

**PRO-ED, INC.**  
**EDUCATIONAL PRODUCTS**  
**PRIVACY POLICY**

Effective Date: January 12, 2021

**ABOUT US:** PRO-ED, Inc. (“**PRO-ED**”, “**we**,” or “**us**”) understands the importance of protecting personally identifiable information (“**PII**”) that may be provided to us by teachers, other educational professionals or parents when using our products and services and we are committed to protecting your PII. We publish standardized assessments, instructional materials, curricular and therapy materials, including online software, and professional journals in both digital and print versions for use in k12 and post-secondary education (the “**Products and Services**”). PRO-ED markets and sells such Products and Services to educational institutions, educational agencies, teachers, other school professionals, homeschool parents and other parents (collectively “**educational users**”). PRO-ED engages in data processing when data is provided by educational users related to their students when using our Products and Services (“**Students**”). This processing may involve student **PII**,<sup>1</sup> as that term is defined in the U.S. Family Educational Privacy and Right Act (“**FERPA**”) and applicable state laws, that is submitted to us by educational agencies or institutions about their Students subject to FERPA and other applicable state and federal laws (see below) (collectively referred to as “**Student Data**”). We have implemented policies and procedures to comply with FERPA, other applicable laws, as well as state educational agency contracts, regarding our processing of Student Data. Significantly, our Products and Services are intended to be used under the direction of educational users and are NOT meant to be used by children (including those under 13) unless under the direction of authorized educational users.

**PURPOSE AND SCOPE:** The purpose of this Privacy Policy is to describe PRO-ED’s procedures for the collection, access, use, disclosure, processing, security, and retention of information submitted by an educational user, whether Student Data or its own information (“**End User Information**”). “**You**” and “**your**” and “**End User**” refers to you as an end user of PRO-ED’s Products and Services (“**End User**”). Use of the Product and Services may require your submission of Student Data and your End User Information to PRO-ED. This Privacy Policy applies to your use of the Products and Services and your use of any PRO-ED End User dashboards, web applications, web-based products, mobile apps, or other web-based resources for End Users to access and administer our Products and Services (“**End User Platform(s)**”).

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<sup>1</sup> **Personally Identifiable Information (“PII”)** under FERPA means the student’s name, the name of the student’s parents or other family members, a personal identifier that identifies a particular person (e.g., social security number, student number, or biometric record), date of birth, place of birth, mother’s maiden name, other information that alone or in combination is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances to, to identify the student, or information requested by a person who the educational agency/institution reasonably believes knows the identity student to whom the education record relates.

**INFORMATION COLLECTED:** PRO-ED may collect the following information from End Users:

Student Data from an educational user to provide and administer the Products and Services used by an End User; End User Information to allow it to create and use an account and to access and/or administer our Products and Services; Class rosters provided by End Users; End User providing student email addresses to allow its students to access certain Products and Services; End User transaction information including purchase confirmations and updates regarding End User use and administration of our Products and Services; Customer service inquiries may require End User to provide information to our support staff to respond to your inquiries; and/or promotional or marketing communications if End User has consented to receive such communications.

**Automatically Collected Information:** When you use our End User Platform, we may passively and automatically collect “Usage Information” (i.e., information that does not directly identify you, but that may be linkable to your computer, device, operating system, platform, or software instance via a unique device ID for the purpose of helping us enable the functionality and improving our online Products and Services”).

For our test Products, your IP address, End User ID, and site name is collected and stored in the audit log and database when an End User logs into an End User Platform. We also use cookies to store a session identification. The cookie used for this purpose expires when the session ends.

For our other Products available on an End User Platform, we collect session cookies, set by the application that are used to determine which users are logged in. We also collect and store IP addresses in the log files that are used for retrieval in the case of failure and to debug the End User Platform when required. Those logs are cleared automatically and periodically. We also use cookies to store a session identification. The cookie used for his purpose expires when the session ends.

