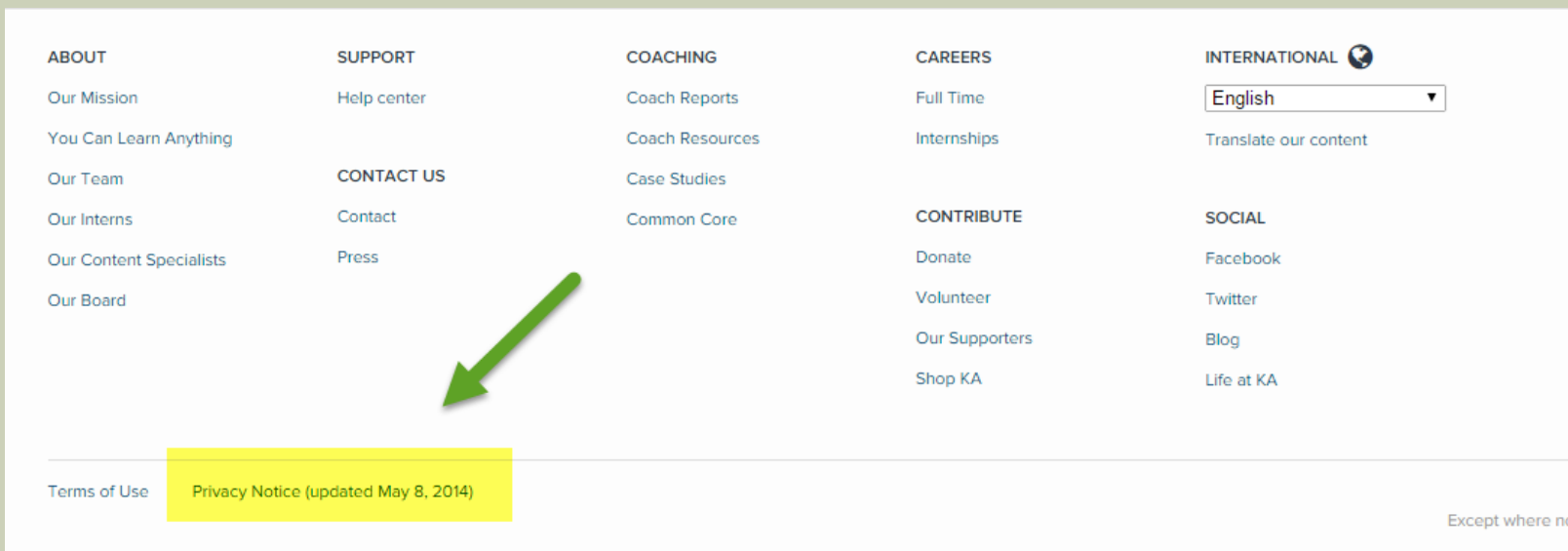
## Company Website Privacy Policy

*Last modified June 16, 2014*

Welcome to Kickboard, Inc.'s company website. Like many hosted service providers, the name of our company is also the name of our suite of product and service solutions. In this policy we refer to our instructional management software platform and service suite as "Kickboard" and to the Kickboard, Inc. entity as "Company" or "we."

# Privacy Notice - updated date - GOOD

## Readability - NEEDS IMPROVEMENT



The screenshot shows a website footer with several columns of links. A green arrow points to the 'Privacy Notice (updated May 8, 2014)' link, which is highlighted in yellow. The footer also includes links for 'Terms of Use', 'SUPPORT', 'CONTACT US', 'COACHING', 'CAREERS', 'CONTRIBUTE', 'INTERNATIONAL', and 'SOCIAL'.

