

Vendor Statement of Compliance Data Privacy and Protection

This agreement is entered into between the Roseville City School District ("LEA" or "District") and Omega Labs Inc. dba Boom Learning ("Service Provider") on 11/08/2021 ("Effective Date").

WHEREAS, the LEA and the Service Provider entered into an agreement for Educational Technology services;

WHEREAS, the LEA is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 ("AB 1584"), the California Education Code, the Children's Online Privacy and Protection Act ("COPPA"), and the Family Educational Rights and Privacy Act ("FERPA");

WHEREAS, AB 1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015, between a local education agency and a third-party service provider must include certain terms;

NOW, THEREFORE, the Parties agree as follows:

Section I: General - All Data

1. **PASSWORD SECURITY.** All passwords are considered secure. Vendors may not disseminate any passwords unless specifically directed by Educational or Technology Services management. Vendors will not provide information concerning Admin accounts (ROOT Admin, container Admin, local NT administrator or Domain administrator) or their equivalent to any persons. District personnel ONLY will disseminate this information. Vendors will never create "back door" or "generic" user accounts on any systems unless specifically directed to do so by LEA management.

Agree: Yes No

2. **SYSTEM SECURITY.** Unauthorized access to or modification of District systems including file servers, routers, switches, NDS and Internet services is prohibited. Any attempt to bypass or subvert any District security system, both hardware, and software is prohibited.

Agree: Yes No

3. **PRIVACY.** The vendor will adhere to all provisions of the Federal Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. 123g), California Education Code and district policies regarding the protection and confidentiality of data. At all times, the vendor will consider all data collected in the course of their duties to be protected and confidential. Release of this data can only be authorized by Technology & Information Services management and state and federal law.

Agree: Yes No

Section I: General - All Data (Continued)

4. **REUSE:** Vendors shall not copy, duplicate, sell, repackage or use for demonstration purposes any Roseville City School District data without the prior, written consent of Educational or Technology Services management.
Agree: Yes No
5. **TRANSPORT:** Vendor must provide a secure channel (S/FTP, HTTPS, SSH, VPN, etc) for the District to "push" data to the vendor and to extract data as required. Vendors will not have direct access to District systems and will not "pull" data at any time.
Agree: Yes No
6. **EXTERNAL SECURITY:** Vendor must attach to this document reasonable evidence that their system is secure from external hacking and attacks. Devices such as firewalls and technologies such as NAT are the minimum requirements. Active IDS or similar technology is preferred.
Agree: Yes No
7. **INTERNAL SECURITY:** Vendors must attach to this document reasonable evidence that their system is secure from internal hacking and attacks. Describe the interactions vendor personal (or their representatives) will have directly with District data. How is uploaded data from the District handled and processed? Who has access to this data? What happens to the data after the upload is complete? What security safeguards are in place to protected unauthorized access to District data? How are backup performed and who has access to and custody of the backup media? How long are backup maintained; what happens to the District data once the backup is "expired"? If any data is printed, what happens to these hard copy records?
Agree: Yes No
8. **DISTRICT ACCESS:** Vendor must provide a secure means (see Item 5 above) for the District to extract ALL data from the vendor system. This can either be an online extraction tool or a vendor-provided extract as needed by the District (not to exceed quarterly). Describe the means and format of the data (delimited, Excel, MDB, SQL Dump).
Agree: Yes No
9. **TERMINATION:** Upon termination of this agreement as provided herein, the vendor will permanently delete all customer data from their system as allowed by state and federal law. Vendor may be required to certify the destruction of LEA data within 90 days of contract termination.
Agree: Yes No

Section II: AB1584 Compliance - Student Information Only

1. Vendor agrees that the Roseville City School District retains ownership and control of all student data.

Agree: Yes No

2. Vendor must attach to this document a description of how student-created content can be exported and/or transferred to a personal account.

Agree: Yes No

3. Vendor is prohibited from allowing third-parties access to student information beyond those purposes defined in the contract.

Agree: Yes No

4. Vendor must attach to this document a description of how parents, legal guardians and students can review and correct their personally identifiable information.

Agree: Yes No

5. Vendor will attach to this document evidence how student data is kept secure and confidential.

Agree: Yes No

6. Vendor will attach to this document a description of procedures for notifying affected parents, legal guardians or eligible students when there is an unauthorized disclosure of student records.

Agree: Yes No

7. Vendor certifies that student records will not be retained or available to a third party once the contract has expired or is canceled (See Page 2, Item 9).

Agree: Yes No

8. Vendor will attach to this document a description of how they and any third party affiliates comply with FERPA.

Agree: Yes No

9. Vendor and its agents or third parties are prohibited from using personally identifiable information from student records to target advertising to students

Agree: Yes No

Section III: SB 1177 SOPIPA Compliance - Student Information Only

1. Vendors cannot target advertising on their website or any other website using information acquired from students.
Agree: Yes No
2. Vendors cannot create a profile for a student except for school purposes as defined in the executed contract.
Agree: Yes No
3. Vendors cannot sell student information.
Agree: Yes No
4. Vendors cannot disclose student information unless for legal, regulatory, judicial, safety or operational improvement reasons.
Agree: Yes No
5. Vendors must attach to this document evidence of how student information is protected through reasonable security procedures and practices.
Agree: Yes No
6. Vendors must delete district-controlled student information when requested by the District.
Agree: Yes No
7. Vendors must disclose student information when required by law, for legitimate research purposes and for school purposes to educational agencies.
Agree: Yes No

As an authorized representative of my organization, I accept the conditions listed in this document.

Mary Oemig

Print Name

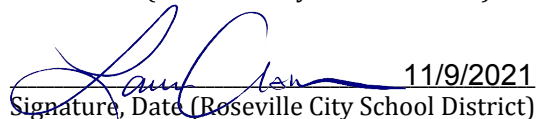


11/8/2021

Signature, Date

Laura Assem

Print Name (Roseville City School District)



11/9/2021

Signature, Date (Roseville City School District)

EXHIBITS

Section 1.6: External Security

Please see Section 10: Information Security Plan in the attached General Privacy Notice.

Section 1.7: Internal Security

Please see Section 10: Information Security Plan in the attached General Privacy Notice.

Section II.2: Exporting of Student-Created Content

Vendor provides self-help tools to enable District to securely export and/or delete District data. Deletion is irreversible.

For further details, please see attached General Privacy Notice.

See also the attached Student Privacy Notice.

Section II.4: Review and Correcting Personally Identifiable Information (PII)

Any request to review or correct PII shall be directed to District.

EXHIBITS

Section II.5: Securing Student Data

Please see attached General Privacy Notice and Student Privacy Notice.

Section II.6: Disclosure Notification

Vendor does not collect information sufficient to contact parents, guardians, students, or qualified students.

Section II.8: Family Educational Rights and Privacy Act (FERPA) Compliance

Please see the attached General Privacy Notice.

Section III.5: How Student Data is Protected:

Please see Section 10: Information Security Plan in the attached General Privacy Notice.

Terms of Service

Modified on: Thu, 15 Jul, 2021 at 4:05 PM

Effective Date July 1, 2021 ([see archived versions \(https://help.boomlearning.com/en/support/solutions/folders/16000095966\)](https://help.boomlearning.com/en/support/solutions/folders/16000095966))

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1. This is a Binding Agreement!

By using Boom Learning, you are agreeing to these [Terms of Service](https://help.boomlearning.com/en/support/solutions/folders/16000095984) (<https://help.boomlearning.com/en/support/solutions/folders/16000095984>) and the [Privacy Notices](https://help.boomlearning.com/en/support/solutions/folders/16000095980) (<https://help.boomlearning.com/en/support/solutions/folders/16000095980>), applicable to you. You can find the applicable terms for you below.

IT CONTAINS A BINDING ARBITRATION PROVISION AND A WAIVER OF CLASS ACTION RIGHTS THAT AFFECTS YOUR LEGAL RIGHTS. EITHER YOU OR WE MAY ENFORCE THIS AGREEMENT. GOVERNMENT ENTITIES MAY SIGN AN [AGREEMENT](https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service) (<https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service>). TO REJECT THE ARBITRATION CLAUSE.

1.1 Find the terms that apply to you

The Notices and Terms are listed in the order of precedence. That means, if there is a conflict between the terms of one or more documents, the term in the document higher on the list (with the lower numeral) will prevail over the terms in the higher listed document.

1.1.1 Students

1. Benefit from our **Student Privacy Notice** (<https://help.boomlearning.com/en/support/solutions/articles/16000121715-student-privacy-notice>).
2. Student accounts are subsidiaries of Educator or Entity accounts.

