

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

JOHN DOE, individually and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	Case No. <u>21-cv-1096</u>
)	
v.)	
)	
BRADLEY UNIVERSITY,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Bradley University (“Bradley”), by its attorneys and pursuant to 28 U.S.C. §§1332(d)(2), 1441, and 1446, hereby removes this action from the Circuit Court of Peoria County, State of Illinois to the United States District Court for the Central District of Illinois. In support of removal, Bradley states as follows:

I. PLAINTIFF’S CLAIM AND RELIEF SOUGHT

1. On February 12, 2021, Plaintiff, John Doe (“Plaintiff”)¹ commenced this action against Bradley in the Circuit Court of Peoria County, Illinois, by filing a lawsuit captioned *John Doe v. Bradley University*, Case No. 21-L-00033 (the “State Court Action”).

2. Plaintiff’s Class Action Complaint (“Complaint”) in the State Court Action alleges that Bradley violated the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS § 14/1, *et seq.*, by utilizing an online remote proctoring tool called Respondus Monitor. Specifically, Plaintiff alleges that “[t]hrough the Respondus Monitor tool, Bradley unlawfully collects, uses, and discloses students’ biometric identifiers and biometric information without the

¹ Plaintiff did not seek court authorization, as 735 ILCS 5/2-401 requires, to sue in state court under a fictitious name. Now that the suit has been removed to federal court, Bradley intends to challenge Plaintiff’s effort to proceed as a “John Doe,” which is not proper in this case under applicable Seventh Circuit authority.

students’ written and informed consent” and has failed to provide a “legally-compliant written public policy” as required by BIPA. (*See* Complaint, attached hereto as Exhibit A, at ¶ 2)

3. Plaintiff alleges that he is a current student at Bradley who has used the Respondus Monitor tool. (Complaint, at ¶¶ 80, 82) Plaintiff asserts four separate BIPA claims against Bradley, each on his own behalf and on behalf of the following putative class: “All persons who took an assessment using Respondus Monitor, as a student of Bradley University in Illinois, at any time during the five years prior to the filing of this Complaint through January 20, 2021.” (*Id.* at ¶ 89) Plaintiff alleges that there are thousands of members of this putative class. (*Id.* at ¶ 92)

4. In each of the four counts in the Complaint, Plaintiff alleges that Bradley’s violations of BIPA were “reckless.” (Complaint, at ¶¶ 106, 114, 121, 127) BIPA, at 740 ILCS 14/20(2), provides that a prevailing party may recover liquidated damages of \$5,000 or actual damages, whichever is greater, for each violation committed by a private entity “intentionally or recklessly.”

II. BRADLEY’S REMOVAL IS TIMELY

5. Plaintiff’s Complaint was served upon Bradley on February 17, 2021. Thus, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within 30 days after service of the Complaint.

III. BASIS FOR REMOVAL

6. Pursuant to 28 U.S.C. §1332(d)(2), removal is proper under the Class Action Fairness Act (“CAFA”), because United States District Courts have original jurisdiction over any class action: (i) involving a plaintiff class of 100 or more members; (ii) where at least one member of the plaintiff class is a citizen of a state different from any defendant; and (iii) in

which the matter in controversy exceeds the sum or value of \$5 million, inclusive of interest and costs. *See* 28 U.S.C. §1332(d)(2). Here, all three of the CAFA prerequisites are satisfied.

7. First, this class action involves a proposed class of more than 100 members. In the five years preceding the filing of Plaintiff's Complaint, over 2,000 Bradley students took an assessment using the Respondus Monitor tool.

8. Second, Bradley, an Illinois not for profit institution, is a citizen of Illinois. While Plaintiff alleges that he is a resident of Cook County, Illinois, there are many Bradley students who are citizens of states other than Illinois and citizens of foreign states who fall within the Complaint's class definition. Accordingly, the requirements of §1332(d)(2)(A) and (B) are met.

9. Third, the matter in controversy in this case exceeds \$5 million, exclusive of interest and costs. Plaintiff seeks \$5,000 statutory penalties for each putative class member. As noted above, there are more than 2,000 putative class members, hence the amount in controversy well exceeds \$5 million.²

IV. VENUE AND NOTICE

10. The United States District Court for the Central District of Illinois is the appropriate venue for removal of the State Court Action pursuant to 28 U.S.C. §1441, which permits any civil action brought in any state court in which the District Courts of the United States have original jurisdiction to be removed to the District Court of the United States for the district and division embracing the place where the state court action is pending. The State Court Action was filed in Peoria County, Illinois, within this Judicial District.

² Of course, Bradley reserves all rights and defenses, as to liability, damages and class certification. *See Sabrina Roppo v. Travelers Commercial Ins. Co.*, 869 F.3d 568, 579 (7th Cir. 2017) ("The party seeking removal does not need to establish what damages the plaintiff will recover, but only how much is *in controversy* between the parties," and a "removing defendant need not confess liability in order to show that the controversy exceeds the threshold." (internal quotation marks omitted) (emphasis in original).

11. Pursuant to 28 U.S.C. §1446(a), the Summons and Complaint, which constitute all “process, pleadings, and orders” served to date on Bradley, is attached hereto as Exhibit A.

12. Pursuant to 28 U.S.C. §1446(d), written notice of this Notice of Removal is being promptly sent to Plaintiff’s counsel (by email and U.S. Mail), and promptly filed with the Clerk of the Court for the Circuit Court of Peoria County, Illinois.

13. Bradley submits this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff, without conceding liability, fault, damages or that Plaintiff has pleaded a claim upon which relief can be granted, and expressly preserving all positions on liability, damages, statute of limitations, and other legal issues, including that class certification is not appropriate.

WHEREFORE, Defendant, Bradley University hereby removes Case Number 21-L-00033 now pending in the Circuit Court of Peoria County, Illinois to the United States District Court for the Central District of Illinois.