We store IP addresses in a database table that contains session information. The information in this table is only needed for active sessions and is regularly cleared.

Browser Cookies are small text files stored on your device which are transmitted to PRO-ED from your use as an End User of our End User Platforms. We use cookies to help understand how our End User Platforms are used and to improve content, navigation, and functionality. You can manage placement of cookies on your device by using the features in most Internet browsers, including adjusting your browser settings to warn you before a cookie is stored or to block all cookies. It is important that you understand that by disabling or removing cookies, some parts of our End User Platforms, as well as our Products and Services, may be disabled or not function properly. Also, when you revisit our Product and Services your ability to limit cookies is subject to your browser software's settings and limitations.

Web Beacons, Web Bugs, and clear GIFs are used in combination with Cookies to help people

manage websites and to understand the behaviors of their customers. Web Beacons are typically a transparent graphic image (usually 1-pixel x 1 pixel) that is placed on a website or in an email. They may be used to collect IP Addresses.

Browser Settings: If you do not wish to receive cookies, you may set your browser to reject cookies or to alert you when a cookie is placed on your computer. Although you are not required to accept cookies when you visit our End User Platforms, you may be unable to use all the functionality if your browser rejects our cookies.

**PRO ED does not sell Student Data or End User Information or engage in any marketing (including targeted ads) related to Student Data. PRO-ED does not use Student Data for its commercial purposes that are unrelated to its agreements with educational agencies.**

**USE OF INFORMATION:** PRO-ED uses information as follows:

PRO-ED uses Student Data only as authorized by an educational user and as required by applicable law and the written agreement in effect with an educational agency, as applicable.

PRO-ED uses End User Information to administer, use, and manage our Products and Services and End User Platforms.

PRO-ED may send emails and other correspondence to End Users about our Products and Services, End User Platforms, and other information that may be of interest to you, as well as customer satisfaction surveys and requests for feedback about our Products and Services and Websites. You may opt out from receiving certain communications by following the instructions provided at the bottom of the communication. However, you will not be able to opt out of formal notices about the operation of our End User Platforms, legal, and other related notices concerning our Products and Services, and your relationship with PRO-ED. PRO ED will not send such communications to any students unless they have consented and are not a minor.

PRO-ED may use your information for the conduct of research for educational, psychometric, and assessment validity and integrity purposes. Any such research related to Student Data will only be conducted as authorized by the applicable educational agency or institution in its written agreement, and as permitted by applicable law.

**DISCLOSURE OF INFORMATION:** PRO-ED may disclose information as provided below.

FERPA and State Education Laws: FERPA generally prohibits anyone outside of an educational agency or institution from disclosing PII from educational records without the eligible student's consent (18 or over), or the legal parent's/guardian's consent if the student is under 18, or if there is an applicable FERPA or state law exception. Generally, PRO-ED provides our educational Products and Services and End User Platforms to educational agencies subject to a written agreement which encompasses all such disclosure requirements. Through the provision of our

Products and Services, End Users may provide student PII to us, which may include educational records governed by FERPA and applicable state student privacy laws. We consider such student PII to be strictly confidential and do not use such data for any purpose other than improving and providing our Products and Services to the educational agency or on the educational agency's behalf. Our collection, use, and sharing of student PII is governed by our written agreements with the relevant educational agencies, in addition to the provisions of FERPA and other applicable laws that relate to the collection and use of PII of students. If you have any questions about reviewing, modifying, or deleting personal information of a student, please contact your educational institution directly. PRO-ED will only disclose Student Data to its authorized subcontractors that are engaged in work assisting PRO-ED with the provision of Products and Services to an educational agency.

We may also disclose information to government and regulatory agencies, but only to comply with a court order or as otherwise required by applicable law. In so doing we adhere to the requirements of the relevant agreement with an educational agency.