1.1.2 Schools, Medical Providers, and Businesses purchasing as an "Entity" are bound by

1. Any separately signed Data Privacy Addendum or Agreement
2. Any separately negotiated and signed Service Agreement, Software License, or Master Agreement
3. The Boom Learning **Privacy Notices** (<https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice>)
4. The Boom Learning Terms of Service
5. Any School provided Purchase Order Terms and Conditions

1.1.3 Educators purchasing as an individual are bound by

1. The Entity terms if your district has an Entity agreement
2. The Boom Learning **Privacy Notices** (<https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice>)
3. The Boom Learning Terms of Service

1.1.4 Public Publishing Authors (Sellers) are bound by

1. The **Public Author Terms of Service** (<https://help.boomlearning.com/en/support/solutions/articles/16000121727-public-author-terms-of-service>)
2. The Boom Learning **Privacy Notices** (<https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice>)
3. The Boom Learning Terms of Service

If you do not accept all the terms, do not use Boom Learning.

1.2 Changes

We will not make material changes to the terms without first providing notice via our newsletter service. Mere reorganization of components between cross-referenced documents nor the addition of detail previously stated in our FAQs that does not alter fundamental commitments does not constitute a material change. If any term is held unlawful, void or unenforceable for any reason, it will be considered modified so that its purpose and the remaining terms can be lawfully enforced. Acceptance of the changed terms is a condition of continuing as a member. If you do not wish to accept the new or revised terms, you must cancel your membership and/or withdraw your products.

1.3. Who we are and how to reach us

We (also “**our**” and “**us**”) are Omega Labs Inc. dba Boom Learning, and our successors, assigns, and subsidiaries. Legal notices must be sent to 9805 NE 116th St Suite 7198, Kirkland WA 98034 or legal@boomlearning.com.

1.4 Who you are

You” means the adult Educator, Entity, or Public Author who creates an account with us. We are a service provider acting on your behalf to process data for your educational purposes. “**Entity**” includes schools, hospitals, therapy practices, and educational services business, whether for profit or non-profit, and includes sole proprietor businesses.

1.4.1 You promise that you are an adult and you will comply with rules for interacting with minors.

When you accept these terms, you represent and agree that you are an adult and are not a minor. Boom Learning is a platform marketed and directed to adult users for use with students, who may be minors. Adults create accounts for students under their charge. See our Privacy Notice for rules regarding your use of Boom Learning with minors.

1.4.2 You agree that we can verify what you tell us.

You authorize us, directly or through third parties, to make any inquiries we consider appropriate to verify account information you provide, including your authorization to agree to the terms or your identity.

1.4.3 Authorizations and account ownership

You represent and warrant that you have permission and authorization, as required by law or policy, from your school and affected parents, guardians, and students, to bind students and your school to the terms. If you purchase an account with out-of-pocket funds for use at an entity with students, Boom Learning agrees that the school is a beneficiary of the terms. If you are an entity, a person associated with your account must have authority to bind the entity to this Agreement.

1.5 What we are

Boom Learning

- is a platform at wow.boomlearning.com for creating interactive, self-grading teaching resources (“**Boom Cards**”), including the ability to incorporate “assets”, such as images, artwork, fonts, video, and sound, into those Boom Cards, (the creation platform is called the “**Studio**”),
- offers **Public Authors** (<https://help.boomlearning.com/en/support/solutions/articles/16000121727-public-author-terms-of-service>) tools for selling and sharing Boom Cards on other marketplaces (“**External Marketplaces**”),
- includes a marketplace for obtaining and listing Boom Cards and assets (the “**Store**”),
- provides educator tools for managing and assigning Boom Cards (“**Classes**”) and reviewing student performance (“**Reports**”),
- offers web apps (<https://boom.cards>) and native (<https://boom.cards>) apps (Amazon, the App Store, and Google Play) for playing Boom Cards. Mobile apps are also subject to the rules and agreements of their respective app stores.

2. Dispute Resolution including ARBITRATION

2.1 Negotiations first

So if we have a falling out, before calling in the big guns (aka arbitration), you and we shall attempt in good faith to resolve all disputes by negotiation between representatives with the authority to settle the controversy.

2.2 Mediation or Copyright Claims Board second

If negotiations do not resolve the matter, and the matter falls within the jurisdiction of the Copyright Claims Board, the matter will be referred to the Copyright Claims Board for resolution.

If negotiations do not resolve the matter, and the total amount in controversy is less than \$100,000, the matter will proceed to mediation to be conducted online through JAMSconnect. If mediation is unsuccessful in resolving the dispute or the matter has a total value greater than \$100,000, then you and we will proceed to the arbitration procedures in the next paragraph.

2.3 Arbitration and Class Action Waiver

Government Agencies can opt out of Arbitration, change choice of law, and change venue by completing and returning our [Government Agency Terms of Service](https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service) (<https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service>).

If we get to the stage of arbitration, any dispute, controversy or claim, arising out of or relating to these terms or to your purchase or use of Boom Cards or Boom Learning will be referred to and finally determined by arbitration administered by JAMS in King County, Washington, in accordance with JAMS' Streamlined Arbitration Rules and Procedures or, if you are situated outside of the United States, in accordance with JAMS International Arbitration Rules. By any, we really mean any, include disputes over whether we even formed an agreement, how to interpret our agreement, whether or how there was a breach, whether or how there was a termination, and even whether or not claims are arbitrable.

You and we agree that the laws applied will be the laws of the State of Washington. You and we further agree that arbitration must be on an individual basis. This means neither you nor we may join or consolidate claims in arbitration by or against other purchasers or users of Boom Learning, or litigate in court or arbitrate any claims as a representative or member of a class.

2.5 You and we have 180 days to bring a dispute

You and we agree that any arbitration initiated hereunder must be brought no later than one hundred and eighty (180) days after the dispute first arose, unless the matter qualifies for mediation, as described above, in which case the initiation of mediation shall toll this limitations period from the date of initiation through the date of the completion of the mediation.

3. Acceptable Use Policy

3.1 Key acceptable use policy requirements

Failure to conform to these acceptable uses can result in your account being suspended or locked out. You will

- only disclose the private information of others that you have a right to disclose and to authorized persons;
- only incorporate the intellectual property of others into materials you make or sell with permission;
- give credit where you are required to give credit;
- comply with all applicable laws that apply;
- access Boom Learning only through pages we make publicly available using your authorized login credentials;
- ensure messages and electronic instructions delivered to us do not include malicious code or otherwise attack our systems;
- create, select, share and deliver to students materials that distinguish fact from opinion and that are factually accurate (supported by verifiable and substantial evidence);
- never include any material that contains advertising or marketing content in materials intended for delivery to K-12 students;
- review all materials created, selected, shared and delivered to students to ensure they do not contain materials that biased, offensive, inappropriate, hateful, indecent, harassing or unlawful, considered in light of the age of the students who are the intended users of the materials (as judged solely by us).

Do not engage in any conduct in any forum hosted by Boom Learning that is harassing, threatening, fraudulent, inappropriate, hateful, pornographic, defamatory, obscene, offensive, indecent or unlawful (as judged by solely by us).

3.2 Bad choices have consequences

We do not have an obligation to monitor our sites and apps, but we do have a right to do so. We proactively edit and depublish Boom Cards that violate our acceptable use policy. We reserve the right to remove content, suspend you, ban you, or pursue other remedies against you at our sole discretion, any time, for any breach of the terms of this acceptable use policy or of this agreement, without notice. We reserve the right to provide information to third parties, such as our authors, schools, law enforcement, supervisory authorities, and attorneys general, to enable them to pursue legal remedies against you. You agree that we will not be liable to you or

any third party for any suspension or termination of your account. There are no refunds when an account is suspended or terminated and you will forfeit your current membership. If we terminate your account, you will not establish a new account without our permission. You will be required to pay anew to reopen an account.

3.3 Special rules for video

You may not embed any video in a Boom Cards deck that contains an advertisement. You are responsible for watching videos in full before embedding and ensuring that no advertisements are displayed. You are responsible for updating your videos if your hosting service changes its rules to add advertisements to your video. For Vimeo, you must have a premium Vimeo account so that your users do not see ads. You may not collect personally identifiable information from any user via a Vimeo link. You must turn off all marketing settings that collect information before including a Vimeo link in a deck.

3.4 You can report infringement of copyrights and we will take action.

The Digital Millennium Copyright Act provides specific guidelines for reporting infringement of your copyrights to us. It also defines what we do when we receive a complaint from you. Copyrights are rights to prevent others from copying, displaying, performing, distributing, or making a variation of a work of original expression created by you and captured in some form by you. If you believe your copyrights have been violated, tell us using our **Notice and Procedure for Making Claims of Copyright Infringement** (<https://wow.boomlearning.com/ipClaim>). We will remove items that we have a good faith belief we have a legal right and obligation to remove.

You can also report abuse or infringement informally by clicking Reviews and Report for the Boom Cards deck at issue. If you want to contact us about abuse of our acceptable use policy, trademark infringement or other matters, do not send a DMCA notice, use the Report tool for the deck or send a proper message providing sufficient information for us to identify your concern and an actionable requested remedy to legal@boomlearning.com. If you add patent or trademark claims to your DMCA notice we will reject it as nonconforming and will require you to submit again. We prefer a less formal, more flexible approach than the DMCA to arriving at a mutually agreeable messaging to give to teachers about acceptable use of your materials, but if you must use the DMCA, we expect you to get it right.

