Critical Approaches to Evaluating Student Privacy & 3rd Party Apps

A collaborative information literacy instruction resource from the
Critical Librarian and Pedagogy Symposium
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Origins of this Resource

This information literacy resource was created by participants and facilitators during a workshop titled "Student privacy & third-party apps : Examining a university's Terms of Service" at CLAPS 2018. Through reading actual contracts between technology vendors and the University or Arizona, the group of academic librarians, library administrators, and faculty developers synthesized the steps to take and information to look for in these contracts to better understand how student and worker information is collected and used by third-party vendors.

How to Use this Resource (& what this resource *isn't*)

This resource is *not* a presentation, it is a collection of examples, suggestions, and information to inform information or digital literacy instruction (for students and/or colleagues) who may want to learn more about student or worker privacy at their institutions. It doesn't answer many questions, rather, it is intended to prompt users to develop their own questions about privacy and identify potential local resources to answer them. It is not intended to generalize to other institutional contexts; it serves as one example of how one university negotiates contracts on behalf of students and workers.

Glossary of Abbreviations

- CLAPS = Critical Librarianship & Pedagogy Symposium

- EULA = End-User License Agreement

- PP = Privacy Policy

- RFP = Request for Proposals

- ToS = Terms of Service

- UA = University of Arizona

How might you go about reading a Terms of Service contract or Privacy Policy?

The following slides outline suggested processes CLAPS participants developed through an inductive process of reading different contracts and tracking their own process.

Use this information to inform how you, your colleagues, and students might read and learn from these complex documents.

Suggested Strategies for Reading a ToS/PP

★ Generate question(s) about privacy that you want to try to answer

★ Generate a list of terms, words, and phrases to look for

★ Skim headings and identify the ones that seem useful for information

★ Ctrl+F to search for terms and outcomes

★ Look for a "definition of terms" or glossary section (many don't have it)

Example ToS/PP Reading & Research Questions

★ Can you delete your information?

★ What data is being kept?

★ Is information kept indefinitely? If not, what is the timeline?

★ Do the vendor sell, rent, and/or trade personal information?

★ What language is used to talk about your data?

★ What happens to my data when/if the company goes out of business, or is absorbed by another company?

★ Can they use your data to improve their Testing and Development use cases?

★ Do they have to inform you of a breach? If so, how long do they have to inform you of the breach?

★ What measures are taken to secure personal information? What standards and/or other entities involved in this?

Example Terms to Look for in a ToS/PP

- ★ Personal information
- ★ Personal data
- ★ Sharing
- ★ Third-party
- ★ Data retention
- ★ Testing and development
- ★ Security
- ★ Privacy
- ★ End-User
- ★ License Agreement

- ★ Off-shore
- ★ Encryption
- ★ Access control
- ★ Incident reporting
- ★ Marketing
- ★ Client
- ★ Agreement
- ★ Confidentiality
- ★ Trade secrets
- ★ Intellectual property

- ★ Intentional acts
- ★ Unintentional acts
- ★ Indemnification
- ★ Opt-in
- ★ Opt-out
- ★ Acting within your role

What can you actually *do* about how third-parties use your data?

The following slide includes some examples CLAPS participants developed as "action-oriented" questions to help guide interpretation.

Use this information to inform larger discussions, investigations, and/or projects with your students and colleagues about third-party contract language or institutional protocol for negotiating these contracts.

Action-oriented Questions

★   Are we signing away our students' privacy without giving them a choice?

★   What are options for an "exit strategy" with an app? (One way or another, you eventually stop every system you are using today. Matter of when, not if.)

★   What can we do to protect student privacy as they interact with library and educational tech resources?

★   If we (teachers and students) can't control terms of privacy, what are meaningful action por points of awareness to focus on?

Example Information for Evaluation & Interpretation Discussions

★ One contract stated, "There is no such thing as perfect security… cannot guarantee the security of any confidential or personal information." They failed to mention ISO / SOC standards that they comply with to secure data here.

★ One contract defines "client" as the institution and all individuals affiliated with it. The vendor is free to name any of these clients in "general lists".
   ○ It also equates the vendor's and user's confidential information as equal.

★ In the event of a breach, indemnification could be at the institution, faculty/staff, and/or student-level. To be indemnified, you have to be acting within scope of your role at your institution.
   ○ EULAs are a mechanism to push responsibility for your actions outside the scope of your role as a worker/student back onto you, the individual.

★ There may be limits to who can access the customer service, submit complaints (tickets), communicate directly with the vendor.

How does third-party contract negotiation work at your institution?

The following slides outline the contracting process at University of Arizona.

Use this information to inform who you might talk to at your institution about protocol and processes of third-party contracts.

Courtesy of Mark Felix, Director of Instructional Support | mwfelix@email.arizona.edu

Basic Contract Process at University of Arizona

1. Contact procurement (PACS) office and have them assign someone to your project.

2. **Form a committee** (with admin, faculty, and/or students) and submit list to PACS.

3. Each committee member **signs a disclosure** form.

4. Committee meets and **creates criteria** for product with supporting questions.

5. Committee **assigns weight**s to criteria to form a **scorecard**.

6. Submit the criteria to PACS.

7. PACS **posts the Request for Proposals (RFP).**

8. Allow ~ 2 weeks for **vendor proposals**; optional **Q & A** conference calls for clarity to prospective vendors.

9. Allow another 4-6 weeks before proposal **submission period closes**.

10. Possibility to Award phase: **Review proposals** (written responses from vendors) and committee fills in **scorecards with written justification.**

11. Possibility to Award phase: **Product demonstrations** and more **scorecards** with written justifications.

12. Award phase: **Pilot** of products and **more scorecards** with written justifications.

13. Negotiate **Terms of Service** and sign.

About the RFP Process at UA

When is the RFP process necessary?

➔ When the purchase limit reaches $10,000.

➔ For building campus support for the adoption of change when it affects a large audience.

➔ When a "sole source" exists. This is when there is a need for a specific item or service,and it is only available from one source (there is a special sole source form).

Basic elements

❏ Criteria

❏ Weights

❏ Scorecards

❏ Supporting questions

❏ Committee members

❏ PACS representative

❏ Time

Example Scorecard for an RFP at UA

Criteria	Weight	Finalist 1	Finalist 2
Features and Ease of Use	20%	8	6
Architecture and Integrations	20%	9	7
Mobile Experience	18%	8	7
Accessibility and Accommodation	18%	8	8
Analytics and Reports	10%	9	6
Cost	10%	7	7
Reference	4%	9	9
TOTALS		8.30	6.18

Additional Resources

[Terms of Service; Didn't Read](#)

[FERPA for Postsecondary Institutions](#) (includes a model Terms of Service)

[Examples of Terms of Service & Privacy Policies from University of Arizona](#) (Google Drive)

[Standard Terms of Service for University of Arizona](#)

[University of Arizona Contracting Procedure Help Page](#)