

## OpenAI Student Data Privacy Agreement

This Student Data Privacy Agreement (“Student DPA”) is between OpenAI, LLC (“OpenAI”) and you (“Customer”) and is effective on the Effective Date. Capitalized terms used, but not defined, in this Student DPA, are as defined in the Services Agreement.

1. **Background.** This Student DPA describes the duties and responsibilities of each party to protect the privacy and security of Student Data and to comply with Privacy Laws. In performing the Services, OpenAI shall be considered a School Official with a legitimate educational interest. OpenAI shall be under the direct control and supervision of Customer with respect to its use of Student Data. To receive the Services, Customer may provide, or OpenAI may collect on behalf of Customer, Student Data.
2. **Data Ownership and Authorized Access.**
  - 2.1. **Student Data Property of Customer.** The parties agree that: (a) all Student Data transmitted to OpenAI pursuant to the Services Agreement is and remains the property and under the control of Customer; (b) all copies of Student Data transmitted to OpenAI, including any modifications or additions or any portion thereof, are subject to the provisions of this Student DPA in the same manner as the original Student Data; and (c) as between them, all rights, including all intellectual property rights in and to Student Data transmitted pursuant to the Services Agreement, shall remain the exclusive property of Customer. As a School Official, OpenAI is under the control and direction of Customer as it pertains to the use of Student Data.
  - 2.2. **Parent or Eligible Student Access.** To the extent required by law, Customer shall establish reasonable procedures by which a parent, legal guardian, or Eligible Student may review Education Records or Student Data, correct erroneous Education Records or Student Data, and transfer Student-Generated Content to a personal account, consistent with the Services functionality. OpenAI shall respond to Customer’s request to view or correct Student Data held by OpenAI in a reasonably timely manner, and no later than the earlier of: (a) forty-five days from the date of the request; or (b) the time frame required under state law for a Customer to respond to a parent or student. If a parent of a student or other individual contacts OpenAI to review any Student Data accessed pursuant to the Services, OpenAI shall refer the parent or individual to Customer, who will follow the necessary and proper procedures regarding the requested information.
  - 2.3. **Separate Account.** If Student-Generated Content is stored or maintained by OpenAI, OpenAI shall, at the request of Customer, transfer, or provide a mechanism for Customer to transfer such Student-Generated Content to a separate account created by the student.
  - 2.4. **Law Enforcement Requests.** If a Requesting Party contacts OpenAI with a request for Student Data held by OpenAI via the Services, OpenAI shall notify Customer in advance of a disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform Customer of the request, or unless otherwise prohibited by law.
  - 2.5. **Subprocessors.** OpenAI shall enter into written agreements with Subprocessors that require the Subprocessors to protect Student Data in a manner no less stringent than the terms of this Student DPA.
3. **Duties of Customer.**
  - 3.1. **Privacy Compliance.** Customer shall comply with Privacy Laws, including providing notices or disclosures regarding the processing of Student Data and obtaining any consents, permissions, or authorizations for such processing, as required by Privacy Laws.
  - 3.2. **Annual Notification of Rights.** If Customer has a policy of disclosing Education Records or Student Data under Privacy Laws, Customer shall include a specification of criteria for determining who constitutes a School Official and what constitutes a legitimate educational interest in its annual notification of rights.
  - 3.3. **Reasonable Precautions.** Customer shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the Services and Student Data.
  - 3.4. **Unauthorized Access Notification.** Customer shall notify OpenAI promptly of any known unauthorized access to Student Data. Customer will assist OpenAI in any efforts by OpenAI to investigate and respond to unauthorized access to Student Data.
  - 3.5. **Use by Minors.** In accordance with the Services Agreement, Customer will not, and will not permit End Users to, allow minors to use the Services without consent from their parent or guardian.