3.5 We can't make everyone behave all the time.

Before assigning any material, you should inspect it for suitability. If upon inspection it does not conform to your expectations, you may request a refund by identifying the deck title, deck author, and a brief statement of the issue with the deck. Refund requests must be within reasonable proximity of the purchase date. We will grant reasonable refund requests, but reserve the right to refuse for customers who abuse the process, as determined in our sole discretion.

You will see content on Boom Learning that was posted by our authors and third parties. Those third parties are solely responsible for the content they make available. You may object to content and we will determine, in our sole discretion, if it should be removed. We are not responsible for the accuracy, appropriateness, lawfulness or truthfulness of any author or third party content. We are not liable to you if you rely on author or third-party content or if you suffer damage from an author or third party. We are not liable even if you object to us about the content and we take no action. We will respond to a properly issued court order to remove content.

4. Talking about each other

4.1 Chat us up, with credit

Please talk about Boom Cards. Be sure to give credit where credit is due. Don't claim as your own things that are not. If you post an image of Boom Learning or Boom Cards to any social media site available to the public, you grant Boom Learning and/or the author permission to repost that image with appropriate credit to you.

4.2 Feedback and ratings

In the event you provide us or an author with suggestions, ideas or other feedback, we or the author will be free to use that feedback in any manner without restriction and without owing you money or compensation. Ratings you give must be based on using the resource for its intended purpose.

4.3 Boom learning names and logos

Boom Learning names and logos are the trademarks, trade names and/or service marks of Boom Learning. Our authors' names and logos are the trademarks, trade names and/or service marks of our authors. You may use our names descriptively in reviews. Use of Boom Learning and Boom Cards names and logos must comply with our guidelines. For all other uses, ask for written permission from us or our authors first.

4.4 Entity images or likenesses

Boom Learning agrees that for entities, absent the entity's prior written consent, it will not have any rights to (a) use any trademarks of the entity, including logos or emblems or (b) advertise or claim that the school endorses Boom Learning's services. Boom Learning may use an entity as a business reference.

4.5 Social reposting

You agree that Boom Learning may repost any blog, social media post, or other post you make as part of our efforts to promote your Boom Cards and/or Boom Learning. This includes posts by entities.

5. Payments, fees, renewals and the like

5.1 You pay all applicable charges.

Prices exclude taxes and currency exchange settlements unless stated otherwise. You are responsible for paying taxes or other charges. If your account is canceled, you are obligated to pay all charges made to your account before the cancellation was effective. Failure to provide valid payment may result in you being banned. Being banned does not absolve you of responsibility for amounts in arrears.

5.2 We provide electronic receipts, invoices, and statements.

We provide you with electronic receipts, invoices, and statements. You will receive email receipts from the payment processor you selected. You can find a record of your purchases in My Settings. These are the only receipts, invoices, and statements we provide.

5.3 You have 180 days to tell us we made a mistake

It is your responsibility to print or save copies for your records. If we make an error on a receipt, you must report the mistake to us within 180 days after the error appeared. If you do not inform us within 180 days, you agree that you release us from all claims of liability and loss resulting from the error and that we will not be required to correct the error or provide a refund.

5.4 Purchase orders

You may use purchase orders to buy points and memberships only through our **Estimate Builder** (<https://wow.boomlearning.com/estimateBuilder>). Minimum purchase requirements apply. Terms and conditions in a Purchase Order are rejected to the extent they conflict with or supersede other applicable terms as stated in Paragraph 1.1.2. All additional discount terms over those in the estimate are rejected. Net payment terms on purchase orders are accepted. Entire agreement clauses in purchase orders are rejected to the extent that they invalidated the other applicable terms set forth in Paragraph 1.1.2. Failure to pay the invoice for memberships shall result in downgrading of the memberships and removal of points. Where users already have accounts with time remaining on them and a school purchases a membership for that account, we will credit the difference either in days or points, in our sole discretion.

5.4. Points—what and why

Points purchased with US dollars. Points can only be used to redeem Boom Cards and assets for making Boom Cards from Boom Learning. They enable transactions that would otherwise be cost prohibitive for us to provide. If you have insufficient points in your account to check out products you will be prompted to purchase points first. You will then go back and check out the products.

We will automatically renew your account from your unspent points balance if you have not timely renewed and have not downgraded to a free account. We may spend your points or enter a negative points balance to obtain satisfaction of a debt you owe us, including debts for dispute fee chargebacks and, for our public authors, refunds you owe use or external service fees.

Points are non-refundable and non-transferable. Points do not constitute a personal property right and have no value outside Boom Learning. Points have no cash value and cannot be exchanged for cash. If you delete an account or we delete a stale account that is no longer being used and the account has points in it at the time of deletion, all points are forfeit and are unrecoverable. Please read our [Privacy Notice \(https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice\)](https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice) for when we delete stale accounts. We reserve the right to discontinue the availability of points at any time. If we suspect fraud or abuse regarding your points, we may cancel, suspend, or limit your ability to redeem points. We delete points we determine were obtained fraudulently. We may charge you for the value you obtain by fraudulently using points. A single teacher may directly purchase more than 100,000 unused points at any time. Schools can only purchase a maximum of 200,000 points via payment card. All other purchase values require purchase by purchase order.

5.5 Renewals (automatic and otherwise)

You agree that we may automatically extend or renew your account as specified below unless you downgrade your membership or request a refund of unused purchased points prior to the renewal date.

Renewals work this way

- We will send you by email a notice that your account is expiring if you have a membership (whether paid or granted as a free promotion). We will explain how to downgrade your membership in that notice.
- The notice will state that any unused points you have will be automatically applied by us to extend your membership on a pro-rata basis upon expiration.
- If you are subject to extension by having a points balance, to avoid points expenditure you must go to My Settings before the expiration date and downgrade your membership to a free tier.

We renew your account from the date it expired, not the date of the renewal. There are costs to maintaining your account even if you are not actively using it.

5.6 Upgrades, downgrades, and refunds

Downgrades and upgrades are immediate. Membership purchases are non-refundable except at our sole discretion (such as you accidentally opening and purchasing 2 accounts).

5.7 All sales are final.

Unless otherwise provided, all purchases and redemptions are final and nonrefundable. We may, at our sole discretion issue refunds, such as for duplicate purchases. Our decision to issue a refund for a particular customer does not obligate us to reverse redemptions to any other customer or for any other product. If we cancel or suspend your account, your right to acquire and use products stops immediately. We can only issue refunds for purchases made directly from Boom Learning. Direct all other refund requests to the site from which you made the purchase.

5.8 Contact us first to avoid chargebacks of dispute fees

You must contact us to request a refund. The best way to do so is when logged in from the Help Center. Please select Customer Service & Sales (including refunds) as your request type for fastest service. If you dispute a charge without contacting us or requesting a refund first, we reserve the right to charge you the dispute fee, which can be \$15 to \$20 per dispute. Users who abuse the dispute process will be locked out of their accounts. When a charge is disputed, we will reclaim the purchased items (refunding decks, removing points and expiring items). If the dispute was not valid (for example you spent the points or continued using the membership) but is nonetheless resolved against us, you will be required to pay the dispute charge before you can continue using your account. We may reclaim the dispute fee by removing points, adding a negative points balance, and/or returning redemptions until there are sufficient points to pay your fee. If the dispute is valid because you used a payment you were not authorized to use, you will be required to pay the dispute fees to regain access to your account.

6. What you can do with Boom Cards

6.1 What you can do

If you have a current account (either free or a paid membership) you can

1. Redeem them.
2. Assign them to your students. Fastplay Pins are available for all accounts. Other methods require a paid membership.
3. Display and perform with your students or demonstrate them to others associated with your school.
4. Set Custom Play settings for Hyperplay and assigned decks.
5. Give feedback, rate them, and contact the author.
6. Print them for your students.
7. Create them (subject to limits based on your account tier).
8. Share or transfer ones you've created with your team.

6.2 Modifications

Boom Cards are owned by their authors. You receive a right to use them. Authors reserve the right to modify Boom Cards after purchase to correct errors and omissions.

6.3. What you can't do with Boom Cards.

You can't use them offline; they require a connection to the internet (wired, wireless, or cellular). You may not extract or attempt to extract images, fonts, video, sound or other elements from Boom Cards using any means. Attempting to do so can result in you being banned from our system and/or subject to civil or criminal action against you. You cannot export Boom Cards decks. You may not share purchased Boom Cards with others through account sharing or other methods. You may not share decks or bundles that you purchased with other users without additional licenses. If we catch you doing it we will require you to make the sellers whole financially or forfeit your account, including all decks therein. Don't steal from fellow educators. You may not use them for a commercial purpose without the author's consent.