Dated: March 18, 2021

BRADLEY UNIVERSITY,
Defendant

By: /s/ Scott J. Helfand
One of Its Attorneys

Michael D. Hayes
Scott J. Helfand
Anne M. Mayette
HUSCH BLACKWELL LLP
120 South Riverside Plaza, Suite 2200
Chicago, IL 60606
Phone: (312) 655-1500
michael.hayes@huschblackwell.com
scott.helfand@huschblackwell.com
anne.mayette@huschblackwell.com

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of March, 2021, I caused the foregoing, **Notice of Removal**, to be sent via electronic mail and mailed by first-class U.S. Mail, postage prepaid, to the following attorneys representing the Plaintiff in the State Court Action:

Brian K. Murphy
murphy@mmmb.com
Joseph F. Murray
murray@mmmb.com
Jonathan P. Misny
misny@mmmb.com
Murray Murphy Moul + Basil LLP
1114 Dublin Road
Columbus, OH 43215

Mary C. Turke
mary@turkestrauss.com
Samuel J. Strauss
sam@turkestrauss.com
Turke & Strauss, LLP
613 Williamson Street, Suite 201
Madison, WI 53703

Anthony I. Paronich
anthony@paronichlaw.com
Paronich Law, P.C.
350 Lincoln Street, Suite 2400
Hingham, MA 02043

/s/ Scott J. Helfand

EXHIBIT A

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois Circuit Courts.

STATE OF ILLINOIS, CIRCUIT COURT Peoria COUNTY		SUMMONS		For Court Use Only
Instructions ▼ Enter above the county name where the case was filed.		JOHN DOE Plaintiff / Petitioner (First, middle, last name)		21-L-00033 Case Number
Enter your name as Plaintiff/Petitioner.		v.		
Enter the names of all people you are suing as Defendants/ Respondents.		BRADLEY UNIVERSITY Defendant / Respondent (First, middle, last name)		
Enter the Case Number given by the Circuit Clerk.				

In 1, if your lawsuit is for money, enter the amount of money you seek from the Defendant/ Respondent.

1. Information about the lawsuit:

Amount claimed: \$ _____

In 2, enter contact information. If more than one person is bringing the lawsuit, attach an *Additional Plaintiff/Petitioner Contact Information* form.

2. Contact information for the Plaintiff/Petitioner:

Name (First, Middle, Last): Brian K. Murphy

Street Address, Apt #: Murray Murphy Moore - Basil LLP, 1114 Dublin Road

City, State, ZIP: Columbus, OH 43215

Telephone: (614) 488-0400

See attached for additional Plaintiff/Petitioner contact information

In 3, enter the name of the person you are suing and their address. If more than 1 person is being sued, attach an *Additional Defendant/Respondent Contact Information* form.

3. Contact information for the Defendant/Respondent:

Name (First, Middle, Last): Bradley University

Street Address, Apt #: 1501 W. Bradley Avenue

City, State, ZIP: Peoria, IL 61625

Telephone: _____

See attached for additional Defendant/Respondent contact information

Important Information for the person receiving this form:

You have been sued.

Follow the instructions on the next page on how to appear/answer.

- If you do not appear/answer the court may decide the case without hearing from you and enter a judgment against you for what the plaintiff/petitioner is asking.
- Your written appearance/answer must be filed on time and in the proper form.
- Forms for a written appearance/answer are available here:
<http://www.illinoiscourts.gov/forms/approved/default.asp>

If you cannot afford to pay the fee for filing your appearance/answer, ask the circuit clerk for an *application for waiver of court fees*.

You should read all of the documents attached.

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois Circuit Courts.

STATE OF ILLINOIS, CIRCUIT COURT		AFFIDAVIT OF SERVICE OF SUMMONS AND COMPLAINT/PETITION	<i>For Court Use Only</i>
Peoria COUNTY			
Instructions	JOHN DOE Plaintiff / Petitioner (First, middle, last name) v. BRADLEY UNIVERSITY Defendant / Respondent (First, middle, last name)		21-L-00033 Case Number
Enter above the county name where the case was filed.			
Enter your name as Plaintiff/Petitioner.			
Enter the name of the person you are suing as Defendant/Respondent.			
Enter the Case Number given by the Circuit Clerk.			

****Stop. Do not complete the form. The sheriff will fill in the form.****

DO NOT complete this section. The sheriff will complete it.

My name is _____ **and I swear under oath**
First, Middle, Last
that I served the *Summons* and Complaint/Petition on the Defendant/Respondent

_____ **as follows:**
First, Middle, Last

- Personally on the Defendant/Respondent:
 Male: Female: Approx. Age: _____ Hair Color: _____
 Height: _____ Weight: _____
 On this date: _____ at this time: _____ a.m. p.m.
 Address: _____
 City, State, ZIP: _____

- At the Defendant/Respondent's home:
 On this date: _____ at this time: _____ a.m. p.m.
 Address: _____
 City, State, ZIP: _____
 And left it with: _____
First, Middle, Last
 Male: Female: Approx. Age: _____
 and by sending a copy to this defendant in a postage-paid, sealed envelope to the
 above address on _____, 20 _____

- On the Corporation's agent, _____
First, Middle, Last
 On this date: _____ at this time: _____ a.m. p.m.
 Address: _____
 City, State, ZIP: _____

FILED
ROBERT M. SPEARS
2/12/2021
CLERK OF THE CIRCUIT COURT
PEORIA COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF PEORIA COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

JOHN DOE, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

BRADLEY UNIVERSITY,

Defendant.

Case No. 21-L-00033

CLASS ACTION

JURY TRIAL DEMANDED

THIS CASE IS SET FOR A MANAGEMENT CONFERENCE
ON 7/16/2021@9:30am IN COURTROOM 213/214
OF THE PEORIA COUNTY COURTHOUSE.
IF THE DEFENDANT(S) ANSWERS(S) MORE THAN 35 DAYS
BEFORE THIS DATE, THEN THE PARTIES SHALL
SCHEDULE A CASE MANAGEMENT CONFERENCE WITHIN
25 DAYS OF THE DATE THE ANSWER'S PLED

CLASS ACTION COMPLAINT

Plaintiff John Doe ("Plaintiff") brings this action on behalf of himself and all others similarly situated against Defendant Bradley University and its present, former, or future direct and indirect parent companies, subsidiaries, affiliates, agents, and/or other related entities ("Bradley" or "Defendant") and alleges as follows:

INTRODUCTION

1. Defendant Bradley University is a private university located in Peoria, Illinois. Bradley offers undergraduate and graduate programs both in person on its campus and through distance and online learning programs.
2. In offering online courses to its students, Bradley requires that many student exams be conducted using an online remote proctoring tool called Respondus Monitor. Through the Respondus Monitor tool, Bradley unlawfully collects, uses, and discloses students' biometric identifiers and biometric information without the students' written and informed consent. Bradley also lacks a legally-compliant written public policy establishing a retention schedule and guidelines for destroying biometric identifiers and biometric information and fails to comply with such policy.

3. Bradley's chosen and exclusive remote proctoring tool, Respondus Monitor, captures, uses, and stores vast amounts of data, including facial-recognition data, facial detection data, recorded patterns of keystrokes, eye monitoring data, gaze monitoring data, and camera and microphone recordings to effectively surveil students taking online exams. Bradley owns, has access to, and possesses this data.

