

FitnessGram® Privacy Policy

Updated January 26, 2018

I. Introduction

The FitnessGram® Software (“FitnessGram® Software”), a fitness education assessment program software that we include as part of the Services, including any applications, is owned and operated by The Cooper Institute® (“The Cooper Institute®,” “we” or “our”). This Privacy Policy (“Policy”) includes the following defined terms, in addition to other capitalized words in the Policy:

“Customer” or “you” means School Districts, State Educational Agencies, students (including Children), and Parents who access data using the FitnessGram® Software under the FitnessGram Hosting Terms of Use, which is available at <https://myhealthyzone.fitnessgram.net> (“FitnessGram® TOU”).

“Child” or “Children” means a child or children under the age of 13.

“FitnessGram® Software” means, collectively, all of the present and future FitnessGram® Software packages or programs including, without limitation, FitnessGram®, MyHealthyZone™, ActivityGram®, Healthy Fitness Zone®, and ActivityLog, and their related components. The FitnessGram® Software is licensed, not sold, only in accordance with the FitnessGram® TOU.

“Parent” means a parent or legal guardian.

“Personal Information” means any student information defined as personally identifiable information under Family Educational Rights and Privacy Act (“FERPA”) or as personal information under the Children’s Online Privacy Protection Act (“COPPA”).

“School District” means a local educational agency, school network, independent school or other school system and its employees.

“State Educational Agency” or “SEA” means the educational agency primarily responsible for the supervision of public elementary and secondary schools in any of the 50 states, the Commonwealth of Puerto Rico, the District of Columbia or other territories and possessions of the United States, as well as a national or regional ministry or department of education in other countries, as applicable.

Our Customers’ privacy is important to us, and we recognize that Customers of the FitnessGram® Software may include Children. As required by COPPA, we provide this Policy to inform Parents and other Customers about our privacy practices including how The Cooper Institute® collects, uses, and discloses Personal Information.

In the course of providing the FitnessGram® Software, we take numerous measures to maintain the security and confidentiality of Personal Information collected or stored by the FitnessGram® Software on behalf of our Customers including Children, School Districts, and State Educational Agencies. In doing so, we enable our Customers to control use, access,

sharing and retention of Personal Information in compliance with FERPA, COPPA, and other applicable privacy laws and regulations.

By using the FitnessGram® Software, you expressly agree to the FitnessGram® TOU and consent to the collection, use and disclosure of Personal Information collected on behalf of you as outlined in this Policy. Please read the Policy carefully, and if you have any questions, feel free to contact us using the information provided at the end of the Policy.

A. Scope of this Policy

This Policy describes:

- what information is collected from and on behalf of our Customers via the FitnessGram® Software;
- how the FitnessGram® Software uses that information;
- with whom the FitnessGram® Software shares that information; and
- what steps the FitnessGram® Software takes to safeguard this information and ensure that our Customers remain in control of their data at all times.

1. Types of Information Collected

There are three types of information FitnessGram® Software collects and stores on behalf of our Customers:

- information provided by Customers to support the use of our products;
- information provided by Children, students, teachers and other school personnel in the course of using our products; and
- usage data including date and time of visits, browser type and operating system type.

Information provided by our Customers. The FitnessGram® Software requires some basic information about who is in a classroom and who teaches the class. For example, when a teacher logs into the FitnessGram® Software, a list of students associated with that teacher may be displayed in the application. The FitnessGram® Software references this information from a database that contains roster information (e.g. name, grade level, gender, date of birth, school ID numbers) that the School District supplied to the FitnessGram® Software.

Information collected through our products. Our Customers use the FitnessGram® Software to track student data and provide personalized feedback to students to help promote lifelong health and wellness. Students (including Children) and teachers use our products to engage in a variety of educational experiences. This information falls into several different categories listed below along with examples for each category:

- Fitness data. FitnessGram® collects information on the five components of health-related fitness including aerobic capacity, body composition, muscular strength, muscular endurance, and flexibility. The purpose of the data collected is to educate and create awareness for student's level of fitness.

- Assessment results. Students and/or teachers may enter results for physical fitness and activity assessments. Students and/or teachers may also complete tests, additional activities or trainings that are tracked within the FitnessGram® Software.
- Device performance and status. Device diagnostic information, such as battery level and installed applications may be collected to support the proper functioning of the device.
- Device and Browser Data. Characteristics of device and browser configurations and persistent identifiers, such as IP addresses and device identifiers, are collected along with associated usage data. The use of “cookies,” Web beacons, HTML5 local storage and other similar technologies to collect and store such data. This data is collected to support the security mechanisms of the product and our internal operations, as well as to enable analysis of aggregate usage trends and improve the learning experience.
- System usage. The FitnessGram® Software may collect system usage information in order to ensure proper system capacity for all users.

Information collected from Children. The FitnessGram® Software only collects as much information about a Child as is reasonably necessary for the Child to participate in an activity. We do not condition a Child’s participation on the disclosure of more Personal Information than is reasonably necessary.