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- 3.6. Product Set Up. Customer is responsible for ensuring its use of the Services, including sharing functionality, complies with any applicable legal requirements. For ChatGPT EDU, Customer shall review and set up accounts in accordance with the Educational Implementation Guide.
4. Duties of OpenAI.
  - 4.1. Privacy Compliance. OpenAI shall comply with applicable Privacy Laws and shall require all employees and agents who have access to Student Data to comply with all applicable provisions of this Student DPA with respect to Student Data.
  - 4.2. Authorized Use. Student Data shared pursuant to the Services Agreement, including persistent unique identifiers, shall be used for no purpose other than to provide the Services or as otherwise permitted or required by Privacy Laws or this Student DPA. For purposes of clarity, OpenAI may use and disclose Student Data as permitted under the Services Agreement.
  - 4.3. No Data Sharing. OpenAI will not share Student Data or any portion thereof other than as directed or permitted by Customer or this Student DPA. This prohibition against sharing shall not apply to: (a) De-Identified Data; (b) Student Data disclosed in response to a law enforcement request or legal process; (c) Student Data disclosed where required by law; or (d) Student Data disclosed to Subprocessors pursuant to this Student DPA. OpenAI will not sell Student Data to any third party.
  - 4.4. De-Identified Data. OpenAI will not attempt to re-identify De-Identified Data. De-Identified Data may be used by OpenAI for those purposes allowed under Privacy Laws.
  - 4.5. Disposition of Data. Upon termination of this Student DPA, OpenAI shall dispose of all Student Data after providing Customer with reasonable prior notice. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified Data or placed in a separate student account pursuant to Section 2.3.
  - 4.6. Advertising Limitations. OpenAI will not engage in Targeted Advertising using Student Data or amass a profile of a student for any purpose other than providing the Services to Customer. This section does not prohibit OpenAI from using Student Data: (a) for adaptive learning or customized student learning, including generating personalized learning recommendations; (b) to make product recommendations to teachers or Customer employees; or (c) from otherwise using Student Data as permitted in the Agreement, this Student DPA and its accompanying exhibits.
5. Data Security.
  - 5.1. Security Measures. OpenAI will comply with the Security Measures. OpenAI may periodically update the Security Measures. If OpenAI updates the Security Measures in a manner that materially diminishes the administrative, technical, or physical security features of the Services taken as a whole, Customer may elect to terminate the Agreement and associated Order Forms by providing written notice to OpenAI within five business days of the update.
  - 5.2. Security Incident. If OpenAI discovers or becomes aware of a Security Incident, OpenAI shall: (a) notify Customer without undue delay, consistent with law enforcement needs and applicable law; (b) provide Customer with written details of the Security Incident, including the type of data affected and the identity of any affected students, parents, or guardians, promptly after these details are reasonably available to OpenAI; (c) provide timely information and cooperation as Customer may reasonably request to fulfill its data breach reporting obligations under applicable laws; and (d) take such measures and actions as are reasonable to remedy or mitigate the effects of such Security Incident. OpenAI may limit the scope of disclosures to the extent reasonably necessary to avoid compromising the integrity of OpenAI's security, ongoing investigations, or any Customer or End User data. In fulfilling any reporting obligations under Privacy Laws, Customer shall be responsible for providing notice to affected students, parents, or guardians, unless otherwise provided by law.
6. Miscellaneous. This Student DPA and the Services Agreement are the entire agreement between Customer and OpenAI with respect to its subject matter and supersedes all prior or contemporaneous agreements, communications and understandings, whether written or oral. This Student DPA may be amended, and provisions may be waived, only with the signed written consent of both parties. The delay or omission by a party to exercise its rights under this Student DPA shall not be construed as a waiver of these rights. This Student DPA shall terminate upon the termination of the Services

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Agreement unless otherwise agreed in writing. The following provisions will conform with the Services Agreement: (a) Assignment, (b) Notices, and (c) Governing Law and Venue. Unenforceable provisions will be modified to reflect the parties' intention and only to the extent necessary to make them enforceable, and the remaining provisions of the Agreement will remain in full effect. If there's a conflict between the terms of this Student DPA and any other agreement, including, but not limited to, the Services Agreement, or either parties' Privacy Policies, the terms of this Student DPA will control.