ABOUT	SUPPORT	COACHING	CAREERS	INTERNATIONAL
<a href="#">Our Mission</a>	<a href="#">Help center</a>	<a href="#">Coach Reports</a>	<a href="#">Full Time</a>	<a href="#">English</a>
<a href="#">You Can Learn Anything</a>		<a href="#">Coach Resources</a>	<a href="#">Internships</a>	<a href="#">Translate our content</a>
<a href="#">Our Team</a>	CONTACT US	<a href="#">Case Studies</a>	CONTRIBUTE	SOCIAL
<a href="#">Our Interns</a>	<a href="#">Contact</a>	<a href="#">Common Core</a>	<a href="#">Donate</a>	<a href="#">Facebook</a>
<a href="#">Our Content Specialists</a>	<a href="#">Press</a>		<a href="#">Volunteer</a>	<a href="#">Twitter</a>
<a href="#">Our Board</a>			<a href="#">Our Supporters</a>	<a href="#">Blog</a>
			<a href="#">Shop KA</a>	<a href="#">Life at KA</a>

[Terms of Use](#) [Privacy Notice \(updated May 8, 2014\)](#)

### Grade Levels

A grade level (based on the USA education system) is equivalent to the number of years of education a person has had. Scores over 22 should generally be taken to mean graduate level text.

Readability Formula	Grade
<a href="#">Flesch-Kincaid Grade Level</a>	9.5
<a href="#">Gunning-Fog Score</a>	10.5
<a href="#">Coleman-Liau Index</a>	13.9
<a href="#">SMOG Index</a>	9.1
<a href="#">Automated Readability Index</a>	8.5
<b>Average Grade Level</b>	<b>10.3</b>

### Text Statistics

Character Count	21,334
Syllable Count	7,266
Word Count	4,225
Sentence Count	344
Characters per Word	5.0
Syllables per Word	1.7
Words per Sentence	12.3

# Privacy Notice - Side by Side Format

## GOOD



[Learn more](#)

[Teacher resources](#)

[Log in](#)

[Sign up](#)

b) We may modify this Agreement going forward basis. If we make changes, we will post a notice on the Website, or send you a notice via email, provided that the new Agreement will only be effective when (a) you use the Service after you know about the change, and (b) thirty days after we publish the modified Agreement on the Website (whichever is sooner). Any disputes we may have will be resolved under the terms of the Agreement in place at the time of the dispute. You are responsible for reviewing and ensuring that you are familiar with the Agreement and the modifications that we may make.

Basically,

If these terms of use change, we'll notify you, and give you a chance to opt out. We won't change the terms retroactively.

c) You represent and warrant to Company that: (i) you are of legal age to form a binding contract (or, if you are a minor, you have your parent's or legal guardian's permission to use the Services, and that your parent or legal guardian has read and agrees to this Agreement on your behalf); (ii) all registration information you submit is accurate and truthful; (iii) if you are accepting this Agreement on behalf of an institution, company or other legal

Basically,

To use ClassDojo, you must be allowed to enter into contracts yourself (or on behalf of your child, school or district, if you're signing up on their behalf).

# Privacy Notice - Privacy Contact GOOD

## TERMS OF SERVICE

Effective date: January 4, 2013

Thanks for using Edmodo! We're glad you're here, but there are some rules you need to agree to before you use our websites and services ("Services"). When we use the word "Services," we mean not only the edmodo.com website, but also all the other websites, products, services and applications made available by Edmodo (for example, the Edmodo Android app available via the Android Marketplace, and the Edmodo [iPhone](#) and [iPad](#) apps available at the [Apple App Store](#)). If you have any questions, comments, or concerns regarding these Terms or the Services, please contact us at [info@edmodo.com](mailto:info@edmodo.com), (650) 513-2735, or 1200 Park Place, Suite 400, San Mateo, CA 94403.

Edmodo.com

## Google for Work Data Privacy Enquiry

Please review the following articles which may address your question. If not - please fill out the form below and we will reply shortly in relation to your enquiry.