## **CHILDREN'S PRIVACY**

PRO-ED Products and Services are not directed or sold to children. Instead, they are meant to be used and administered exclusively by educational users that directly oversee the use of our Products and Services by a student. We do not knowingly collect any information from children (including those under 13) unless the relevant educational agency, parent, or guardian has provided authorization or consent for a student to use the Products or Services. We collect only as much information as is necessary to provide the Product or Service and an educational user may access, delete, or withdraw authorization for continued processing of the child's information at any time. If you have any questions about reviewing, modifying, or deleting PII of a child under the age of 13, please contact your educational agency directly.

Please contact us at [privacy@proedinc.com](mailto:privacy@proedinc.com) if you believe we have inadvertently collected PII from a child under 13 without proper consent. This will allow us to delete such information as quickly as possible.

**CALIFORNIA PRIVACY NOTICE** Our Products and Services provided to End Users that are California state government agencies, and the Student Data we process in these instances is exempt under the California Consumer Privacy Act ("CCPA") because the CCPA applies to "businesses" not state government agencies. Where we provide our Products and Services to California consumers on behalf of our End Users that are educational institutions that are not state government agencies we are considered a "service provider" under the CCPA. In such instances, the private sector educational institution's privacy notice governs the use of Personal Information. For example, when we process Student Data on behalf of a private sector educational institution, we are acting as a service provider and we retain, use, and disclose the Student Data in accordance

with our written agreement with the educational institution. In those instances, you should contact your educational agency with any questions or requests.

Under the CCPA, when we are a conducting “business” functions, and are not acting a service provider as described above, California residents have the right to request that we disclose the Personal Information that we have collected, used, or disclosed during the past twelve (12) months, as well as the categories of sources from which their Personal Information was collected, our business purposes for collecting their personal information, and the categories of third parties with whom we shared their Personal Information. A California resident also has the right to ask us to delete the Personal Information we have collected, although that right is not always granted if we have a legal basis for retaining it. A business cannot discriminate against a California resident for exercising any of their rights under the CCPA. PRO-ED does not sell any Personal Information as defined in CCPA. Under CCPA, California residents have the right to opt out of the sale of their Personal Information. Because we do not sell Personal Information, we do not offer this opt out. California residents or their authorized agent registered with the California Secretary of State can make a request to know or delete by contacting us as by email at [privacy@proedinc.com](mailto:privacy@proedinc.com) or by phone at 800-397-7633. We may require you to provide additional Personal Information to verify your identity, but any Personal Information that you provide to verify your identity will not be used for any other purpose.

California law (California Civil Code Section 1798.83) “Shine the Light Law” permits residents of California to opt out of our disclosures of End User Personal Information to third parties for marketing purposes at any time. PRO-ED will not disclose Personal Information to third parties for marketing without giving you notice and getting your consent. Please note this opt-out does not prohibit disclosures for nonmarketing purposes. You can opt out for free by contacting us at [privacy@proedinc.com](mailto:privacy@proedinc.com) or writing to PRO-ED, Inc., c/o Privacy Officer, 1301 W. 25th St., Suite 300, Austin, TX 78705.

Some website and platform browsers may be able to send a “do not track” signal to websites. PRO-ED’s End User Platforms do not respond to do not track signals or similar mechanisms and requests. If you block cookies through your browser, you will be blocking cookies as noted above.

#### **END USERS OUTSIDE OF THE UNITED STATES:**

For any educational users located outside of the United States, you should consult your educational institution’s, agency’s, or school’s (“institution’s” or “institution”) privacy policy, because PRO-ED is operating only as a processor of Student Data on behalf of the relevant educational institution, agency, or school, which is the controller with regard to Student Data and End User Information. PRO-ED only processes Student Data as instructed by the educational institution; under these circumstances where the educational institution is the controller, its privacy policy governs in all respects. Please see its privacy policy/notice for applicable information. End Users, parents, or students from such institutions should contact your

institution/controller directly with any questions. PRO-ED will forward any inquiries it receives to the applicable controller.