4. Through Respondus Monitor, Bradley collects, captures, and stores everything from a student's facial features to their voice through a web portal accessed through the student's personal device. Using the Respondus Monitor tool, Bradley is able to collect and aggregate information on all aspects of a student's life. Indeed, as one director of academic testing told the *Washington Post*, software programs like Respondus' are akin to "spyware." *Mass School Closures in the Wake of the Coronavirus are Driving a New Wave of Student Surveillance*, WASHINGTON POST (Apr. 1, 2020), <https://www.washingtonpost.com/technology/2020/04/01/online-proctoring-college-exams-coronavirus>. Likewise, an economics professor at Harvard University recently told *Forbes* that this type of technology involves an inappropriate "level of intrusion." Sean Lawson, *Are Schools Forcing Students To Install Spyware That Invades Their Privacy As A Result Of The Coronavirus Lockdown?*, FORBES (Apr. 24, 2020 6:34 PM), <https://www.forbes.com/sites/seanlawson/2020/04/24/are-schools-forcing-students-to-install-spyware-that-invades-their-privacy-as-a-result-of-the-coronavirus-lockdown/?sh=1f8e87cb638d>. Relatedly, Duke University has decided not to allow virtual proctoring at this time, in part because of security concerns. *Id.*

5. All the while, students are left in the dark about the vast amount of information their university collects through the Respondus Monitor tool. Bradley does not disclose or

obtain written consent before collecting, capturing, storing, or disseminating users' biometric data. Bradley also fails to disclose what it does with that biometric data after collection and does not comply with BIPA's retention and destruction requirements for private entities that possess biometric identifiers and biometric information.

6. It is, therefore, no surprise that there is an outcry among students and faculty about the use of online proctoring software and services. Petitions have sprung up across college campuses nationwide demanding a ban on online proctoring. At major universities, such as the University of Texas at Dallas, California State University Fullerton, the University of Miami, Florida State University, Auburn University, the University of Wisconsin–Madison, and the City University of New York, petitions have gained tens of thousands of student and faculty signatures. At the University of California Santa Barbara, the Faculty Association published a letter demanding that university administration officials rescind its contracts with online-proctoring companies amid concerns these tools could turn the university into “a surveillance tool.” *Id.*

7. Plaintiff John Doe brings this action to enforce his legal rights under Illinois' Biometric Information Privacy Act, 470 ILCS 14/ (“BIPA”), and those of the proposed class of persons he represents.

8. BIPA is designed to protect individuals against the threat of irreparable privacy harms, identity theft, and other economic injuries arising from private entities' increasing use of biometric identifiers and biometric information.

9. In enacting BIPA in 2008, the Illinois Legislature recognized that biometrics are unlike other unique identifiers because they are biologically unique to the individual and cannot be changed. Once compromised, the individual has no recourse. *See* 740 ILCS 14/5(c).

10. BIPA protects public welfare, security, and safety by regulating the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and biometric information. *See* 740 ILCS 14/5(g).

11. BIPA defines a biometric identifier as “a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry.” 740 ILCS 14/10.

12. BIPA defines biometric information as “any information, regardless of how it is captured, converted, stored, or shared, based on an individual’s biometric identifier used to identify an individual.” *Id.*

13. Plaintiff alleges Bradley violated BIPA by, among other things, collecting, capturing, using, storing, and sharing Plaintiff’s and class members’ biometric identifiers or biometric information obtained through the use of Respondus Monitor without informed written consent.

14. Bradley violated BIPA’s requirement that it maintain, disclose, and follow a retention policy that requires Bradley to permanently destroy students’ biometric data obtained through the use of Respondus Monitor once the purpose for collecting such data has been satisfied.

15. Bradley’s failure to follow BIPA’s express disclosure and consent requirements and failure to comply with the destruction requirements for biometric identifiers and biometric information was an invasion of Plaintiff’s personal rights and the rights of the class members he represents.

16. A class action is the best means of obtaining redress for Bradley’s wide-scale BIPA violations and is consistent with the fairness and efficiency goals of class actions.

JURISDICTION AND VENUE

17. This Court has subject-matter jurisdiction over this putative class action lawsuit because it arises under Illinois law.

18. The Court has personal jurisdiction over Bradley pursuant to 735 ILCS 5/2-209 because Plaintiff's claims arise out of and relate to Bradley's conduct in the state of Illinois.

19. Venue is proper in this Court under 735 ILCS 5/2-101(2) because the transaction or some part thereof out of which the cause of action arose occurred in Peoria County.

PARTIES

20. Plaintiff John Doe is a natural person who resides in Cook County, Illinois.

21. Defendant Bradley University is an Illinois not-for-profit corporation with its principal place of business at 1501 W. Bradley Avenue, Peoria, Illinois 61625.

FACTUAL BACKGROUND

A. Online and Remote Proctoring

22. During the COVID-19 pandemic, schools, colleges, universities, and other educational institutions ("Institutions") have been forced to cease in-person instruction and move to remote learning. However, even prior to the pandemic, many Institutions like Bradley have offered online coursework that require students to take quizzes and exams online.

23. To facilitate remote test-taking, Institutions contract with private companies that offer online exam monitoring and proctoring services.

24. One such company is Respondus Inc., which offers several cloud-based software and service applications to assist Institutions in providing online content and exams to students.

25. Institutions, like Bradley, that use Respondus' applications incorporate these tools into the Institution's learning management system ("LMS"). Well-known LMSs include Canvas, Blackboard Learn, Brightspace, and Moodle.

26. Bradley purchases a license from Respondus, Inc. to integrate Respondus Monitor into Bradley's LMS. See BRADLEY UNIVERSITY, <https://bit.ly/2YQYyF6> (last visited Feb. 11, 2021).

B. The Respondus Monitor Tool

27. This lawsuit arises from Bradley's use of the Respondus Monitor tool, a fully-automated exam proctoring solution that enables students to take exams online in a *non-proctored* environment.

28. Dozens of colleges and universities in Illinois use the Respondus Monitor tool.

29. Respondus' website explains that "[a]t the heart of [the] Respondus Monitor [tool] is a powerful artificial intelligence engine, Monitor AI™, that performs a second-by-second analysis of the exam session." Monitor AI uses "facial detection, motion, and lighting to analyze the student and examination environment." RESPONDUS, <https://web.respondus.com/he/monitor/> (follow "Learn More" link in "Monitor AI is the most advanced artificial intelligence system for automated proctoring" box) (last visited Dec. 6, 2020).