6.4 Using "assets" (you know: images, fonts, sounds, videos, gifs and more)

Use assets you made yourself or that you have permission to use. You can purchase assets for use from the Boom Store. You can also purchase them from a variety of other locations. If you do so, make sure that your permission allows use with Boom Cards. We take steps to prevent right click saving of images, so many artists will say "yes" that would otherwise say "no" to digital use. For your convenience, we keep a [list \(https://help.boomlearning.com/en/support/solutions/articles/16000060654-font-and-clip-art-permissions-granted-or-denied-list\)](https://help.boomlearning.com/en/support/solutions/articles/16000060654-font-and-clip-art-permissions-granted-or-denied-list) of people who have said "yes" to Boom Cards use. Don't use images of living people unless you have their permission (a right of publicity clearance). For dead people who have been dead less than 70 years, the question gets more complicated and you should contact an attorney for guidance.

We reserve the right to block you from accessing assets you upload, use or purchase, if we determine that you may not lawfully use the asset. We, in our sole discretion, will determine whether you are entitled to a refund for assets you purchased from an author on Boom Learning.

6.5 Assets purchased from the Boom Store

When you buy assets from the Boom Store, you get permission to include those assets in decks you create and to use assets included in decks with your students. You may modify assets to the extent allowed by the tools included in the Boom Learning platform. Asset authors may provide more generous terms to you. If so, their terms apply.

7.1 Account management

7.1. Accounts and memberships

You must have an account to use Boom Cards. There are free accounts and paid member accounts. All memberships are annual, pre-paid and non-refundable. Free accounts allow you to play purchased Boom Cards using Fastplay Pins. Paid member accounts allow you a number of benefits, including the ability to track student progress based on the number of seats you purchased, create your own Boom Cards, and get special discounts. Boom Learning reserves the right to change the terms of memberships at any time in our discretion. Changes will take effect for you on renewal.

7.2 Account deletion and closure

DELETION IS IRREVERSIBLE. AGAIN DELETION IS NOT REVERSIBLE.

If you have unspent purchased points you must request a refund before deleting your account (or before we delete it automatically as a stale account). Once an account is deleted, points are forfeit and non-refundable. Membership is also non-refundable.

You may add and delete students. When you delete a student, you delete the record of that student's past work. To protect student privacy, we take you at your word when you issue a deletion instruction.

To minimize privacy risk, we delete stale accounts according to the schedule in our [Privacy Notice](https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice) (<https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice>). A teacher who deletes a school purchased account without the permission of the school is liable to the school for the loss. Schools may authorize us or a teacher to delete a school-purchased account. We may, in our discretion, close or suspend your account at any time for any reason, with or without notice. You may close your account using Delete from [My Settings](https://wow.boomlearning.com/settings) (<https://wow.boomlearning.com/settings>) at any time, without notice to us. Account closure is permanent and irreversible – decks created but not sold are permanently destroyed.

7.4 Account sharing is not allowed

Boom Cards are licensed to a single account operated by a single individual. Each individual, whether their account was purchased directly or by an entity, must have his or her own account. Use our colleagues feature to share students with co-workers.

Fastplay pins allow you to interact with students with no tracking of student performance. Fastplay pins expire and must be regenerated. All other assignment methods are allowed for you and the number of your students that your account tier allows. We may modify the number of students a tier is allowed at any time, at our sole discretion.

7.5 Referrals, rewards, and special offers

From time to time, we offer paid referrals and/or other special offers. We do not disclose who clicked a referral link to the referring party. You can find our terms for any current offers [here](https://help.boomlearning.com/en/support/solutions/articles/16000036052-referral-links-gadgets-and-store-traffic-information) (<https://help.boomlearning.com/en/support/solutions/articles/16000036052-referral-links-gadgets-and-store-traffic-information>). We are not obligated to offer rewards, referral fees, or any other special offer. We

can change or discontinue any referral, reward, or special offer program at any time, at our sole discretion. In the absence of a specific offer, you should understand that we have no obligation to compensate you for giving a review, referring a customer, or otherwise spreading the word.

8. Parents

Parents and legal guardians may review student accounts from the student dashboard. Parents must contact the Educator for a password reset for a student account, to correct an error in a student record, or to request an export of student performance records. We must have authorization from the Educator or a legal authority to fulfill parent requests. Please see our **Student Privacy Notice** (<https://help.boomlearning.com/en/support/solutions/articles/16000121715-student-privacy-notice>).

9. We are FERPA compliant

We are Family Education Rights and Privacy Act (FERPA) compliant. Please see our **Privacy Notice** (<https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice>). Boom Learning does not require student personally identifiable information to serve its educational purpose.

10. Government Agency Optional Terms of Service

If you are a government or public entity required by law to use the laws of your state for choice of law, to reject arbitration, or to select local venue, please complete and return our **Government Agency Terms of Service** (<https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service>).

11. Data is stored in the United States

Please see our **Privacy Notice for Data Exporters** (<https://help.boomlearning.com/en/support/solutions/articles/16000121733-privacy-notice-for-data-exporters-of-data-about-non-us-data-subjects>) for details for European Economic Area, Swiss, UK, and Canadian customers.

12. Account ownership

12.1 First purchaser rule

We use a first purchaser rule to determine account ownership. If an individual buys the account, it belongs to the individual for his or her lifetime and cannot be transferred to another individual. Individuals who change entities must delete student records relating to the prior entity. Entities can pay for memberships and points in individual accounts, but doing so will not change the ownership of the account. If an individual previously purchased an account with out-of-pocket funds and the entity purchases an extended or upgraded membership for that individual, account ownership will be deemed to remain with the individual and is not transferred to the entity. Likewise, points purchased by an entity for use in an account originally purchased by an individual shall be deemed to be owned by the individual.

If an entity buys an account, it belongs to the entity and can be transferred to another individual at that entity. The entity may gift an account to an individual. An individual who purchases Boom Cards in an entity account is making a gift of those Boom Cards to the entity.

Any attempt to seize or transfer ownership inconsistent with this section shall be null and void unless supported by a notarized statement signed by both parties stating the correct ownership of the account or a court or arbitral order.

12.2 Entity accounts are licensed to a classroom or provider

If an entity purchases an account, the entity owns the account and is agreeing to these terms. Entity accounts belong to the classroom or provider for which they were purchased. Entities may transfer accounts they purchase between individuals if a provider changes level, leaves the entity, or goes on leave.

13. Security and Breach Response

Details are in our [Privacy Notice \(https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice\)](https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice).

14. Representations and Warranties

14.1 You WARRANT AND REPRESENT that you have made good choices

You warrant and represent (1) that any and all information and products you provide to us are truthful, accurate, complete, current and in compliance with these terms; (2) that any email address you provide is yours and that you have not impersonated any person or used a username or password that you are not authorized to use; (3) that you are fully authorized to provide the products and to authorize us to provide the products to others; and (4) that your products, and any site to which your products link, (a) comply with all applicable laws and regulations, (b) do not infringe, misappropriate or otherwise violate any third party intellectual property right, (c) do not breach the rights of any person or entity, including, without limitation, rights of publicity or privacy, and are not defamatory, and (d) do not and will not result in consumer fraud (including being false or misleading), product liability, tort, breach of contract, injury, damage or harm of any kind to any person or entity, and (e) do not advertise to students.

14.2 You agree to INDEMNIFY us against your poor choices

At our request, you will defend, hold harmless, and indemnify us and our directors, officers, employees, agents, affiliates and each of their successors from and against all third-party claims, actions, demands, proceedings, damages, costs and liabilities of any kind that arise out of or relate to (1) your products, (2) your use of Boom Learning or authors' products, (3) your violation of laws or applicable regulations, (4) your breach of your warranties, representations or obligations under this agreement, (5) your direct communications with others, including direct communications between customers and authors, and (6) other claims that arise out of your actions, products or use. We will be entitled, at our expense, to participate in the defense and settlement of the claim or action with counsel of our own choosing.

14.3 Everything is provided as is and subject to change without notice

DISCLAIMER OF WARRANTIES: Boom Learning, and the content/products found on Boom Learning, are provided "AS IS" and "AS AVAILABLE" without warranty of any kind, whether express or implied, including without limitation, the implied warranties of merchantability, fitness for a particular purpose, title or non-infringement. The entire risk arising out of use or performance of Boom Learning products remains with you. No communication, whether oral or written, from us to you creates any warranty. We and our Authors may change, suspend or discontinue Boom Learning or any product at any time for any reason, with or without notice. If we discontinue services, your resources may not be available to you. You agree that neither we nor our Public Authors shall be liable to you or any third party if Boom Learning or any product is changed, suspended or discontinued.

14.4 Our liability to you is limited

LIMITATION OF LIABILITY: We work hard to make sure our system is available, but there are a substantial number of factors beyond our control in providing the services, including browser updates, filtering software, entity IT settings and more. As a result, we can't guarantee that any or all feature will always work or that Boom Learning will be continuously available to you or your students.

