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9/15/17

We emailed many of these same these questions on October 3, 2016 to info@summitbasecamp.org; and again on March 6, 2017 to Catherine Madden, Mira Browne and Shane Witnov after Rachael met them at SXSW (at cmadden@summitps.org ; mbrowne@summitps.org ; switnov@fb.com0

We never received any response.

Leonie Haimson & Rachael Stickland, Co-Chairs, Parent Coalition for Student Privacy

27 Questions for Summit:

1. What is Summit's definition of "reasonable and comprehensive data protection and security protocols to protect student data"? What does that specifically include in terms of encryption, independent audits, security training, etc? And where is that in writing?
2. If a child's personal data does breach, what rights would a parent have to secure damages?
3. Does Summit claim unlimited rights to share or utilize a child's homework and intellectual property without notice or compensation that they are claiming with teacher work in the TOS?
4. Can Summit specifically itemize the companies/organizations that they will share personal student data with, aside from those mentioned below?
5. Are each of these third parties barred from making further redisclosures of this data?
6. Are each of these third parties, and any other organizations or companies or individuals they redisclose to, legally required to abide by the same restrictions as listed under your Terms of Service and Privacy Policy, including being prevented from using targeted or non-targeted advertising, and/or selling of data, and using the same security protections?
7. State laws in California and elsewhere bars the sale of personal student data. Yet Summit claims the right in its privacy policy to sell this data in an "asset sale." Why doesn't this violate these state laws?

8. Does Summit promise to inform parents over the course of the year all the additional third parties the company plans to disclose their children's data to?
9. What is the comprehensive list of personal data Summit is collecting and potentially sharing from a student? You include a list on your updated PP, but does it also economic status, disability, English proficiency status and/or race as well?
10. The TOS mentions survey data. Is there any personal student data that Summit promises NOT to collect via a survey or otherwise?
11. Will parents have the right to see these surveys before they are given and opt out of them, or does signing this consent form basically mean a parent is giving up all their rights under the PPRA?
12. Why can't Summit simply give the software platform to schools to use if it is beneficial, along with links to instructional materials, rather than demand as "payment" in the form of all the student information as well?
13. Do you promise not to use the information gained to market products directly to students and/or their parents, and are all your partners and/or those they disclose the information to barred from doing so as well?
14. The PP says you will use students' personal data to develop new educational "products" – what does that mean? Why can't you use de-identified data for this purpose?
15. It also says you will use this data to "communicate with students, parents, and other users." What does that mean? What kind of communications will you engage in students or their parents?
16. The PP states a parent can "review, correct or have deleted certain personal information". Which kind of personal information can parents delete, how will they be able to do that and will that stop their children from using the platform?
17. The PP also says you will share the data with anyone "*otherwise directed or authorized by the school.*" What does that mean? Does a parent signing a consent form mean that the school can authorize to share this information with ANYONE else, without specifying the sort of third party, for what reason, or without limitation, without informing me or asking for my further consent?
18. The PP says Summit will send notice of proposed changes to the PP ahead of time to the participating schools; why not parents if you have their contact info? Shouldn't they hear this directly from you and immediately if you are considering changes?
19. Does Summit consider this parent consent form to mean that parents are waiving the privacy rights of their children under all three federal student privacy laws, including FERPA, COPPA and PPRA?
20. The PP says that "*FERPA permits schools to share students' information in certain circumstances, including where the school has gotten a parent's consent or where the organization receiving the*

student data operates as a “school official.” Summit Public Schools operates as a “school official” consistent with the Department of Education's guidance under FERPA.” If this is true, why does Summit need to ask for parental consent? What additional rights does my consent afford Summit that you would not have without consent in terms of the collection, use and disclosure of a student’s personal information?

21. [Summit says](#) that *“Participating schools and individual teachers own, and are responsible for, student data provided through the Summit Personalized Learning Platform.”* Why don’t students own their own data?
22. This raises another related question: the Summit [Privacy Policy](#) and [Terms of Service](#) grants schools and teachers some rights (however limited.) What rights do parents and students have under these conditions?
23. The TOS says that if schools believe Summit has violated its promises or complied with the law, instead of suing they must submit to binding arbitration in San Mateo CA and are barred from filing class action complaints. This type of provision has been heavily criticized when banks and credit card companies have included in their consumer agreements, and the [Consumer Financial Protection Board](#) is considering restricting their use. Why is this clause any more acceptable in your TOS?
24. What legal recourse do schools, teachers or parents have if Summit violates the law or its TOS, for example if Summit decides to sell or give away or carelessly store the data given that the TOS says *“UNDER NO CIRCUMSTANCES, INCLUDING WITHOUT LIMITATION, NEGLIGENCE, WILL SUMMIT, ITS AFFILIATES, OR ANY PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES BE LIABLE FOR DAMAGES OR LOSSES”* in any case?
25. In yet another clause of the TOS, Summit requires schools to *“agree to indemnify, hold harmless, and defend Summit, and its affiliates, licensors, and service providers, and each of their respective officers, directors, contractors, agents...etc.et. against any and all demands, claims, liabilities, judgements, fines, interest, penalties... etc. including attorneys’ fees etc.”* Why the need for so many layers of self-protection and disclaimers of liability?
26. What rights does a parent have in general if Summit violates the TOS or the PP? Are they bound to the binding arbitration clause in the TOS that the school must agree to?
27. In another [FAQ here](#), Summit says that it will not sign contracts or written agreements with individual school districts, and if the state requires this under law, districts or schools should try to *“bypass that requirement”* by claiming that a) Summit is not subject to the law because it is not a “vendor” but an “educational organization” and b) that they should not have to sign a contract because of the *“nature of the partnership as a free exchange of ideas and services rather than a paid service relationship.”* But if Summit is gaining potential economic and programmatic benefits from your access to student data, including using it to build new and better “products” as the TOS states, why isn’t this a commercial relationship bound by state law? And if this relationship is truly a “partnership” with a free exchange of ideas, why is the TOS so one-sided and seems to protect Summit from any possible liability, and not the school?