30. Respondus' website and marketing materials acknowledge that the Respondus Monitor tool uses facial recognition technology to determine, among other things, whether the person who started the exam switches to a different person along the way. *Id.*

31. Respondus' website explains this "data then flows into the 'Review Priority' system to help instructors quickly evaluate the proctoring results." *Id.*

32. Review Priority is a “patent-pending method for ranking proctoring results according to the risk that violations have occurred. ... If wanted, instructors can view the data contributing to the Review Priority result on a video timeline, such as flagged events and key milestones.” RESPONDUS, <https://web.respondus.com/he/monitor/> (follow “Learn More” link in “Review Priority ranks results by risk, helping instructors know which sessions warrant deeper scrutiny” box) (last visited Dec. 6, 2020).

33. However, prior to January 21, 2021, the terms of use that students must accept before using Respondus Monitor for Bradley exams say nothing about facial recognition, biometric identifiers, or biometric information and do not disclose to student users that their biometric identifiers or biometric information will be captured, collected, analyzed, or disseminated to the student’s Institution.¹

C. Test-Taking with Respondus Monitor

34. To take an exam using Respondus Monitor, a student must have a webcam.

35. The student first logs into their Institution’s LMS platform and opens a browser.

36. Next, the student is required to accept the Respondus Monitor Terms of Use for Students (the “Monitor Student Terms”) by clicking, “I accept.” Accepting the Monitor Student Terms is a condition of proceeding with the exam through Respondus Monitor.

D. The Monitor Student Terms

37. The Monitor Student Terms include two components—terms applicable to (i) the student’s relationship with Respondus, Inc. and (ii) the student’s relationship with the Institution.

¹ On January 21, 2021, Respondus updated the Respondus Monitor Terms of Use for Students. All references to the Respondus Monitor Terms of Use for Students (the “Monitor Student Terms”) refer to the Monitor Student Terms in effect prior to January 21, 2021.

A true and correct copy of the Monitor Student Terms in effect prior to January 21, 2021 is attached hereto as **Exhibit A** and was previously publicly available on Respondus' website.

38. The Monitor Student Terms inform the students that “your Institution is requiring students to use Respondus Monitor for certain, or all, courses. In order to use Respondus Monitor, you must agree to the Terms in full, including this section under REQUIREMENTS OF YOUR INSTITUTION, regarding your relationship with your Institution.” (*Id.*)

39. Next, in relevant part, the Monitor Student Terms disclose that Respondus Monitor will record student activity, both audibly and visually, during exams. (*See id.*)

40. However, prior to January 21, 2021, the Monitor Student Terms did *not* disclose that Respondus Monitor would use facial recognition technology to collect, capture, analyze, and disseminate a student's biometric identifiers or biometric information.

41. Instead, the Monitor Student Terms cryptically stated that “other data” related to student activity during an assessment may be recorded by Respondus Monitor. The Terms stated that “[t]he recordings are controlled by your Institution” and will be processed by Respondus, Inc. on behalf of the Institution. (*See id.*)

42. These recordings, which the Institution controls, include students' biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Student Terms.

43. The Monitor Student Terms state that Respondus, Inc. “may analyze the recordings through automated processes to generate additional data derived from the recordings, with the additional data being associated with individual students for use by your Institution in evaluating the recordings.” (*Id.*)

44. This “additional data” that Respondus, Inc. generates includes students’ biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Student Terms.

45. The Monitor Student Terms say this additional data and the original exam recordings “may be evaluated by agents of your Institution, including your instructors, to review, assess, and analyze student performance and conduct ... for the purpose of improving educational processes for students, including investigating student conduct violations.” (*Id.*)

46. This “additional data” that may be evaluated by an Institution includes students’ biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Student Terms.

47. The Monitor Student Terms additionally state Respondus, Inc. works with the Institution to ensure the student’s privacy regarding the recording and to comply with applicable law as to any information or data. (*See id.*)

48. This “data” that is subject to privacy laws includes students’ biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Student Terms.

49. The Monitor Student Terms state Respondus Monitor will save all recordings of students for one (1) year, but that Institutions have the ability to retain data for up to an additional four (4) years. (*See id.*)

50. The “data” an Institution can retain for up to four (4) years includes students’ biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Student Terms.

51. Prior to January 21, 2021, the Monitor Student Terms did not establish a retention schedule or guidelines for permanently destroying students' biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information had been satisfied or within three (3) years of the student's last interaction with Respondus, Inc. or the Institution, whichever occurred first.

52. To the contrary, the Monitor Student Terms state Respondus, Inc. does not guarantee removal of "all traces of any information or data (including recordings) from the Respondus Monitor Services after deletion." (*See id.*)

53. This trace "information and data" includes students' biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Student Terms.

54. Hazenly, in the Monitor Student Terms, the Institution unlawfully purports to disclaim any liability to the student for the "legality" or "availability of information or data in the Respondus Monitor Service or Software." The Monitor Student Terms also purport to disclaim any liability of the Institution to the student for harm resulting from "downloading or accessing any information or data through Respondus Monitor." (*See id.*)

E. Privacy Policies in the Monitor Student Terms

55. The Monitor Student Terms include two privacy policies—a Privacy and Security Policy (the "Monitor Privacy Policy"²), described in the Monitor Student Terms, and the "full Respondus Privacy Policy," incorporated by reference and publicly available on Respondus' website. RESPONDUS, <https://web.respondus.com/privacy-policy/> (last visited Feb. 11, 2021) (the "Respondus Privacy Policy").

² On January 21, 2021, Respondus updated the Monitor Privacy Policy. All references to the Monitor Privacy Policy refer to the Monitor Privacy Policy in effect prior to January 21, 2021.

F. The Monitor Privacy Policy

56. The Monitor Privacy Policy states that “Instructors, administrators and other agents of Institution” may access the *recordings and data* related to their students through Respondus Monitor. (Ex. A.)

57. The “recordings and data” that may be accessed by agents of the Institution include students’ biometric identifiers and biometric information, but, prior to January 21, 2021, that fact was not disclosed in the Monitor Privacy Policy.

58. The Monitor Privacy Policy states that samples of de-identified student video recordings may be shared with researchers, including biometric experts. (*See id.*)

59. However, prior to January 21, 2021, the Monitor Privacy Policy did not disclose that, prior to sending student video to experts for research purposes, Respondus, Inc. already captured the students’ biometric information or biometric identifiers from these recordings.