- [1. Your security and privacy](#)
- [2. Google for Work Trust site](#)
- [3. Data Processing Amendment to Google Apps Agreement](#)
- [4. Security & Compliance Whitepaper](#)
- [5. Google Data center locations](#)

Name \*

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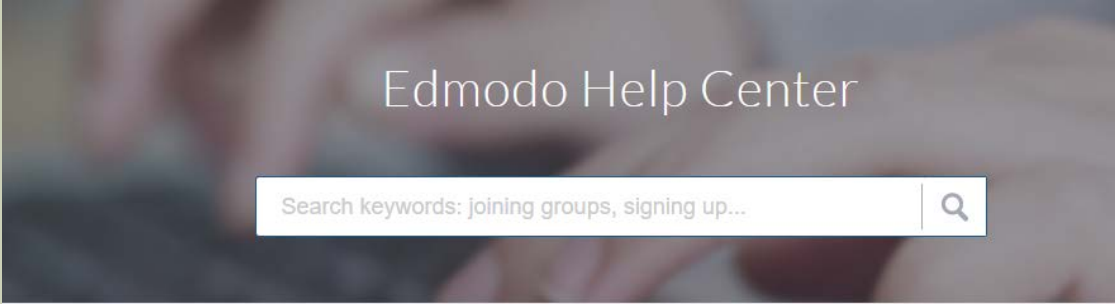
Email address where we can contact you \*

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[https://support.google.com/#/contact/gw\\_upo](https://support.google.com/#/contact/gw_upo)

# Privacy Guide GOOD

<https://support.edmodo.com/hc/en-us/categories/200330824-User-Trust-Safety>



Edmodo Help Center

Search keywords: joining groups, signing up...

## USER TRUST & SAFETY

<b>Trust and Safety</b> <ul style="list-style-type: none"><li><a href="#">Safety Best Practices</a></li><li><a href="#">Trust &amp; Safety FAQ</a></li><li><a href="#">Get verified overview</a></li><li><a href="#">Get verified: FAQs</a></li><li><a href="#">Understand your Group Code</a></li><li><a href="#">Manage students: passwords, group removal, and parents</a></li></ul> <p><a href="#">See all 13 articles</a></p>	<b>Trust &amp; Safety FAQs</b> <ul style="list-style-type: none"><li><a href="#">Will my name show up in a Google search (Teachers)?</a></li><li><a href="#">Will my student's Edmodo name or avatar show up in a Google search?</a></li><li><a href="#">Are you compliant with COPPA?</a></li><li><a href="#">Are you compliant with FERPA?</a></li><li><a href="#">Is your site encrypted by HTTPS (SSL)?</a></li><li><a href="#">Why should I lock my Group Code?</a></li></ul> <p><a href="#">See all 16 articles</a></p>	<b>Get Verified</b> <ul style="list-style-type: none"><li><a href="#">Resubmission for Verification</a></li></ul>
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# Confusing / Contradicting Terms Especially Around “under 13”

- Say “no under 13” in terms, but have a separate under 13 policy

# Privacy Notice - Clarity for Schools

## Provide FAQs

### GOOD

If my school uses Office 365, does Microsoft require direct parental consent for students under the age of 13 to ensure COPPA compliance?

**No. Microsoft uses Office 365 customer data only to provide the Office 365 service and not for other commercial purposes (such as for advertising or marketing or to build commercial profiles). The Federal Trade Commission (FTC) has stated that under such circumstances an “operator is not required to obtain consent directly from parents.”**

Microsoft provides Office 365 to the school as our customer and all customer data belongs to the school. We do not use or share Office 365 customer data for any other commercial purposes (for example, in connection with advertising or marketing or to build user profiles for commercial purposes not related to the provision of Office 365). For more information, please visit the [Office 365 Trust Center](#). Accordingly, the FTC’s guidance indicates that an operator such as Microsoft does not need to obtain direct consent from parents of students using the service—even if they are under the age of 13. As the FTC explains, COPPA allows schools to act as either as an intermediary for parental consent or “the parent’s agent in the process of collecting personal information online from students in the school context” where, as here, the operator collects users’ personal information only for the use and benefit of the school. However, consistent with the FTC’s guidance, we believe schools should forward information to parents about how personal information is collected, used, and shared in Office 365—including assurances that Microsoft will not use such information for other commercial purposes—in the school’s own Acceptable Use Policies for Internet Use or similar document that educates parents about in-school Internet use of Office 365 and any other online services, whether provided by Microsoft or other providers. For more information on COPPA compliance generally, see the FTC’s [Complying with COPPA: Frequently Asked Questions](#). For unique issues related to COPPA and Schools, refer to FAQs M1 to M4 from the foregoing document.