## 7. Definitions.

**“ChatGPT EDU”** means the enterprise oriented offering described at <https://chatgpt.com/business/education/>.

**“ChatGPT For Teachers”** means the teacher oriented offering described at <https://chatgpt.com/plans/k12-teachers>.

**“De-Identified Data”** means records and information where all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, and does not include any information that, alone or in combination, is linkable to a specific individual.

**“Education Records”** means records, files, documents, and other materials which contain information directly related to a student and maintained by an educational agency or institution or by a person acting for such agency or institution. For the sake of clarity, Education Records can include, but are not limited to, general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

**“Educational Implementation Guide”** means the OpenAI Educational Implementation available at: <https://cdn.openai.com/osa/openai-sdpa-educational-implementation-guide.pdf>.

**“Effective Date”** means the later of the date OpenAI or Customer sign an Order Form to which this Student DPA is attached, or the effective date of the Services Agreement.

**“Eligible Student”** means a student who is 18 years or older or is attending an institution of postsecondary education.

**“Metadata”** means information that provides meaning and context to other data being collected by OpenAI. Metadata that does not include any, or that has been stripped of all, direct and indirect identifiers of a student, is considered De-Identified Data.

**“PII”** means “Personally Identifiable Information” as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law.

**“Privacy Laws”** means U.S. federal or state privacy or security laws governing the use, disclosure, or processing of Student Data, including, as applicable: (1) the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 C.F.R. Part 99 (“FERPA”); (2) the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h (“PPRA”); and (3) the Supplemental State Laws.

**“Requesting Party”** means a law enforcement or other government entities.

**“School Official”** for the purposes of this Student DPA and pursuant to 34 CFR § 99.31(b), a “School Official” is a contractor that: (1) performs an institutional service or function for which the agency or institution would otherwise use employees; (2) is under the direct control of the agency or institution with respect to the use and maintenance of Student Data including Education Records; and (3) is subject to 34 CFR § 99.33(a) governing the use and sharing of personally identifiable information from Education Records.

**“Security Incident”** means a failure by OpenAI to comply with the Security Measures which results in the unauthorized access, destruction, use, modification, disclosure, or acquisition of information that compromises the security, confidentiality, or integrity of Student Data maintained by OpenAI.

**“Security Measures”** means the security measure available at: <https://cdn.openai.com/osa/security-measures.pdf>.

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“Services Agreement” means the agreement for OpenAI services entered into between Customer and OpenAI, which could be: (a) the terms available at <https://openai.com/policies/services-agreement/> for ChatGPT EDU customers; (b) the terms available at <https://openai.com/policies/education-terms/> for ChatGPT For Teachers customers; or (c) a mutually executed offline agreement between OpenAI and Customer.

“Student-Generated Content” means materials or content created by an Eligible Student on a ChatGPT EDU account, including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, and videos.

“Student Data” means students’ personally identifiable information and materials provided by Customer to OpenAI or directly collected by or on behalf of OpenAI pursuant to the Services Agreement. The categories of which are: (1) Name, contact information, demographic information, and any other information provided by a user through the Services’ open input fields; and (2) any Student-Generated Content. Student Data may include Metadata, but does not include any information that is De-Identified Data, or anonymous usage data regarding use of OpenAI’s services.

“Subprocessor” means a party other than Customer or OpenAI, who OpenAI engages for data collection, analytics, storage, or other service to operate and/or improve its service, and who processes Student Data.

“Supplemental State Laws” means the U.S. state laws and regulations referenced at [https://cdn.openai.com/osa/openai\\_sdpa-supplemental-state-terms.pdf](https://cdn.openai.com/osa/openai_sdpa-supplemental-state-terms.pdf) for the state in which Customer is located.

“Targeted Advertising” means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the student’s online behavior, usage of applications, or Student Data. “Targeted Advertising” does not include any advertising to a student on an online location based on the student’s current visit to that location or in response to a student’s response or request for information or feedback, if the student’s online activities or requests are not retained over time for the purpose of targeting subsequent advertisements.