We and our suppliers are not liable to you for any errors or inaccuracies you find in or on Boom Learning; any service, system, or process delays, latencies, failures or interruptions; or any actions you take in reliance on us, our suppliers, or the content. Our and our suppliers' liability to you is limited whether the harm to you was foreseeable or not. We and our suppliers are not liable to you for any

special, exemplary, or punitive damages, including loss of data, revenue, and/or profits, costs, or expenses, including legal fees and expenses, regardless of the legal theory on which you claim liability is based, even if you have advised us or our supplier of the possibility of those damages.

Our and our suppliers' liability to you is limited to the amount actually paid by you to us, if any, for the product(s) at issue. If you are a supplier, we will not be liable to you for amounts in excess of proceeds due and payable by us to you for the six-month period preceding the claim. YOU AGREE THAT YOU ARE WAIVING CLAIMS THAT YOU MAY NOT KNOW OR SUSPECT YOU HAVE AT THE TIME YOU ENTER INTO THIS AGREEMENT. YOU AGREE TO SPECIFICALLY WAIVE ANY CLAIMS AS A CREDITOR YOU MAY HAVE THAT YOU DO NOT KNOW OR SUSPECT EXIST IN YOUR FAVOR. YOUR WAIVER AS A CREDITOR INCLUDES WAIVER OF CLAIMS THAT WOULD HAVE MATERIALLY AFFECTED HOW YOU WOULD SETTLE A MATTER IN WHICH WE ARE A DEBTOR TO YOU. You acknowledge and agree that we cannot ensure that either content or data will be protected from theft or misuse. We have no liability arising from a failure of any system or feature that limits the use of content or data.

Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to you.

15. Additional Terms

15.1 For your attorney (and all armchair attorneys)

Rather than burden our users with technical, exhaustive, and precise references to the various intellectual property and related rights necessary, we instruct all attorneys reading this to understand that all necessary rights to take the actions described that are not stated explicitly are implied. Boom Learning, along with products available on it, are licensed, not sold, and ongoing access requires a current account.

15.2 Just because we gave you a pass once doesn't mean we have to again

Our failure to act if you fail to comply with a term does not waive our right to act on any subsequent failure to comply or nor does it waive the term in question.

15.3 Going our separate ways

This agreement is effective from your acceptance until terminated by you or us in writing or electronically. You terminate by ceasing to use Boom Learning. Any terms that by their nature are intended to apply indefinitely continue to apply, including but not limited, perpetual licenses, ownership provisions, warranties, disclaimers, indemnities, and limitations of liability. Terms that are intended to survive for a period after termination shall also survive for the designated period (such as payout holdbacks for refunds).

15.4 Assigning rights to others

We may assign any rights we have under any agreement to any successor or purchaser of us or of our assets, to the extent permitted by law and provided that such successor or purchaser agrees to be bound by the terms. If you assign your rights or obligations to another party, you must give us written notice of the assignment no later than ten (10) business days following the assignment. This agreement is binding on and inures to the benefit of any successors and assigns.

15.5 If one of these terms falls down, they do not all fall down

If the final judgment of a court or arbitrator declares any term invalid, void or unenforceable, then you and we agree to reduce the scope, duration, area or applicability of the term, to delete specific words or phrases, or to replace any invalid, void or unenforceable term with a term that is valid and enforceable and that comes closest to expressing the original intention of the invalid or unenforceable term.

15.6 English Language

It is the express wish of the parties that this Agreement and all related documents, including notices and other communications, be drawn up in the English language only. Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.

General Privacy Notice

Modified on: Mon, 14 Jun, 2021 at 9:08 AM

EFFECTIVE JULY 1, 2021 ([see archived version](#))

(<https://help.boomlearning.com/en/support/solutions/folders/16000095966>)



Guiding Principles

- We want all kids to achieve at their highest possible level.
- We expect kids to make mistakes.
- We believe kids are entitled to leave their mistakes behind.
- We believe kids have a right to veto their presence online.
- We believe in transparency and feedback.

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1. Applicability

1.1 All users

This notice applies to data processed by our Services and is part of our Terms of Service. It incorporates by reference the following supplemental notices, as applicable to you.

1. **STUDENT PRIVACY NOTICE** (<https://help.boomlearning.com/en/support/solutions/articles/16000121715-student-privacy-notice>)
2. **NOTICE FOR DATA EXPORTERS OF DATA ABOUT NON-US DATA SUBJECTS (EEA, Australia, Canada)** (<https://help.boomlearning.com/en/support/solutions/articles/16000121733-privacy-notice-for-data-exporters-of-data-about-non-us-data-subjects>)
3. **COOKIE NOTICE** (<https://help.boomlearning.com/en/support/solutions/articles/16000121724-cookie-notice>)
4. **DATA ELEMENTS disclosure** (<https://help.boomlearning.com/en/support/solutions/articles/16000087842-data-elements>)
5. **INFORMATION SECURITY PLAN** (<https://help.boomlearning.com/en/support/solutions/articles/16000121794-information-security-plan>)
6. **SUBPROCESSOR disclosure** (<https://help.boomlearning.com/en/support/solutions/articles/16000121757-subcontractor-and-subprocessor-disclosure>)

These are provided as distinct documents to allow you to link to them from your website or to include them in parent notices.

1.2 Alternatives to this notice

We must have binding Privacy Notices in place. We cannot accept any Purchase Order that purports to negate our Privacy Notices unless an acceptable substitute Privacy agreement is in place. **Contact us** to put in place a substitute agreement. Government Agencies may sign and return our **Government Agency Terms of Service** (<https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service>) to modify certain terms of our Terms of Service and Privacy Notices.

1.3 Authority to agree on behalf of your entity or organization

You agree that you have the authority to enter into this agreement on behalf of your entity. It sets forth your roles and responsibilities regarding Student Data. If we have a direct privacy agreement with your district, state, or purchasing entity, those terms will prevail over any conflicting terms in this notice.

2. We are for Educators

2.1 Education purpose

Our business purposes (the **Services**) are

- To enable Educators to make, share, buy, sell, and assign awesome digital educational resources (**Boom Cards**) that mostly grade themselves;
- To provide Educators with rapid student performance reporting to give you more time to teach students, intervene faster with those who need it, accelerate those who need it, and occasionally read a long privacy notice (or better yet, a rollicking good book).

2.2 Service Provider directed to Educators

Our Services are provided at the direction of Educators and are Services for which Educators would otherwise use their own employees or agents. To fulfill those purposes, we use any personal information we receive from you (**Educator Data**), as well as any student personal information, student records, or student-generated content (**Student Data**) we receive from your students. Collectively we call this **User Data**. We are marketed and directed to Educators.

2.3 We are NOT a data reseller

We do not sell User Data.

2.4 Use with children

Educators create accounts for students under their charge. Although minors may use Boom Learning, a responsible adult Educator must accept terms and set up accounts on the minor's behalf. Parents and legal guardians who are homeschooling or after schooling their children may use the product as Educators. We treat payment and verification of an email address as proof of adult status. Educator accounts are for adults only. If we learn that a minor has created an Educator account, we will take steps to delete the information as soon as possible.

2.5 Who we are and how to contact us

Boom Learning is a trade name of Omega Labs Inc, a Washington state C Corporation. Our mailing address is 9805 NE 116th St. Suite 7198, Kirkland WA 98034. You can call us at 833-969-2666. You can **contact us** to send us questions about or notifications relating to this policy.

3. Your role as a data controller

We are a service provider enabling you to engage in processing your student data and your teaching assets. We are a service directed toward adult service providers who work with students. When you create a student account you are acting in the place of the parent (*in parentis loci*) for the purposes of verifications and consents required under the law. You must have all legal consents required of you to add a student before creating a student account. You must have an account and a verified working email address to add students.

3.1 Entity specific considerations

3.1.1 FERPA Entities

United States schools governed by the Family Educational Rights and Privacy Act ("**FERPA**") agree and understand that their legal right to engage us to process student data on their behalf arises under the school official exception of FERPA. Pursuant to that exception, Boom Learning performs a service for which a school would otherwise use employees and Boom Learning operates under the control of the school with respect to the

use and maintenance of education records for a legitimate education interest. We use student data solely for the purpose of fulfilling our duties and providing and improving services under this agreement. FERPA entities provide COPPA consent through *in parentis loci*.

3.1.2 COPPA Entities that are not FERPA entities

If you are an entity covered by the Children's Online Privacy Protection Act ("**COPPA**") but are not able to consent *in parentis loci* because you are not a FERPA entity (for example a music tutor), you must obtain consent from the parent or guardian before creating a student account as part of your normal business service.

3.1.3 HIPAA Entities

Your collection of Student Data for health therapy interventions must be consistent with the Health Insurance Portability and Accountability Act ("**HIPAA**"), including meeting the requirements of consent and using pseudonyms and private rosters to protect the medical information of patients. You may also need to obtain consent under COPPA.

3.1.4 GDPR Entities

Data controllers subject to the General Data Protection Regulation ("**GDPR**") must obtain consent from their data subjects and must enter into an additional data protection addendum ("**DPA**") before adding students as data subjects. See **NOTICE FOR DATA EXPORTERS OF DATA ABOUT NON-US DATA SUBJECTS** (<https://help.boomlearning.com/en/support/solutions/articles/16000121733-privacy-notice-for-data-exporters-of-data-about-non-us-data-subjects>).

