SOFTWARE TERMS AND AGREEMENTS

and

Why You Should Care

Chris Thomas
Desktop Engineer

Daryl Tilley
Executive Director of Information Technology Services

Mike Lilly
Director of Information Technology Services

TYPES OF AGREEMENTS

End User License Agreement   (EULA)

Terms of Service   (TOS)
Terms of Use   (TOU)
Terms and Conditions   (T&C)

Privacy Policy

Pricing Plans
Tiers of Software

END USER LICENSE AGREEMENT (EULA)

Typically aimed at the "purchaser" (read: licensee) of a software product

Defines terms and condition of use for the software product

- How do you pay?
- Are you limited in what you can do?
- How many places can you install it?

Likely prohibits sharing a license with more than one individual user

- Per-user, per-seat, concurrent-user, site-license, district-license

May include age restrictions

- 13 and 18 are the big age restrictions to keep an eye on

Should include or reference a Privacy Policy

A software license agreement is similar, but is typically an overarching agreement with an organization

TERMS OF SERVICE/USE (TOS/TOU/T&C)

ToS is much like a license agreement, but for services rather than specifically software.

- Same deal as the EULA where we need to understand how do we pay them? How many computers can we install it on? How many users can use it?

Advertisements

- Does the service present ads to your users? Does your organization feel this is appropriate?

Subject to Change

- Terms should be reviewed regularly as they can be updated and you are subject to those terms as they are updated

PRIVACY POLICY

What information may be gathered and stored

How the data can be used

Who the data can be shared with

Where is the data stored

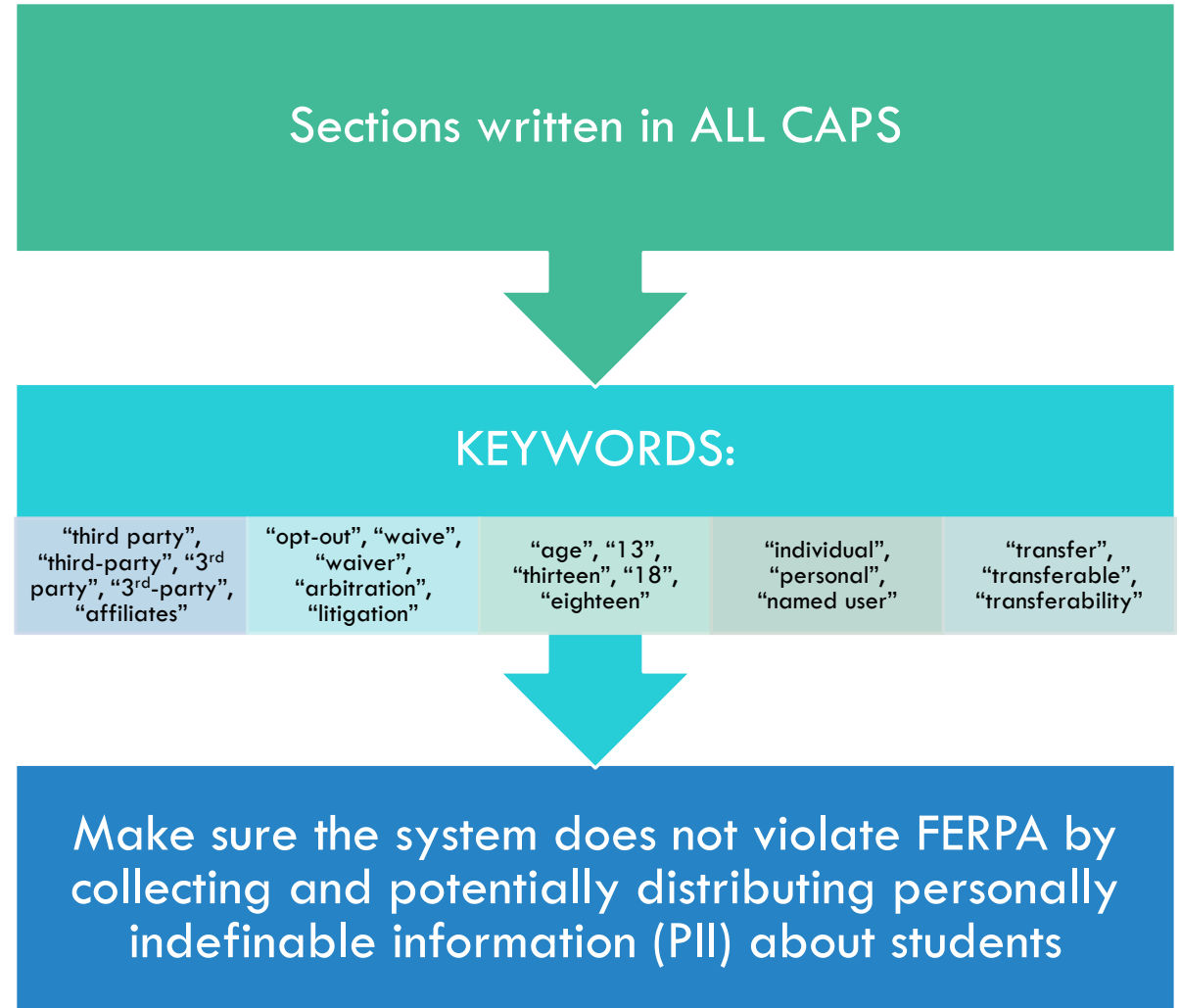The above likely includes personal information – not just application usage

Some systems even gather data from other applications!

PRICING PLANS/TIERS OF SOFTWARE

Why is there so much "Free" software on the internet?

- Often times we are trading marketing for software use.
- Some software is free for a period of time (try-before-you-buy)
- Some software is free for a basic version, with a cost for more features
- Some software is free for personal use … schools are not personal use.
- Some have given access to pay versions during the pandemic – what will you do when this ends?
- Many software packages have multiple tiers based on features and users

WHAT TO LOOK FOR

Sections written in ALL CAPS

KEYWORDS:

| "third party", "third-party", "3rd party", "3rd-party", "affiliates" | "opt-out", "waive" "waiver", "arbitration", "litigation" | "age", "13", "thirteen", "18", "eighteen" | "individual", "personal", "named user" | "transfer", "transferable", "transferability" |

Make sure the system does not violate FERPA by collecting and potentially distributing personally indefinable information (PII) about students

OTHER CONSIDERATIONS

ROSTERING

- The process of getting staff/students into a system and/or in a class assigned to the right teacher
- Many systems integrate with MiDataHub to ease this process
- Some adhere to educational standards (EdFi, OneRoster)
- Others are a fully manual process or require many hours of work to automate (weeks or even months)

INTEGRATION

- Some systems have very limited integration capabilities
- Be patient if integrations are needed

SUPPORT

- Work with your tech department to ensure the system can be used as desired and understand what level of support they can offer

NONCOMPLIANCE

- Potential loss of federal funds
- Potential loss of access to account/data

RESOURCES

Common Sense Media – Education

- https://www.commonsense.org/education/reviews/all

Terms of Service; Didn't Read

- https://tosdr.org/

Lifehacker Articles

- *How to Quickly Read a Terms of Service – 03/12/2012*
  - https://lifehacker.com/how-to-quickly-read-a-terms-of-service-5892422

- *You Still Need to Read Terms of Service Documents, Unfortunately – 04/19/2018*
  - https://lifehacker.com/you-still-need-to-read-terms-of-service-documents-unfo-1825388590