We strongly recommend that our Customers protect their data by not including personally identifiable information such as Social Security numbers in their user IDs. Moreover, we also recommend that, in connection with their use of the FitnessGram® Software, our Customers not disseminate personally identifiable information through unencrypted e-mail.

2. Use of Information

The FitnessGram® Software uses information collected and stored on behalf of our Customers to support the development and usability of the product and to ensure secure and effective operation of our products. In particular, the FitnessGram® Software may use the information collected in the following ways:

- to continually support the FitnessGram® Software and support our Customers’ and their end users’ activities;
- to respond to the inquiries and fulfill the requests of our Customers and their end users;
- to send administrative and usage information to the appropriate approved application administrator;
- in the case of School District or State Educational Agency personnel (e.g., teachers and administrators), to send product information to such personnel;
- to personalize end users’ experience with our products and services;
- to improve the effectiveness of our products and support our product development;
- to report on aggregate trends and usage statistics;
- to enforce product access and security controls; and

- to conduct system audits and validation

3. Disclosure of Information

We will only share Personal Information stored on behalf of our Customers with third parties if authorized by the relevant Customer and in the following situations, to the extent we believe in good faith it is necessary or appropriate and permitted by law:

- to comply with the law, respond to requests in legal or government enforcement proceedings (such as complying with a subpoena), protect our rights in a legal dispute, or seek assistance of law enforcement in the event of a threat to our rights, security or property or that of our affiliates, Customers, end users or others;
- in the event the FitnessGram® Software or its assets are acquired or transferred to another party, including in connection with any bankruptcy or similar proceedings, provided that such disclosure will be subject to the Policy and any successor to the relevant business will be required to comply with the Policy with respect to information collected under the Policy; and
- to work with third parties who conduct studies or assist us in providing and improving our products and services, such as platform, infrastructure, software and other types of service providers, agents, partners and researchers. Information shared with third parties is de-identified. We contractually bind such parties to prevent disclosure of Personal Information by, for example, not using the information for any purpose other than to carry out the services they are performing for the FitnessGram® Software.

4. Third Party Services

If authorized by the relevant Customer under a situation described above, some of our products may be used in conjunction with or enable access to third party services and products, such as those from operating system providers, social media platforms, wireless service providers, device manufacturers, and other application or service providers.

This Policy does not address, and neither The Cooper Institute® nor its delegates are responsible for, the privacy, information or other practices of such third parties including any third party operating any service to which the FitnessGram® Software product or service links. School Districts and SEA Customers should carefully consider which third party applications to include among the products and services they provide to students and vet the privacy and data security standards of those providers.

5. Security

The FitnessGram® Software uses industry-standard administrative, technical, operational and physical measures to safeguard Personal Information in its possession against loss, theft and unauthorized use, disclosure or modification.

In the event The Cooper Institute®, or its delegates, discovers or is notified of an unauthorized disclosure of Personal Information within our possession or control, we will, as required by applicable federal and state laws, investigate, take steps to mitigate the potential impact, and provide notice of the breach to applicable agencies and Customers.

6. Review and Correction

Certain federal laws, including FERPA and COPPA, give Parents the right to inspect and review a student's education records maintained by a school and the Personal Information maintained by the FitnessGram® Software.

School Districts own all Personal Information entered into the FitnessGram® Software, and The Cooper Institute® does not have permission to use Personal Information stored on behalf of a Customer. If you are a Parent and you would like to review, correct or update your child's Personal Information stored in the FitnessGram® Software, please contact your School District. The Cooper Institute®, or its delegates, will work with your School District to enable your access to and, if applicable, correction of your child's education records and Personal Information. Additionally, you may request access to the parent dashboard feature of the FitnessGram® Software. This feature allows a Parent to login to the FitnessGram® Software and receive a snapshot of your child's data.

If you have any questions about whom to contact or other questions about your child's Personal Information, you may contact us using the information provided below.

7. Parental Consent

The Cooper Institute® is authorized by School Districts and State Educational Agencies to collect Personal Information from Children. This Privacy Policy provides notice to the School Districts and State Educational Agencies of The Cooper Institute's practices for collecting, using, and disclosing Personal Information collected from Children. The Cooper Institute® presumes that the School District's or State Educational Agency's authorization is based on its having obtained consent from the Child's Parent. The Cooper Institute® does not use the Child's Personal Information for any other commercial purpose.

8. Data retention

We will retain Personal Information collected from our Customers for the period necessary to fulfill the purposes outlined in this Policy and our agreement with that Customer.

9. Updates to this Policy

We may change this Policy in the future. For example, we may update it to comply with new laws or regulations, to conform to industry best practices, or to reflect changes in our product offerings. Such changes to the Policy will become effective when we post the revised Policy on our website, which is available at <https://myhealthyzone.fitnessgram.net>. However, in the event there are material changes in our practices with respect to use and disclosure of Personal Information, we will notify our Customers affected by the changes, and the changes will become effective when the Customer accepts the new policy.

10. Contact us

If you have questions about this Policy, please contact us:

Email: FitnessGram@CooperInst.org

Mail: The Cooper Institute®, Attn: FitnessGram®, 12330 Preston Road, Dallas, Texas, 75230