3.1.5 Non-US, non-GDPR Entities

Data exporters must obtain any locally required consents from their data subjects. If the data controller is required to have a signed data export agreement to export student data to the United States, the data controller must enter into an additional data protection addendum ("**DPA**") before adding students as data subjects. See **NOTICE FOR DATA EXPORTERS OF DATA ABOUT NON-US DATA SUBJECTS** (<https://help.boomlearning.com/en/support/solutions/articles/16000121733-privacy-notice-for-data-exporters-of-data-about-non-us-data-subjects>).

3.1.6 Consumer Privacy Protection Acts (such as the CCPA, CPRA, CDPA and more)

The Services are typically governed by state laws applicable to student data in an education setting. If a state law regarding consumer privacy protection applies to the Services, we promise we will not discriminate against the residents of such state for exercising their rights under their applicable state law so long as such exercise comports with the requirements of the applicable state law.

3.2 Verification

You may contact us for assistance to learn which specific personal information we have collected about you and for help deleting personal information. We will require that you (a) provide sufficient information to allow us to reasonably verify that you are the person about whom we collected the personal information or an authorized representative; and (b) describe your request with sufficient detail that allows us to properly understand, evaluate, and respond to it. If you are an authorized representative, we will require proof of your authority to access personal information.

3.3 Student safety is a shared responsibility

We use appropriate physical, electronic, and managerial processes and procedures to safeguard data against unauthorized access and use, including designating and training the individuals responsible for ensuring the security of the data.

3.3.1 Use safeguards

You have a responsibility to use appropriate physical, electronic, and managerial processes and procedures to safeguard Student Data against unauthorized access and use. Passwords you assign to students should be appropriate to their age in complexity, with older students expected to master more complex passwords. You agree you are responsible for your secure use of Boom Learning, including providing or obtaining adequate training on the use of secure authentication, the dangers of open networks, and providing your employees with secure networks on which to use Boom Learning. You agree to use passwords for Educator accounts that are adequately secure to prevent intrusion. It is your responsibility to keep your login information confidential.

3.3.2 Your staff and volunteers

You will take reasonable steps to ensure the reliability of any of your employees, agents, or independent contractors-- including volunteers--who have access to Student Data, including:

- ensuring access is limited to those with a need to know and access the Student Data;
- ensuring that all such individuals are subject to obligations of confidentiality; and
- training such individuals on password security and privacy requirements for your organization.

3.3.3 We can reduce our liability to you if you fail to comply with your data security responsibilities

You agree that any regulatory penalties or other liabilities incurred by Boom Learning in relation to acts that arise as a result of or in connection with your failure to comply with your data security responsibilities will count towards and reduce Boom Learning's liability to you.

4. Changes

We will not make material changes to the terms, including our Privacy Notices, without first providing notice via our newsletter service. Mere reorganization of components between cross-referenced documents or the addition of detail previously stated in our FAQs that do not alter fundamental commitments does not constitute a material change. You can review previous versions of the notices in our archive. Any version of this Privacy Notice in a language other than English is provided for convenience and the English language version will control if there is any conflict.

5. Data controls and requests

5.1 Educator controls

We provide Educators with a number of self-help controls that may be used to retrieve, correct, delete, or restrict User Data. We don't analyze, process, serve or transfer Student Data until you instruct us to do so by opening an account, adding students, and assigning resources to them. As an Educator, you may update or change most information you have provided to us

5.2 Parent and student access

Parents and students may review Student Data by either reviewing the student dashboard with the student or asking the Educator to show the teacher dashboard for that student. Parents who contact us to review or delete Student Data will be redirected to the Educator. We will not release information to a person other than an Educator unless we are provided satisfactory proof of a legal right to disclose, review or delete student information.

5.3 Data we retain

We will not delete information necessary to be maintained for our business purposes, including but not limited to:

- at least one login authenticator if you are maintaining an active account;
- Boom Cards decks you have sold to other Educators;
- logs for detecting security incidents, deception, and malicious activity;
- logs for detecting fraud and other illegal activity;
- records for internal uses, including debugging and repairing errors, transaction and payment records, and the like;
- data legally required to be maintained (such as tax-related and financial data).

5.4 Data you may not collect

Schools must exercise their right of consent within the confines of any law regarding sensitive data. You may not assign a resource that collects sensitive data unless you have all the required consents. Depending on your governing jurisdiction, sensitive information may include political affiliation; trade union membership; health information; sexuality information; information about protected relationships such as lawyers or ministers; criminal behavior; firearm ownership; and/or biometric data. You are solely responsible for understanding what you may or may not assign in your jurisdiction.

You agree to indemnify Boom Learning for any liability arising from your actions in assigning a resource that collects information in violation of a law that applies and for any failure by you to provide a student with the required information regarding their rights. If in doubt, consult your legal counsel and governing body.

6. User Data we collect and its disclosure

We collect some User Data automatically and some you (or your school) provide to us. See our **Data Elements** (<https://help.boomlearning.com/en/support/solutions/articles/16000087842-data-elements>) disclosure for details of Student and Educator data we collect. We collect the data elements to provide the Services. Many of those data elements are optional.

For all users, we record the account created timestamp, last login timestamp, the type of device being played (i.e., iOS or Android, but not the device ID), the app version (if playing a Boom Cards app), the OS version of the device, the browser type and version, decks redeemed or purchased, decks made, points available, and school affiliation.

6.1 Public author data

Author store names, avatars, descriptions, grade levels, keywords, product titles, prices, descriptions, and product contents are public and not confidential if published to the Store (information about "**Public Authors**"). We may share this public information on Facebook, Twitter, Pinterest, Instagram, Google, or any other appropriate public marketing service. We may announce publicly top-selling products, top sellers, and new sellers. You may contact us to be omitted from those announcements. Other Public Author data, such as payouts owed, address information, taxpayer identification information, and payouts information is held in confidence.

6.2 Confidential data

Confidential data is secured behind authentication and is encrypted in motion and at rest. Educator names, avatars and descriptions are displayed to students and Educator-selected colleagues.

6.2.1 Disclosures of Confidential Data to Public Authors or External Marketplaces

The name of a user redeeming Boom Cards purchased from a marketplace other than the Boom Learning store may be disclosed to the originating Public Author or marketplace to verify and determine whether the product redeemed was validly purchased if there is evidence that the product may not have been. Such disclosure is only after an investigation determining the user may have violated the law or licensing terms.

6.2.2 Disclosures of Confidential Data to Subprocessors

Our **subprocessor disclosure** (<https://help.boomlearning.com/en/support/solutions/articles/16000121757-subprocessor-disclosure>) details our sharing of data with subprocessors, including our current list of subprocessors. It also discusses your responsibilities with respect to Educator selected subprocessors. Read it carefully.

6.3 Student Data

When you assign an educational resource using a method other than Fastplay pins, we collect information about student performance on that resource and report it back to you for your educational use. You should share the **Student Privacy Notice** (<https://help.boomlearning.com/en/support/solutions/articles/16000121715-student-privacy-notice>) with your families. Student performance data includes information such as resources played, cards played, time to play a resource, time to play a card, correct answers, incorrect answers and other student actions with respect to a card. You can always work with students without collecting Student Data by using Fastplay.

Student Data, other than the user nickname for a classroom roster, is deemed confidential. Educators may optionally enable or disable visibility of a classroom roster to students. Student confidential data may be disclosed as follows:

- The information of students to the Educator who created the student account or to the school or organization employing that Educator or to an Educator provided the information through colleague student

sharing.

- The information of students to parents and legal guardians who observe the student dashboard.
- The information of Educators to the school or organization for whom the Educator works.

Student Data is also disclosed to the Student.

6.4 Other data we may collect depending on your interactions with us

6.4.1 Feedback and Ratings

We store feedback you give. Feedback is a private communication between you and a Public Author. We store ratings you give. Ratings and accompanying comments are public information. You may edit any ratings you give after they have been published. Feedback you provide via our support Helpdesk may also be stored in our systems for debugging and development management.

6.4.2 Assets uploaded

We store the fonts, images, and sounds you upload; and videos to which you link. We will retain those so long as the deck to which they were added has active student data records, or for publicly published decks so long as they are in user libraries.

6.4.3 Payment records

To make a payment you will need to provide the information requested by one of our payment processors, such as your name, account number, and verification numbers. Our payment processors use Payment Card Industry Security Data Security Standard (PCI DSS) compliant processes to process payments. They process payments directly. We do not have access to or store your full payment card details. We do have some information, such as your email address, approximate location, and name and payment, and purchase history. You can use My Settings to remove a credit card stored by Stripe. You may edit your Paypal information from your Paypal account. You may pay by check or ACH. If you pay by purchase order or check, we will store your payment information and tax exemption information, if any, in our accounting records. In some cases, your information may be shared with our accountant or with tax authorities.

