Privacy Vaults Online, Inc., d/b/a PRIVO
1651 Old Meadow Road, Suite 500
McLean, VA 22102

PRIVO.com

November 17, 2017

VIA ELECTRONIC MAIL
Miry Kim
Bureau of Consumer Protection
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex A)
Washington, DC 20580

Re: Student Privacy and Ed Tech and P175412

Dear Ms. Kim:

Privacy Vaults Online, Inc. d/b/a/ PRIVO, an authorized Safe Harbor provider under the Children's Online Privacy Protection Act ("COPPA"), appreciates the efforts of the Federal Trade Commission ("FTC") and the Department of Ed ("ED") in co-sponsoring the upcoming Student Digital Privacy and Ed Tech workshop on December 1, 2017.

In PRIVO's experience, the overlapping obligations of FERPA and COPPA are not universally understood in the marketplace. By way of example, a school may believe that an Ed Tech provider's collection of information from a student is permissible under the School Official Exemption, but the Ed Tech provider may not be aware of their obligations under FERPA that arise from being considered a school official. Indeed, if a school or teacher were to download software or an app directly, it is possible that the Ed Tech provider is wholly unaware that it is being treated as a School Official.

The dual consent-gathering process can also be confusing. Both schools and Ed Tech providers are uncertain as to whether the blanket consent secured by the school under FERPA can satisfy the requirements of COPPA or the parental consent secured via a COPPA method such as Email Plus or Notice and Opt Out can constitute the type of written consent required under FERPA.

Where Ed Tech providers are permitted to rely on consent from a teacher for COPPA compliance, they do not know the extent to which they must verify the identity of a teacher. Whether the teacher can bind the student and/or school to any Terms of Use governing the Ed Tech is also an open issue.

Another practical issue that the parties need to find a way to address arises when a teacher has provided the consent under COPPA. Some process must exist for the teacher to return the oversight of the child's use of the Ed Tech to the parent, if the child is permitted to use the Ed Tech over the summer or into additional school years.

It is also not clear whether sharing features of Ed Tech designed to reinforce collaborative learning within an educational community constitute public disclosure under either FERPA or COPPA.

The foregoing are only some of the issues that have arisen. School representatives and Ed Tech providers alike are seeking greater assurance that Ed Tech is being implemented in a manner that is compliant with both COPPA and FERPA.

PRIVO looks forward to the workshop and greater clarity on these and other issues.

Sincerely,

/s/

Denise Tayloe
CEO | PRIVO
1651 Old Meadow Road, Suite 500
McLean, VA 22102
703.932.4979 Tel.
dtayloe@privo.com
#PRIVOtrust