60. Prior to January 21, 2021, the Monitor Privacy Policy did not establish a retention schedule or guidelines for permanently destroying students’ biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information had been satisfied or within three (3) years of the students’ last interaction with Respondus, Inc. or the Institution, whichever occurred first.

G. The Respondus Privacy Policy

61. The Respondus Privacy Policy is incorporated by reference into the Monitor Student Terms. A true and correct copy of the Respondus Privacy Policy obtained from Respondus’ website is attached hereto as **Exhibit B. RESPONDUS**, <https://web.respondus.com/privacy-policy/> (last visited Feb. 11, 2021).

62. The Respondus Privacy Policy does not disclose that Respondus, Inc. collects student biometric identifiers and biometric information through Respondus Monitor. (*See* Ex. B.)

63. The Respondus Privacy Policy does not establish a retention schedule and guidelines for permanently destroying students' biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three (3) years of the student's last interaction with Respondus, Inc. or the Institution, whichever occurs first. (*See id.*)

H. Other Relevant Monitor Student Terms

64. The Monitor Student Terms state that if the student does not agree to the Monitor Student Terms, "[the student] will not be permitted to use this Service." (Ex. A.)

65. The Monitor Student Terms also provide that "[a]ll legal issues arising from or related to the use of Respondus Monitor between you and your Institution shall be construed in accordance with the laws of the state in which your Institution resides" (*Id.*)

66. The Monitor Student Terms state that students using Respondus Monitor, and thus agreeing to these Terms, "consent to personal jurisdiction and venue in the state and federal courts located in and serving the county in which your Institution resides." (*Id.*)

I. The Capture of Student Biometric Identifiers and Information

67. After a student clicks to accept the Monitor Student Terms in their browser, Respondus Monitor conducts a webcam check to confirm the webcam's audio and video are working properly. In this step, Respondus Monitor requires that a student's face be centered in the camera and that the student speak into the microphone.

68. Next, Respondus Monitor's portal instructs the student to look into the webcam so it can capture an image of the student so the student's identity can be confirmed.

69. The Respondus Monitor portal may require the student to show photo identification so the software can take a picture of the photo identification before proceeding.

70. Next, the Respondus Monitor portal instructs the student to use the webcam to record a 360-degree "environment check" of the student's test-taking surroundings. This recording is captured by the Respondus Monitor system.

71. Lastly, Respondus Monitor conducts a "facial detection check" of the student taking the exam and requires the student to look directly into the webcam.

72. During these pre-exam steps, unbeknownst to the student, Respondus Monitor captures the student's facial geometry and other biometric identifiers.

J. The Monitor Institution Terms

73. On information and belief, Bradley's use of Respondus Monitor is subject to Terms of Use applicable to Institutions (the "Monitor Institution Terms"). A copy of these terms is attached hereto as **Exhibit C** and is publicly available on Respondus' website. RESPONDUS, <https://web.respondus.com/tou-monitor-admin/> (last visited Feb. 11, 2021).

74. In the Monitor Institution Terms, Respondus Inc. discloses to Bradley that "Respondus Monitor analyzes the recordings of student activity as part of an automated proprietary process." (Ex. C.)

75. Under the Monitor Institution Terms, Bradley is made aware that video recordings Bradley students make and send through Respondus Monitor are accessible to Bradley, its instructors, administrators, and other agents of Bradley. (*Id.*)

76. In the Monitor Institution Terms, Bradley agrees its students' recordings made while using Respondus Monitor may be used by Respondus, Inc. and may "be shared with researchers (research institutions and/or biometric experts) under contract with Respondus to assist in such research" (*Id.*)

77. The Monitor Institution Terms make clear that if Bradley authorizes Respondus to share student recordings or personally identifying information of any student with a third-party, Respondus Inc. will do so under the Institution's direction and control. (*Id.*)

78. The Monitor Institution Terms inform Bradley that Respondus Monitor saves all recordings of students for a period of one (1) year but that Bradley has the ability to retain the data for up to an additional four (4) years. (*Id.*)

79. The Monitor Institution Terms inform Bradley that Respondus Inc. "does not guarantee removal of all traces of any information or data (including recordings) from the Respondus Monitor Services after deletion." (*Id.*)

K. Plaintiff's Experience with Respondus Monitor

80. Plaintiff is currently a student at Bradley.

81. Plaintiff pays tuition and other fees to Bradley to take courses and receive credits toward a college degree.

82. Plaintiff is enrolled in a course at Bradley that requires the use of Respondus Monitor for exams. Plaintiff has used Respondus Monitor to take exams for this course.

83. Plaintiff recalls that, in using Respondus Monitor for test-taking, he was required to take video footage of his surroundings and his face prior to starting the exam.

84. When agreeing to use Respondus Monitor for the exam, Plaintiff did not know Respondus Monitor would collect and analyze his biometric identifiers or biometric information prior to and during the exams.

85. When agreeing to use Respondus Monitor for his exams, Plaintiff did not give informed written consent for his biometric identifiers or biometric information to be collected, stored, used, or disseminated.

86. When agreeing to use Respondus Monitor, Plaintiff was unaware of any collection and retention policy that Bradley has regarding his biometric identifiers and biometric information that Bradley controls through Respondus Monitor.

87. The context in which Plaintiff was asked to accept the Monitor Student Terms—as a requirement to successfully complete a college course examination—did not give him a meaningful choice.

CLASS ALLEGATIONS

88. Plaintiff brings this action on behalf of a class of all other persons or entities similarly situated (the “Class”).

89. The Class of persons Plaintiff proposes to represent are tentatively defined as:

All persons who took an assessment using Respondus Monitor, as a student of Bradley University in Illinois, at any time during the five years prior to the filing of this Complaint through January 20, 2021.

90. Excluded from the Class are counsel, Bradley, any entities in which Bradley has a controlling interest, Bradley’s agents and employees, any judge to whom this action is assigned, and any member of such judge’s staff and immediate family.

91. The Class defined above is identifiable through Bradley’s business records.

92. The potential members of the Class number, at least, in the thousands.

93. Individual joinder of these persons is impracticable.
94. Plaintiff is a member of the Class.
95. There are questions of law and fact common to Plaintiff and to the proposed Class, including but not limited to the following:
- a. Whether Bradley developed a written policy, available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information collected through Respondus Monitor, when the initial purpose for collecting such identifiers or information has been satisfied or within three (3) years of the individual's last interaction with Bradley, whichever occurs first, and whether Bradley complied with such written policy;
 - b. Whether Bradley collects, captures, or otherwise obtains Plaintiff's and Class members' biometric identifiers or biometric information without:
 - (i) informing them in writing that a biometric identifier or biometric information is being collected and stored;
 - (ii) informing them in writing of the specific purpose and length of term for which biometric identifier or biometric information is being collected, stored, and used;or
 - (iii) obtaining their written release;
 - c. Whether Bradley discloses or disseminates Plaintiff's and Class members' biometric identifiers or biometric information without Plaintiff's and Class members' consent;
 - d. Whether Bradley's conduct was negligent;
 - e. Whether Bradley's conduct was knowing or reckless; and

f. Whether Plaintiff and Class members are entitled to damages for violation of their privacy rights.