6.4.4 Redemptions

We record the authors you redeem, purchase, and assign. These allow us to make adaptive and personalized learning recommendations to you based on you and your students' educational needs. We do not provide personalized recommendations from third parties. We keep track of which users follow you or redeem your products. If you redeem a product we automatically add you to the follow list for the author. Followers are not disclosed to your author without your consent.

6.4.5 Sales history and taxpayer identification

We store records of your sales. If you reach certain thresholds, we may request and store your taxpayer identification number. We also store the information you give us to enable us to pay you.

6.4.6 Created resources

We store the Boom Cards you create and the assets you upload. Any asset added to a deck assigned to a student is retained, even if you delete it. Because Boom Cards are effectively small applications unique to our platform, there is no ability to export created resources in a playable format. However, you may use the print feature to create .pdf versions of your creations.

6.4.7 Referral codes

We may store a referral code if you clicked one to arrive, which may tell us which user or author referred you or whether you arrived from a particular campaign. We do not provide your name to the referring party.

6.4.8 Newsletters and emails

We keep track of newsletter clicks, opens and site actions to better serve you. We have selected ActiveCampaign because their privacy practices and policies are consistent with the needs of the education market. We tell ActiveCampaign about key user actions for adult users. This allows us to provide just-in-time support and to run our recommendation engine for our adult users. We provide you with a variety of tools to opt in and out of how we use ActiveCampaign data. Options include notices only and newsletters about teaching, creating, and selling Boom Cards. We may use aggregate ActiveCampaign data to evaluate and plan external marketing. You can request to see your full ActiveCampaign data map and to have us update or delete information in the map.

6.4.9 Blog

When you click on a link hosted at blog.boomlearning.com, WordPress will collect technical data about you, your interactions with the site, and your inferred location. We do not enable ads on our blog.

6.4.10 Social Media

Your participation in any of our social media sites, including our Facebook groups is optional. Direct messages sent to us via social media may be forwarded to our Help Center (Freshworks). Your participation with us through social media is governed by the terms of the social media site.

6.3.11 Sales and Marketing Contact Information

If you contact us from a marketing, or sales campaign or to make a purchase for a school, we will collect information about you in our sales CRM and will send you follow up messages about our products and services. You can opt out of receiving these messages. We may choose to use these contacts for remarketing and retargeting purposes.

7. Cookies

We describe how we use cookies and similar tracking tools in our **[Cookie Notice](https://help.boomlearning.com/en/support/solutions/articles/16000121724-cookie-notice)** (<https://help.boomlearning.com/en/support/solutions/articles/16000121724-cookie-notice>).

8. Advertising

Please see our **[Student Privacy Notice](https://help.boomlearning.com/en/support/solutions/articles/16000121715-student-privacy-notice)** (<https://help.boomlearning.com/en/support/solutions/articles/16000121715-student-privacy-notice>) regarding advertising and marketing to students (we don't do it).

Aspects of the Boom Learning platform provide adults with instructional materials recommendations based on the teacher choices made for the student populations served by the teachers. Such recommendations are in furtherance of our shared educational purpose and do not constitute use for an advertising, marketing, or commercial purpose. Further, for the absence of doubt, the parties agree that it shall not constitute an advertising, marketing, or commercial purpose for Boom Learning to inform Educators of new Boom Cards or Boom Learning features or functionality.

We allow adult customers to “opt in” to receive email marketing from us or others.

Like other businesses, we advertise to adults to attract new customers. All such advertisements are placed with third-party providers, such as blogs, newsletters, magazines, search sites or social media sites. They are not delivered via the Boom learning platform. We receive analytics on the performance of those advertisements from the services with which we place the ads. These companies may use cookies and similar technology to collect information about your interactions with the Services and other websites and applications. We do not use their pixels or other tools that allow them to track your behavior at <https://wow.boomlearning.com> (<https://wow.boomlearning.com>). Your interactions with such ads are governed by the terms of the site on which they are displayed.

9. The Keeping and Deleting of Information

9.1 Self-help tools for Educators

At any time, Educators may delete a student, or contact us to request that we delete a student or your account in the event you are unable to use the self-help tools. You agree to give us 10 days so we can confirm that the person making the request is you and has the right to delete the account. Deletion cannot be undone.

9.2 Account transfer for entities only

To transfer an account from one Educator to another, or to receive a machine-readable data dump from an account, you must contact us. We can only make full account transfers between employees of the same purchasing entity.

9.3 Scheduled deletion for expired accounts

To minimize privacy risk, we schedule deletion of stale accounts after the trigger dates set forth below. Deletions take place after the triggering date during the next scheduled data sweep.

Trigger dates:

- student accounts 90 days after the associated paid Educator membership expires – we assume these students will have a new teacher in the next session; renew early to avoid.
- student accounts 180 days after the last Educator login for free accounts – we assume these are homeschool or small tutor accounts; login in at least once every 179 days to avoid.
- Educator accounts not owned by a school 365 days after last login, at our sole discretion – deletion results in the loss of purchased and redeemed decks, created decks, classrooms, and unused points.

Boom Learning retains copies of all Public Author Boom Cards resources sold and, in its sole discretion, Educator shared Boom Cards to serve the recipients.

10. Information Security Plan

See our [Information Security Plan \(https://help.boomlearning.com/en/support/solutions/articles/16000121794-information-security-plan\)](https://help.boomlearning.com/en/support/solutions/articles/16000121794-information-security-plan) for details on how we protect Student and Educator data. You may post this link on your website to comply with local requirements.

11. Legal authority data requests

We are required to disclose Personal Information in response to lawful requests by legal authorities, including to meet national security and law enforcement requirements. In the event a legal authority asks to access your data, we will direct the requestor to you and will not take action without your prior authorization, unless legally compelled to do so. If we are legally compelled to respond to such a request, we will promptly notify you and provide you with a copy of the request unless legally prohibited from doing so. If a legal authority is asking for information about a student, the account holder agrees to pass on the notification to the student's legal guardian and indemnifies us for failing to do so.

12. Data Breaches

12.1 Security incidents that constitute data breaches

The definition of a security incident that rises to the level of a data breach varies by jurisdiction. Typically a breach is an incident of data loss or unauthorized data access that (a) compromises the confidentiality or integrity of the data and in doing so (b) is likely to cause harm to the data subjects impacted. A breach typically includes harms that can be substantial (financial information, account credentials, medical information). It does not include speculative harms — a harm must be reasonably likely.

12.2 Security incidents that do not constitute a data breach

Unauthorized access to data that is encrypted is not a breach if the encryption key is not accessed or acquired.

It is not a breach for another person at the same entity with a similar confidentiality obligation to the data subject as the account holder to access the User Data. **Nonetheless, your entity may require you to report accidental, inadvertent or deliberate access by another person at your entity with a similar confidentiality obligation to you to your information security department. Such reporting is the obligation of the Educator who becomes aware of the incident.** Boom Learning has no reporting obligation for security incidents involving persons at the same entity unless agreed otherwise in writing. You should understand that a classroom worker (volunteer or paid) can likely determine who a student is in real life ("IRL") from the nickname. You are responsible for ensuring any classroom workers follow your organization's and locale's rules, regulations, and laws regarding access to Student Data.

12.4 Breach response procedures

12.4.1 Notice content

In the event of a breach of User Data that contains personal information, we will contact the account holder for the affected individual(s) using the information we have on file. We will provide notice as soon as reasonably possible, provided that we may delay notice if a law enforcement agency determines that the notice will impede a criminal investigation. Such notice will include in plain language What Happened, What Information Was Involved, When It Occurred, What We are Doing, What You Can Do, and For More Information.

12.4.2 Notice timeline

Educators will be notified without undue delay and within 7 days of determining that a data breach affecting school User Data has occurred. We will provide Educators with sufficient information to allow the school to meet any obligations to report or inform students or staff of the breach. In many cases, we do not collect or store information about students that would enable us to contact students or their parents directly.

12.4.3 Notices to regulators

We will provide notices of breaches to the appropriate regulators where required by law, and we may elect to provide such notice, at our option and in our sole discretion, where not required by law. Governmental Agencies that do not want us to provide notice to regulators must complete and return the **Government Agency Terms of Service** (<https://help.boomlearning.com/en/support/solutions/articles/16000121732-government-agency-terms-of-service>).

Student Privacy Notice

Modified on: Mon, 7 Jun, 2021 at 8:21 PM

EFFECTIVE JULY 1, 2021 (see archived version

(<https://help.boomlearning.com/en/support/solutions/folders/16000095966>))

This document is a supplement to our **General Privacy Notice**

(<https://help.boomlearning.com/en/support/solutions/articles/16000121725-general-privacy-notice>) and is available for Educators to distribute to families and students.



Guiding Principles

- We want all kids to achieve at their highest possible level.
- We expect kids to make mistakes.
- We believe kids are entitled to leave their mistakes behind.
- We believe kids have a right to veto their presence online.
- We believe in transparency and feedback.

