

WEDNESDAY, 1 NOVEMBER 2023

Procreate®
304 Elizabeth St. North Hobart
Tasmania 7000 Australia
Savage Software Group Pty Ltd

TO Delaware City Schools
Attn: Jennifer Fry
74 W. William Street
Delaware, OH 43015

By email: fryje@delawarecityschools.net

RE Statement Regarding U.S. Privacy Law Compliance for Procreate

To Whom it May Concern:

We understand that, as an educational institution based in the United States, Delaware City Schools (“Institution,” “you”) wishes to ensure that when it deploys Savage Interactive Pty Ltd’s (“Savage,” “we,” “us”) Procreate software to its students, it does so in compliance with various U.S. privacy laws, including the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g, “FERPA”) and the Children’s On-Line Privacy Protection Act of 1998 (15 U.S.C. § 6501, “COPPA”) (collectively, “U.S. Privacy Laws”). To that end, we provide our [App Privacy Policy](#) (“Privacy Policy”) and the annexed Data Privacy Addendum (“DPA”) that memorialize the parties’ obligations to each other as they may be affected by U.S. Privacy Laws. This letter further describes Savage’s position that, because it does not collect personal information, it is not subject to the U.S. Privacy Laws in the provision of Procreate to your Institution.

As you are likely aware, your Institution does not obtain Procreate directly from Savage. Rather, you may deploy Procreate to your students through the [Apple School Manager](#) program. Under the Apple School Manager program, your Institution is able to purchase bulk licenses to Procreate. Your students are then able to download Procreate on Institution-managed Apple iOS devices (e.g., iPhone, iPad) from the Apple [App Store](#). In this process, neither you nor your students provide any personal information (e.g., name, email address, user ID), either directly or indirectly, to Savage. Your (and your students’) interactions with the App Store are subject to the [Apple Privacy Policy](#). Apple does not provide us any personal information about you or your students. Moreover, Savage receives no information—personal or otherwise—from the Procreate app or any devices on which the Procreate app is deployed. Procreate data is stored only on the device-level and is not transmitted to Savage. Put simply, Savage does not collect any personal information about you or your students through the App Store or the Procreate app itself.

Because we do not collect any personal information about you or your students, Savage does not collect, use, or disclose “personally identifiable information” as defined under FERPA. It has no access to your students’ “education records” as defined under FERPA. Similarly, for the same reasons, Savage does not collect “personal information” as that term is defined under COPPA. In essence, Savage is not subject to either FERPA, COPPA, or other U.S. Privacy Laws when you and your students download Procreate from the App Store and use it on your Institution’s devices.

We understand, however, that you may wish to enter into contractual provisions obligating Savage to comply with the U.S. Privacy Laws. We have, therefore, provided you with our Privacy Policy and the DPA. These

documents confirm that Savage does not collect personal information in its provision of Procreate. Moreover, the DPA obligates your Institution to refrain from providing your or your students' personal information directly to Savage, such as for purposes of obtaining customer support. The DPA further requires you to assume any obligations to obtain verifiable parental consent as may arise under COPPA if you choose to provide Savage with the personal information of your students under the age of 13. We impose these obligations in the DPA to ensure that Savage continues to not be subject to FERPA, COPPA, and other U.S. Privacy Laws. Ultimately, these provisions help ensure that the privacy of your students' personal information remains protected.

Savage takes its users' privacy seriously. For this reason—and unlike almost every other mobile app on the market—we do not collect any personal information through Procreate. Procreate stands on its own and Savage does not need to collect personal information to make Procreate the best app for artists of all ages to create sketches, paintings, illustrations, and animations.

We hope our Privacy Policy, DPA and this letter make clear our commitment to privacy. If you should have any questions, however, please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Harrison', with a large, sweeping flourish at the end.

Mark Harrison
Chief Operations Officer
Savage Interactive Pty Ltd

Annexure A: Data Privacy Addendum (“DPA”)

Between: Savage Interactive Pty Ltd (“Savage”) and the below-signed educational institution (“Institution”)

1. The parties agree to adhere to the terms of this DPA in relation to the provision of Savage’s Procreate software (“Software”) to the Institution.
2. “Personally Identifiable Information” as used herein shall have the same meaning as the definition of “Personally Identifiable Information” set forth in 34 C.F.R. 99.3.
3. This DPA is supplementary to and not intended to replace Savage’s [App Privacy Policy](#) and applies only to the extent Savage collects, receives, transmits, or otherwise processes Personally Identifiable Information in connection with its provision of the Software to the Institution.
4. The Institution acknowledges and understands that Savage does not, in the ordinary course of business, collect, use, disclose, or process any Personally Identifiable Information in connection with its provision of the Software.
5. The Institution further acknowledges and understands that: (1) Savage makes the Software available exclusively through third-party app platforms (e.g., the Apple App Store) (“App Stores”); (2) that in the provision of the Software, Savage shall have no access to information from the App Stores that may identify the Institution’s students; and (3) the Institution shall bear sole responsibility for determining the students who may obtain the Software.
6. The Institution shall not disclose, directly or indirectly, any Personally Identifiable Information to Savage.
7. The Institution shall instruct all students who use the Software that all user support requests to Savage must be made through the Institution’s information technology department or similar Institution personnel. Notwithstanding any provision to the contrary in any agreement, contract, or terms between Savage and users of the Software, Savage may, at its discretion, refuse to respond to communications from the Institution’s students and such refusal shall not constitute a breach of this DPA or any other agreement entered into by the parties.
8. To the extent the Institution makes available the Software to any student under the age of 13 the Institution shall, for each such student, obtain and document verifiable parental consent, as that term is defined in 15 U.S.C. § 6501, for the collection, use, and disclosure of such student’s Personally Identifiable Information by Savage in the provision of the Software. The Institution shall, upon request, provide Savage with a copy of any or all consents the Institution has obtained under this paragraph.
9. The Institution shall indemnify and hold harmless Savage against any and all damages or losses suffered by or claims, including regulatory enforcement actions, against Savage relating to the Institution’s breach of this DPA or use of the Software (including by students, principals and teachers of the Institution) or failure to comply with applicable law.
10. This DPA is governed by the laws of Tasmania, Australia and the parties submit to the non-exclusive jurisdiction of the courts of Tasmania, Australia.

Executed by Savage Software Group Pty Ltd (ABN 43 129 265 434)
pursuant to section 126 of the *Corporations Act 2001* (Cth) by:

Signature of authorised agent:



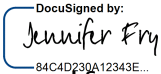
Full name of authorised agent:

Mark Harrison

Executed by the Institution:

Delaware City Schools
Full legal name of institution:

31-6400446
EIN or equivalent:

Signature of authorised agent: 
Full name of authorised agent: Jennifer Fry

Chief Technology Officer
Position of authorised agent:

Signature of witness: 
Full name of witness: Melissa Gilligan

74 W. William St
Address of witness: Delaware Ohio 43015

Technology Administrative
Occupation of witness: Assistant