96. Plaintiff's claims are typical of the claims of Class members.

97. Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class, he will fairly and adequately protect the interests of the Class, and he is represented by counsel skilled and experienced in class actions.

98. Common questions of law and fact predominate over questions affecting only individual Class members, and a class action is the superior method for fair and efficient adjudication of the controversy. The only individual question concerns identification of Class members, which will be ascertainable from records maintained by Bradley.

99. The likelihood that individual members of the Class will prosecute separate actions is remote due to the time and expense necessary to prosecute an individual case.

100. Plaintiff is not aware of any litigation concerning this controversy already commenced by others who meet the criteria for class membership described above.

FIRST CLAIM FOR RELIEF
Violation of 740 ILCS 14/15(a)

101. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

102. Bradley is a "private entity" for purposes of BIPA.

103. Bradley is in possession of biometric identifiers or biometric information from students who use Respondus Monitor.

104. Bradley does not have a written policy made available to the public establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information

has been satisfied or within three (3) years of the individual's last interaction with the private entity, whichever occurs first, in violation of 740 ILCS 14/15(a).

105. Bradley does not comply with any established retention schedule or destruction guideline.

106. Bradley's failure to maintain and comply with such a written policy is negligent and reckless because BIPA has governed the collection and use of biometric identifiers and biometric information since 2008, and Bradley is presumed to know these legal requirements. Bradley's conduct is all the more egregious given the current and public discourse in higher education about how online proctoring systems violate students' privacy rights.

107. Bradley's unlawful conduct caused injury to Plaintiff and the proposed Class.

108. Plaintiff and the Class seek damages, attorney's fees, and costs.

SECOND CLAIM FOR RELIEF
Violation of 740 ILCS 14/15(b)

109. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

110. Bradley collects, captures, and obtains biometric identifiers or biometric information from students who use Respondus Monitor in violation of 740 ILCS 14/15.

111. Bradley collects, captures, and obtains such identifiers or information without informing the students in writing that biometric identifiers or biometric information are being collected or stored in violation of 740 ILCS 14/15(b)(1).

112. Bradley collects, captures, and obtains such biometric identifiers or biometric information without informing the students in writing of the specified purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used in violation of 740 ILCS 14/15(b)(2).

113. Bradley collects, captures, and obtains such biometric identifiers or biometric information without receiving a written release executed by the students in violation of 740 ILCS 14/15(b)(3).

114. Bradley's unlawful conduct is negligent and reckless because BIPA has governed the collection and use of biometric identifiers and biometric information since 2008, and Bradley is presumed to know these legal requirements. Bradley's conduct is all the more egregious given the current and public discourse in higher education about how online proctoring systems violate students' privacy rights.

115. Bradley's unlawful conduct caused injury to Plaintiff and the proposed Class.

116. Plaintiff and the Class seek damages, attorney's fees, and costs.

THIRD CLAIM FOR RELIEF
Violation of 740 ILCS 14/15(c)

117. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

118. Bradley is in possession of biometric identifiers or biometric information it collects when students use Respondus Monitor.

119. Bradley charges students tuition and other fees for academic courses Bradley offers. To complete required course examinations, students are required to use the Respondus Monitor tool.

120. Bradley profits from requiring students to use Respondus Monitor as it allows Bradley to offer online coursework and thereby receive tuition dollars from students.

121. Bradley's unlawful conduct is negligent and reckless because BIPA has governed the collection and use of biometric identifiers and biometric information since 2008, and Bradley is presumed to know these legal requirements. Bradley's conduct is all the more egregious given

the current and public discourse in higher education about how online proctoring systems violate students' privacy rights.

122. Bradley's unlawful conduct caused injury to Plaintiff and the proposed Class.

123. Plaintiff and the Class seek damages, attorney's fees, and costs.

FOURTH CLAIM FOR RELIEF
Violation of 740 ILCS 14/15(d)

124. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

125. Bradley is in possession of biometric identifiers or biometric information it collects when students use Respondus Monitor.

126. Bradley discloses or disseminates students' biometric identifiers or biometric information to its instructors and other agents without the student's consent to the disclosure in violation of 740 ILCS 14/15(d).

127. Bradley's unlawful conduct is negligent and reckless because BIPA has governed the collection and use of biometric identifiers and biometric information since 2008, and Bradley is presumed to know these legal requirements. Bradley's conduct is all the more egregious given the current and public discourse in higher education about how online proctoring systems violate students' privacy rights.

128. Bradley's unlawful conduct caused injury to Plaintiff and the proposed Class.

129. Plaintiff and the Class seek damages, attorney's fees, and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for the following relief:

A. Certification of the proposed Class;

- B. Appointment of Plaintiff as representative of the Class;
- C. Appointment of the undersigned counsel as counsel for the Class;
- D. An award to Plaintiff and the Class of damages in excess of \$50,000, as allowed by law; and
- E. Orders granting such other and further relief as the Court deems necessary, just, and proper.

JURY TRIAL DEMANDED

Plaintiff, on behalf of himself and all others similarly situated, hereby demands trial by jury on all issues in this Complaint that are triable as a matter of right.