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Our purpose is to enable

- **Students to develop skills through instant feedback and repeated practice.**
- **Educators to personalize learning journeys for students.**

Your educator is your point of contact

We are a data processor/service provider for Educators, which include teachers, tutors, home educators, therapists, schools, medical providers, and other entities (an "Educator"). Educators create accounts for students under their charge. Educators can share students with each other so your student can have a single student dashboard.

Your Educator is responsible for

- Having a legal right under applicable law to collect data from you.
- Obtaining consent to collect data from you if the law requires your explicit consent.
- Setting and resetting your password, nickname, and username.
- Permitting you to review any data collected from you.
- Deleting data collected from you that is erroneous or that is no longer required to be maintained.

Students have rights regarding their data under a variety of laws. Contact your Educator to exercise your rights, including:

- Revoking consent.
- Reviewing your data (most data is available for self-review in the [Student dashboard](https://boom.cards) (<https://boom.cards>)).
- Deleting or correcting data.

We can't talk to you directly

Our agreements require that you direct questions or concerns to your Educator. We are responsive to their requests. Things you can raise with them that we will support them in addressing include, but are not limited to

1. Resetting your password,
2. Login challenges,
3. Correcting errors in materials, and
4. Correcting or removing inappropriate materials.

If you contact us directly, we will redirect you to your Educator. We will not release information to a person other than an Educator. We will respond to any request from your Educator authorizing us to make disclosures to you.

Safety and security

Security is a shared responsibility. Students are expected to follow their Educator's acceptable use policy and keep their passwords safe and secure. Students should use the most secure password appropriate to their age. Students must not attempt to log in as or impersonate another student.

DO NOT SEND YOUR PASSWORD IN EMAIL

We do not require your password at any time to provide customer support to your Educator or to you. We store your password salted and hashed (encrypted) for your protection. Keep it secret. If you forgot your password, ask your Educator to reset it.

Authenticators

Your Educator may create an account for you that requires an authenticated login. Educators can choose the authentication method: (a) username and password or (b) a third-party authentication service. The third-party authenticator may collect information about your use of our service. Contact your Educator if you have questions about the third-party authentication service they have selected or if you need your third-party login credentials reset. Your school may choose from Google, Microsoft, Clever, and more authenticators. If you are having difficulty getting your third-party authenticator to work, your Educator can add a Boom login to your account.

Our Information Security Plan

See our **Information Security Plan** (<https://help.boomlearning.com/en/support/solutions/articles/16000121794-information-security-plan>) for details on how we protect Student Data.

Data collection is determined by your Educator

Students may interact with Boom Cards using our no data collection method — called Fastplay — or they can interact using "assigned" Boom Cards decks (direct login or Hyperplay links). Assigned Boom Cards decks collect student performance data that is linked to the student login. Contact your educator to discuss the manner in which you are assigned decks and to request a change.

Data we collect

For all authenticated users, we record the account-created timestamp, last-login timestamp, the type of device being played (i.e., iOS or Android, but not the device ID), the app version (if playing a Boom Cards app), the OS version of the device, the browser type and version. We use this information for security and integrity purposes.

If you are assigned a Boom Cards deck, we will collect the data listed in our **Data Elements disclosure** (<https://help.boomlearning.com/en/support/solutions/articles/16000087842-data-elements>). Student personal information other than the user nickname for a classroom roster is deemed confidential. Educators may optionally enable or disable the visibility of a classroom roster to students.

Who we share your student data with

We share data with all Educators associated with your student login. Your parent can become an Educator associated with you by creating a free Educator account and asking your primary Educator to share you with your parent.

Student Data is stored in the Boom Learning database. The Boom Learning database is encrypted in motion and at rest. This database is hosted by (and thus disclosed to) the subprocessors MongoDB and Amazon Web Services under obligations of confidentiality and with no right to use personal data. Information stored in the Boom Learning database is used and disclosed for the following business purposes: audit, detection, debugging, business operations, and R&D. In the rare event that a technical difficulty requires sharing of student data with subcontracted technical support personnel, we share that data on a need-to-know and least-information-necessary basis with those subcontractors. See our **[Subcontractor and Subprocessor disclosure](https://help.boomlearning.com/en/support/solutions/articles/16000121757-subcontractor-and-subprocessor-disclosure)** (<https://help.boomlearning.com/en/support/solutions/articles/16000121757-subcontractor-and-subprocessor-disclosure>) for the list of Subcontractors and Subprocessors we use.

What we do with your data

These are the things we do with Student Data:

- record your performance;
- report your performance to your teacher;
- audit access to our system for security and integrity purposes;
- improve Boom Cards and Boom learning for a better Educator and Student experience;
- use student data to build personalized learning engines for students;
- disclose your data to a parent or guardian, or to you if you are an eligible student, if you, your parent or guardian requests a service or product from us directly and consents to the use or disclosure to provide the service or product; and
- allow a successor entity to maintain Student Data, in the case of a merger or acquisition, but only if the successor entity agrees to these same commitments to you.

No advertising, marketing or commercial use of Student Data

These are the things we do NOT do with Student Data. Again these are our DON'T DOs:

- use or disclose it for advertising to students, their families or guardians;
- build a personal profile of a student, family member or guardian for advertising or marketing purposes;
- use it to inform, influence, or enable marketing, advertising, or for other commercial efforts unrelated to our educational service; OR
- use it to develop unrelated commercial products or services.

Videos— especially YouTube

Some Boom Cards decks contain video. Most video requires at least a session cookie to play (see our **[Cookie Notice](https://help.boomlearning.com/en/support/solutions/articles/16000121724-cookie-notice)** (<https://help.boomlearning.com/en/support/solutions/articles/16000121724-cookie-notice>)) and may place tracking cookies used for other purposes, including potentially targeted advertising. Your Educator is required to ensure that any video embedded in a privately published deck created for you conforms to your entities' and state's requirements regarding advertisements to students. If you don't trust your Educator, skip the play button on the video and ask for a link you can play in a browser in Incognito mode.

We actively remove Boom Cards decks from our Public Store if we discover them to be delivering advertisements. Parents and Educators please go to <https://wow.boomlearning.com/store> (<https://wow.boomlearning.com/store>) and click Review and then Report to report any video with ads that slipped through our systems.

Due to recent changes in its terms, YouTube will no longer ensure a method of playback that is advertisement free. As a result, we are discontinuing allowing YouTube embedding in new Boom Cards decks published to the Store. Materials created before July 1, 2021 may contain YouTube videos. We are working with authors to transition their embedded video to alternative video services. **If you are assigned a Boom Cards deck that contains a YouTube video, clicking play on that deck will cause YouTube to place a variety of cookies that will track your student for YouTube's advertising, marketing or commercial purposes. Skip the card with the video to opt out of YouTube tracking. Educators can Hide the Card for you. An Educator who owns the video and has YouTube Partner account may be able to set the video to deliver to you advertisement-free. Contact your Educator if you have concerns about YouTube videos in assigned decks.**

We Do Not Sell Student Data

We do not claim ownership of the student performance data. Ownership of that data lies with either the Educator or the student, depending on the terms of the relationship between the Educator and student. If we ever sell our company outright, our successor must agree not to claim ownership of your student performance data, either. We do not sell student data to third parties.

Deleting Student Data

At any time, your Educators may use self-help tools we provide to delete selected performance logs. They may also use these tools to delete a student outright. Deletion cannot be undone. If your Educator fails to renew an account and fails to delete student records, we perform scheduled deletion of stale accounts as follows to minimize privacy risk:

- student accounts 90 days after the associated paid Educator membership expires – we assume these students will have a new teacher in the next session; renew early to avoid.
- student accounts 180 days after the last Educator login for free accounts – we assume these are homeschool or small tutor accounts; login in at least once every 179 days to avoid.

To retain your data you will need to

- Have a parent create a free account
- Have your Educator "[share \(https://help.boomlearning.com/en/support/solutions/articles/16000107796-sharing-students-colleagues-\)](https://help.boomlearning.com/en/support/solutions/articles/16000107796-sharing-students-colleagues-)" you as a student to your parent
- Purchase the Boom Cards decks in the parent account for which you wish to see the Student Data

Legal authority data requests

We are required to disclose Personal Information in response to lawful requests by legal authorities. If a legal authority is asking for information about a student, we will inform the Educator who is responsible for passing the notification to the student's legal guardian.

Breach notifications

If it has been determined that there is a breach that requires notification, the legal guardian will receive the notification directly from the Educator unless we have been provided direct contact information and have been given consent for direct contact by the Educator.






ca_Roseville CSD_DPA - O

Final Audit Report

2021-11-09

Created:	2021-11-08
By:	Lillith Leonard (lillith@boomlearning.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAbkyFmrQhHq5MMSSOXQPSI5BHG88KVF4E

"ca_Roseville CSD_DPA - O" History

-  Document created by Lillith Leonard (lillith@boomlearning.com)
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-  Document emailed to Mary Oemig (mary@boomlearning.com) for signature
2021-11-08 - 11:58:49 PM GMT
-  Email viewed by Mary Oemig (mary@boomlearning.com)
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