



United States of America
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Privacy and Identity Protection

July 31, 2023

BY EMAIL

Noelle Ellerson Ng
Associate Executive Director, Advocacy & Governance
AASA, The School Superintendents Association
nellerson@aasa.org

Dear Ms. Ellerson Ng:

Thank you for your June 16, 2023 letter to the Federal Trade Commission (“FTC” or “the Commission”) regarding the Commission’s recent settlement with Edmodo, LLC (“Edmodo”) and its potential impact on school districts and educational agencies in the United States. We appreciate receiving your views about this important topic. Please note that we are not able to opine on the application of the Children's Online Privacy Protection Act (“COPPA”) or its implementing regulation (“COPPA Rule”) to any particular set of facts, and thus nothing in this letter constitutes legal advice on behalf of the FTC.

Your letter expresses concern that the Commission’s settlement with Edmodo may lead school districts and educational agencies to believe that they can no longer contract with educational technology (“EdTech”) companies, and that these vendors must instead contract with each school individually. You explain that this concern is based on the definitions of “School” and “School Representative” in the Edmodo order,¹ which do not mention either school districts or education agencies. You further explain that local education agencies (“LEAs”) are broadly recognized as interchangeable with school districts, and frequently serve as primary administrators for all the individual schools in their jurisdiction, including being the primary entities responsible for contracting with EdTech providers. You also explain that education service agencies (“ESAs”) and state education agencies (“SEAs”) are two additional long-established higher levels of educational governance, and frequently contract on behalf of multiple schools/LEAs/districts.

¹ The *Edmodo* settlement order includes the following definitions: “School” means an institutional day or residential school, including a public school, charter school or private school, that provides elementary or secondary education, as determined by State law; “School Representative” means a School employee who has the authority to authorize the Collection of Personal Information from a Child on behalf of the School.

We write to reiterate our previous discussion. First, the Edmodo order definitions are tailored to the specific facts of that case. Second, staff guidance² has long contemplated the involvement of school districts in the EdTech contracting process, and that position remains unchanged. Indeed, that guidance specifically recommends that the school administration or school district be involved in the decision of whether to use particular EdTech services. Given that, as you point out in your letter, LEAs are synonymous with school districts, this guidance extends to LEAs as well as other educational agencies that contract on behalf of multiple schools or districts such as ESAs and SEAs.

We trust that this clarification addresses your concerns. If you have additional questions or wish to share additional information, please do not hesitate to contact **Gorana Neskovic at gneskovic@ftc.gov** or **Peder Magee at pmagee@ftc.gov**. Please note guidance provided in this letter represents the view of FTC staff and is not necessarily that of any Commissioner or the Commission as a whole.

Sincerely,



Benjamin Wiseman
Acting Associate Director
Division of Privacy and Identity Protection
Federal Trade Commission

² Federal Trade Commission, *Complying with COPPA: Frequently Asked Questions* at N. COPPA and Schools (available at: <https://www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions>).