Dated: February 12, 2021

Respectfully submitted, n. 1

/s/ **Brian K. Murphy**

Brian K. Murphy (IL Atty. No. 6225697)
Joseph F. Murray (*pro hac vice* to be filed)
Jonathan P. Misny (*pro hac vice* to be filed)
Murray Murphy Moul + Basil LLP
1114 Dublin Road
Columbus, OH 43215
Telephone: (614) 488-0400
Facsimile: (614) 488-0401
Email: murphy@mmb.com
Email: murray@mmb.com
Email: misny@mmb.com

Mary C. Turke (*pro hac vice* to be filed)
Samuel J. Strauss (*pro hac vice* to be filed)
Turke & Strauss, LLP
613 Williamson Street, Suite 201
Madison, WI 53703
Telephone: (608) 237-1775
Facsimile: (608) 509-4423
Email: mary@turkestrauss.com
Email: sam@turkestrauss.com

Anthony I. Paronich (*pro hac vice* to be
filed)
Paronich Law, P.C.
350 Lincoln Street, Suite 2400
Hingham, MA 02043
Telephone: (508) 221-1510
Email: anthony@paronichlaw.com

Counsel for Plaintiff

FILED
ROBERT M. SPEARS
2/12/2021
CLERK OF THE CIRCUIT COURT
PEORIA COUNTY, ILLINOIS

EXHIBIT A

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

This website uses cookies to offer you a better browsing experience. To learn about our use of cookies, see our [Privacy Policy](#). Click yes to accept. [Yes](#) [No](#)

- [Home](#)
- [Toggle submenu \(Solutions for Higher Education\)Solutions for Higher Education](#)
 - [LockDown Browser](#)
 - [Respondus Monitor](#)
 - [Respondus 4.0](#)
 - [StudyMate Campus](#)
 - [Test Bank Network](#)
- [Toggle submenu \(Solutions for K-12\)Solutions for K-12](#)
 - [LockDown Browser](#)
 - [StudyMate Campus](#)
 - [Respondus 4.0](#)
- [Toggle submenu \(Partnerships\)Partnerships](#)
 - [SDK Licensing](#)
 - [Technology Partners](#)
 - [Publishing Partners](#)
- [About Respondus](#)
- [News](#)
- [Support + Resources](#)
- [Webinars](#)
- [Events](#)
- [Contact](#)

[Skip to main content](#)

[About](#) [News](#) [Webinars](#) [Support](#) [Contact](#) [Customer Login](#)

Respondus[®]

Assessment Tools for Learning System



Terms of Use - Respondus Monitor (Student)

A copy of the Respondus Monitor Terms of Use for Students is shown below for reference. Please note, terms may vary by region. Certain institutions may also use customized versions of these terms. Students should review the terms that appear each time they start an exam as those are the exact terms they must agree to at their institution in order to use Respondus Monitor.

Respondus Monitor - Student Terms of Use

These Terms of Use ("Terms"), which incorporate the Respondus Help Center Terms of Use ("Help Center Terms") included at the end of these Terms, are an agreement between you and Respondus, Inc. ("Respondus"), and between you and your learning institution, or your school ("your Institution"), regarding your use of Respondus Monitor[®]. By using Respondus Monitor, you agree to these Terms in full and that you are age 14 or older, or age 16 or older in the EEA.

Respondus Monitor is a cloud-based service ("Respondus Monitor Services") and software ("Respondus Monitor Software") (also collectively referred to in these Terms as "Respondus Monitor"), that work together to provide an online interactive database of video, audio, and other data captured during student assessment sessions for use in monitoring students.

The Respondus Help Center is a group of services ("Help Services") provided by Respondus, Inc. that enable users of LockDown Browser and Respondus Monitor to troubleshoot technical issues. The Help Services include, for example, a webcam check, system check, the ability to report an issue to Respondus, and links to a knowledge base and technical support.

REQUIREMENTS OF YOUR INSTITUTION (e.g., your school)

<https://web.respondus.com/tou-monitor-student/>

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

As part of an effort to use available technology to improve your learning experience by providing convenience, security, and cost-effective education, your Institution is requiring students to use Respondus Monitor for certain, or all, courses. In order to use Respondus Monitor, you must agree to these Terms in full, including this section under REQUIREMENTS OF YOUR INSTITUTION, regarding your relationship with your Institution.

HOW "RESPONDUS MONITOR" WILL BE USED. The use of Respondus Monitor will require individual student activity to be recorded, both audibly and visually, during certain assessment sessions. Other data related to individual student activity during assessment sessions may also be recorded by Respondus Monitor, such as, for example, without limitation, time taken by a student to answer specific inquiries on an assessment, etc. The recordings are controlled by your Institution and will be processed by an agent of your Institution, namely, Respondus, through its Respondus Monitor Services. Respondus Monitor may analyze the recordings through automated processes to generate additional data derived from the recordings, with the additional data being associated with individual students for use by your Institution in evaluating the recordings. The additional data, as well as the original recordings, may be evaluated by agents of your Institution, including your instructors, to review, assess, and analyze student performance and conduct, among other things, for the purpose of improving educational processes for students, including investigating student conduct violations. Your Institution works with Respondus to help ensure your privacy regarding the recordings and to comply with federal regulations as to any information or data (including any of the video or audio recordings). See the sections below "PRIVACY" and "PRIVACY AND SECURITY POLICY". The complete Respondus Privacy Policy is available at www.respondus.com/privacy, and we recommend that you review it carefully, particularly if you reside in the European Economic Area.

ACTIVITY GENERAL. You are responsible for your conduct and activities arising during use of Respondus Monitor and for any information or data you provide to or through Respondus Monitor. Your Institution is not responsible for, nor liable for, any mistakes, inaccuracies, lack of usefulness, defamation, omissions, falsehood, obscenity or otherwise offensive material in any of the information or data provided to Respondus Monitor by users. You also understand that your Institution does not, and has no obligation to, monitor, pre-screen nor pre-approve information or data, but that your Institution shall nonetheless have the right (but not the obligation) in its sole discretion, to refuse, delete or move any information or data that is available via Respondus Monitor, for any reason, including a violation of any of these Terms.

WARRANTIES YOU PROVIDE TO YOUR INSTITUTION. You warrant and represent to your Institution that you are not infringing the intellectual property rights of others whenever you provide information or data on or through Respondus Monitor. You also agree that your Institution is not responsible for protecting any intellectual property rights you, or another party, may assert in any information or data you provide to Respondus Monitor.

OPT-OUT. If you cease to agree with these Terms, or the privacy and security policy below at some point in the future, you may opt-out by contacting your Institution. However, opting-out may affect how you will need to complete your course, and your Institution makes no representations regarding how it will affect your relevant course. As such, we encourage you to speak with your instructor before opting out.

DISCLAIMERS. Your Institution disclaims responsibility or liability for the accuracy, content, completeness, legality, reliability, operability or availability of information or data in the Respondus Monitor Service or Software. Your Institution further disclaims any responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any information or data. Your Institution disclaims any responsibility for any harm resulting from downloading or accessing any information or data through Respondus Monitor. You will bear all risk associated with any information or data you access. Your access or use of any information or data provided by Respondus Monitor or third parties is conditioned on your agreement to these Terms including these disclaimer provisions. Further disclaimers applicable to your relationship with your Institution, as well as with Respondus, are set forth below in the DISCLAIMER section under REQUIREMENTS OF RESPONDUS AND LICENSE PROVIDED BY RESPONDUS.