## **INFORMATION SECURITY AND RETENTION**

PRO-ED uses a variety of physical, administrative, and technological safeguards designed to protect Student Data and End User information against loss, misuse, and unauthorized access or disclosure. Moreover, PRO-ED has implemented policies and procedures to comply with the applicable legal and regulatory requirements for safeguarding such information. We have dedicated information security programs and work to periodically update our technical and operational security measures. Our security measures include the use of data encryption, firewalls, limitations on the data use and access for our personnel and subcontractors, the use of secure database hosting, and the use of physical access controls within our facilities.

Additionally, each End User's account is protected by the password you use to access your online account for the End User Platforms, and we urge you to take steps to keep your username and password safe. Education users are responsible for maintaining the confidentiality of their usernames and passwords. If you feel your password has been compromised, you should change it immediately and notify us. When you are finished using our Products or Services, you should log out of your account and exit your browser. Education users are also responsible for notifying us immediately of any known or suspected unauthorized use(s) of their accounts, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of login credentials. Any fraudulent, abusive, or otherwise illegal activity on your account may be reported to appropriate law enforcement agencies by us. Please be aware that, despite our best efforts, no security measures are perfect. As a result, we cannot guarantee or warrant the security of any Submitted Information.

In the event of a security incident that involves Student Data or End User information, PRO-ED will notify the educational institution and/or individuals of such incident as required in the relevant agreement and relevant state law.

PRO-ED employees or contractors who have access to Student Data are provided appropriate training on the requirements applicable to the collection, use, disclosure, operation, or maintenance of that information. The training covers PRO-ED's privacy and security policies and procedures related to privacy and security of Student Data and End User Information.

PRO ED will retain Personal Information only as permitted or required by applicable law, as directed by educational agencies or institutions and/or as consistent with its legitimate business purposes.

## **YOUR RIGHTS**

In many of our Products and Services, you as an End User will be able to access Student Data, as well as change and delete some of the information yourself, by logging into your account. If you cannot access, correct, or delete the required information yourself, please follow these steps:

- If you are an End User of our Products and Services that we provide on behalf of your educational agency or institution, contact your educational agency or institution to exercise your rights. They need to manage your request even if it relates to information that we store on behalf of your educational agency. We will support your educational agency or institution in responding to your request.
- In all other cases, email us at [privacy@proedinc.com](mailto:privacy@proedinc.com) or contact us using the address below if you want to exercise any of these rights.
- Please remember that many of your rights are not absolute. In some circumstances, we (or your educational agency or institution) are not legally required to comply with your request because of relevant legal requirements or obligations which require us to retain your personal information.

## **HOW TO CONTACT US**

If you have questions or concerns regarding this Policy, please contact us at [privacy@proedinc.com](mailto:privacy@proedinc.com) or at PRO-ED, Inc, c/o Privacy Officer, 1301 W. 25<sup>th</sup> St., Austin, TX 78705; 1-800-897-3202.

## **CHANGES TO THIS PRIVACY POLICY**

PRO-ED may change or amend this Privacy Policy due to changes in our Products, Services, End User Platforms, business, applicable law and other reasons. We will include a notice on the home page of our End User Platform, but you should also check this Educational End User Privacy Policy and the effective date at the beginning. Any changes or amendments are effective immediately upon posting of the changes or amendments on our website Policy.

## **TRANSFER OF OWNERSHIP**

PRO-ED reserves the right to transfer Student Data (including, but not limited to, PII) to a third party in connection with the sale of all or substantially all the assets of PRO-ED provided the purchaser has agreed to safeguard Student Data with protections that are at least as protective as those set out in this Privacy Policy.

## **COMPLETE AGREEMENT**

This Privacy Policy and our Terms of Use constitute the Complete Agreement between you and PRO-ED. To the extent the End User Terms of Use conflict with the provisions of this Privacy Policy the terms of this Privacy Policy shall control.