# Privacy Notice - Account Creation Clarifies Confusion around Social “login”

## Login

Login with Facebook, Google, or your email or mobile number.



Login with Facebook



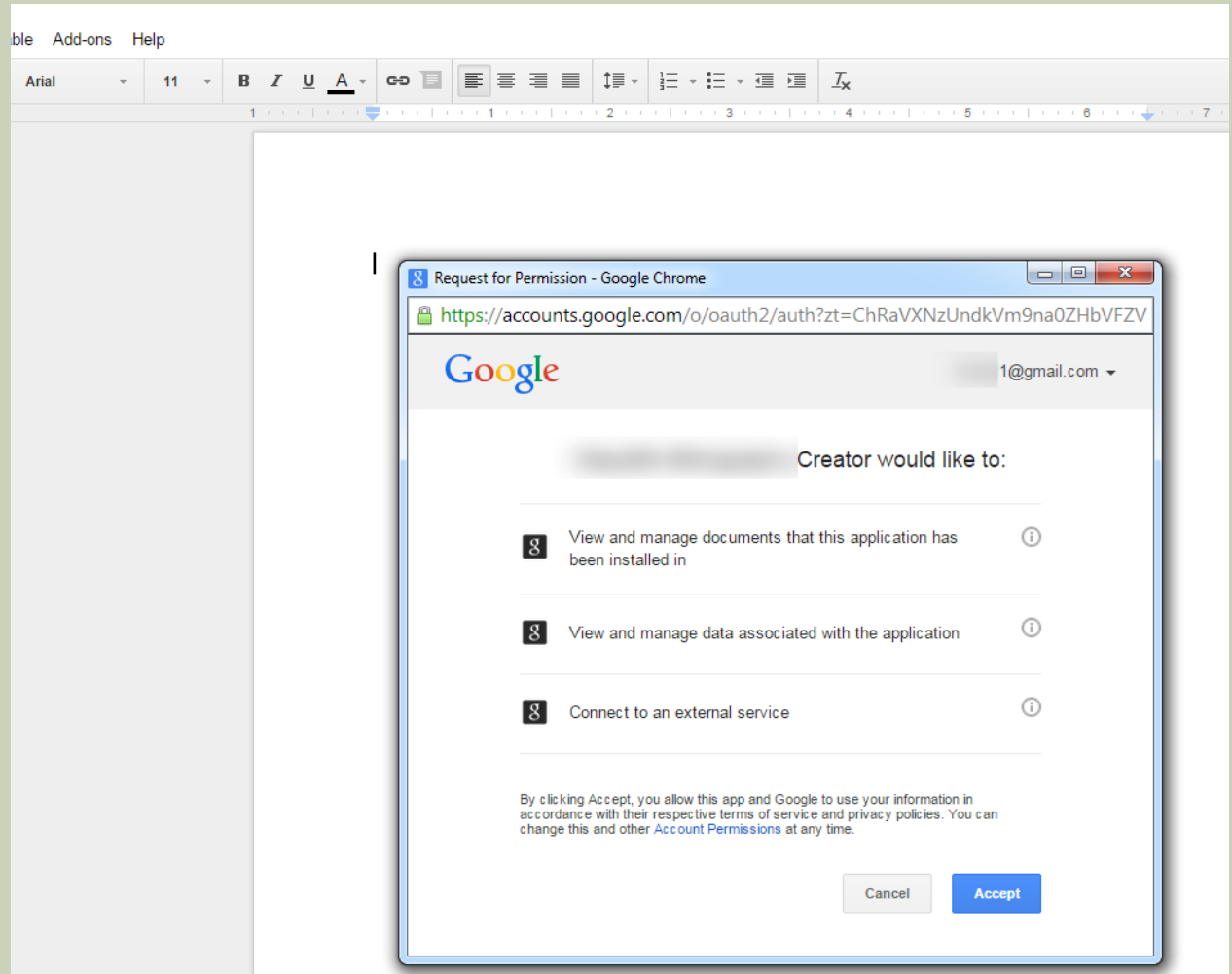
Login with Google

Email or mobile #

Login

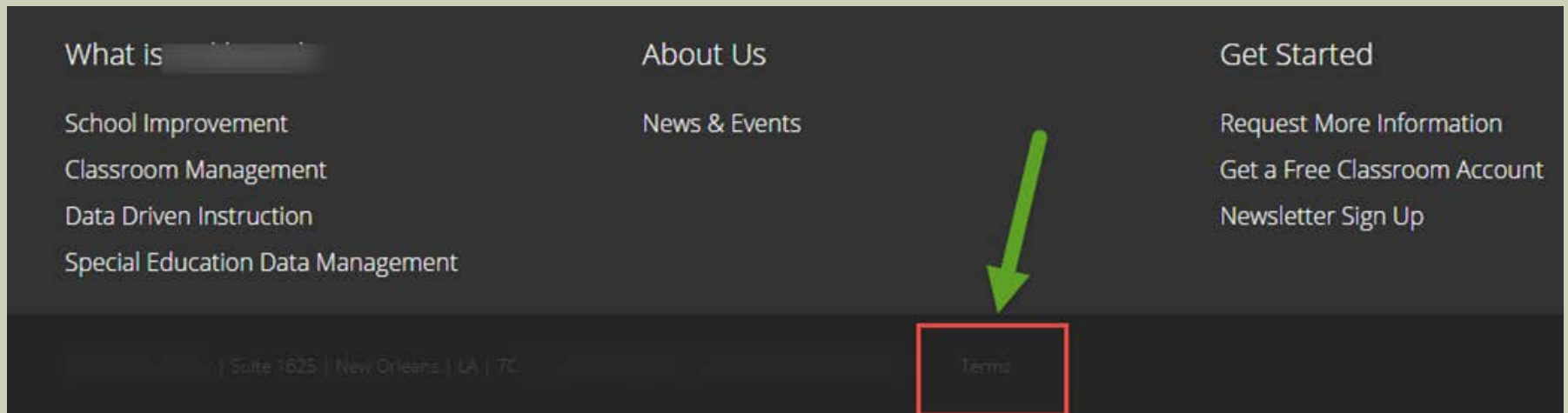
Don't worry if you don't have an account. We'll create one for you. We only use Facebook and Google to confirm your email address. We won't have access to your friends or inbox.

# Sign up with 3rd party ID, No Terms Displayed Before Account Creation BAD



# Privacy Notice - Link to Policy BAD

This is why it is called **Privacy by Design**, not **Privacy by Designers**



# Other Privacy Policy “Deadly” Sins

1. No link to a privacy policy
2. The product may or may not be targeted to schools, but because of fears of COPPA, the terms prohibit use by children under 13.
3. The privacy policy link is to a 3rd party site the vendor is using and not the actual product (e.g. for tech support forums)
4. Does not list how users will be notified of changes to policy, allows changes without notice or include policies by reference (e.g. links)
5. Listing in App store does not include a link to the privacy policy (for mobile apps this is a violation of most developer terms (and CA AG agreement) if the app allows signup or access to an existing account)

# Where Schools are Headed

- Common Contract language, adopted at the region, and State level by consortia of districts (e.g. A4L Common Contracts project <https://secure2.cpsd.us/mspa/>)
- Common Criteria for rating Edtech Services on Privacy, Safety and Security
  - Common Sense privacy evaluation project <https://www.graphite.org/privacy> (Expected release Summer 2016)
  - HISD's Privacy, Security and Internet Safety Rubric ([PSS Rubric](#)) developed by Houston, Fairfax, and Common Sense Media in collaboration with other Council of Great City Schools (CGCS) districts, and The Future of Privacy Forum.