PRIVACY. The section below entitled PRIVACY & SECURITY POLICY, in conjunction with the full Respondus Privacy Policy available at www.respondus.com/privacy, shall govern the privacy policy with respect to Respondus Monitor. You agree with all reservations of right(s), disclaimers of liability, promises, and acknowledgements governing your relationship with Respondus under the PRIVACY & SECURITY POLICY and the full Respondus Privacy Policy available at www.respondus.com/privacy. As controller of the data, your Institution reserves the right at all times to disclose any information or data (including recordings and any content to the extent applicable) pertaining to you or any other user, as necessary, to comply with the law, a regulation or a governmental request.

MISCELLANEOUS. All legal issues arising from or related to the use of Respondus Monitor between you and your Institution shall be construed in accordance with the laws of the state in which your Institution resides, or if your Institution resides in more than one state, the state in which you attend your Institution, or the state in which the branch of your Institution resides with which you correspond. By using Respondus Monitor and thus agreeing to these Terms, you consent to personal jurisdiction and venue in the state and federal courts located in and serving the county in which your Institution resides, or if your Institution resides in more than one county, the county in which you attend your Institution, or the county in which the branch of your Institution resides with which you correspond. Your Institution may terminate your use of Respondus Monitor if you violate these Terms, and will terminate your use if you use Respondus Monitor to repeatedly infringe on the intellectual property rights of others. If your Institution should fail to enforce any right or provision in these Terms, this failure shall not constitute a waiver of such right or provision or of any other rights or provisions in these Terms. If a court should find that one or more rights or provisions set forth in these Terms are invalid, you agree that the remainder of the right or provisions shall be enforceable and that, to the extent permitted by law, the court shall give effect to the parties' intentions, as reflected in any such right or provision that has been declared invalid or unenforceable. If you do not agree to the Terms, you will not be permitted to use Respondus Monitor. Any term that would naturally

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

survive termination of these Terms shall survive, such as, for example, the disclaimers, and any warranties you provide herein, and this miscellaneous section.

Your Institution may terminate your access to Respondus Monitor at any time, if there is a violation of these Terms.

LICENSE REQUIREMENTS PROVIDED BY RESPONDUS

To the extent any terms below conflict with any terms under the REQUIREMENTS OF YOUR INSTITUTION above, the terms above shall govern with respect to your relationship with your Institution and the terms below shall govern with respect to your relationship with Respondus.

In addition, you acknowledge and understand that certain actions set forth in these Terms, which may be taken by Respondus (as outlined below), shall be taken at the direction of your Institution with Respondus acting as an agent of your Institution.

LICENSE GRANT AND ONLINE USE. If you accept these Terms and pay the required license fees to Respondus (if required by Respondus, at its discretion, as set forth below in the Section entitled FEES), you are granted a non-exclusive, non-transferable, non-assignable license to use Respondus Monitor subject to the conditions of these Terms. You may not modify, distribute, sell, or sublicense any part of Respondus Monitor. You may not reverse engineer or attempt to extract the source code of Respondus Monitor, unless laws prohibit those restrictions or you have written permission from Respondus. Respondus Monitor is licensed to you, not sold or transferred to you. You agree that you may not use Respondus Monitor in any way that conflicts with or violates these Terms or other agreements between you and any third-party, including that of your Institution's learning management system ("LMS") through which you are accessing the Respondus Monitor Services.

FEES. The license grant to use Respondus Monitor is separate from the license grant to use Respondus LockDown Browser. If you are initiating Respondus Monitor for demonstration purposes, you will not be charged. Also, Respondus may grant you a temporary license free-of-charge to use Respondus Monitor, at its sole discretion (such as, for example, for beta testing or pilot program purposes), but such free license grant may be terminated at any time by Respondus at its sole discretion.

PRIVACY & SECURITY POLICY. Respondus cares about your privacy and the security of your personal data. The Respondus Privacy Policy is available at www.respondus.com/privacy, and we recommend that you review it carefully, particularly if you reside in the European Economic Area. The information below summarizes important aspects of the security used with Respondus Monitor and how we process your personal data. Together with your Institution, the controller of the data, we work to protect the online privacy of those who use Respondus Monitor.

Respondus Monitor uses the following methods to limit access to personal information or data (e.g., student recordings or other personal information).

Respondus Monitor uses industry standard SSL (Secure Socket Layer) or TLS (Transport Layer Security) encryption to transfer information. Student identifiable information including name, grade, course name, and photos that show identification cards can only be accessed through the learning management system's (LMS's) extension architecture (e.g., Blackboard Building Block).

Only users with instructor credentials for the LMS course (e.g., instructors, teaching assistants, LMS administrators) are able to view video sessions in conjunction with student identifiable information.

Video URLs are "one-time use" and will not function if copied. Respondus uses independent, third-party security firms to perform "penetration testing" of the Respondus Monitor system. This includes a review of the Respondus Monitor architecture and the testing for vulnerabilities and exploits.

Unfortunately, no data transmission over the Internet is 100% secure, and Respondus does not warrant the security of any information collected using its services. By agreeing to these Terms, you agree to use Respondus Monitor at your own risk, and agree that Respondus shall not be liable if a security breach occurs, if the site malfunctions, or if information is misused or mismanaged in any way to your detriment or the detriment of a student or third party, whether by Respondus, your institution, or an unauthorized third party.

The use of Respondus Monitor will require individual student activity to be recorded, both audibly and visually, during certain assessment sessions. Other data related to individual student activity during assessment sessions may also be recorded by Respondus Monitor, such as, for example, without limitation, time taken by a student to answer specific inquiries on an assessment, etc. The recordings may be stored by Respondus, through its Respondus Monitor Services. Respondus Monitor may analyze the recordings through automated processes to generate additional data derived from the recordings, with the additional data being associated with individual students for use by your Institution in evaluating the recordings. The original recordings and data (as referenced above) may be evaluated by agents of your Institution, including your instructors, to review, assess, and analyze student performance and conduct, among other things. The data and recordings may also be used for investigating student conduct violations. Respondus personnel do not review/analyze the recordings except as may be required to resolve technical problems, improve system performance, modify Respondus Monitor, investigate violations of these Terms, or as may be directed by your Institution.

Each student that is recorded will have a unique username or identification code ("ID") and password through the Institution's (or learning institution's) LMS. The ID and password will be usable by students, at the discretion of the Institution, to allow students to transmit recordings and data to the online component of Respondus Monitor if required by Institution as part of an assessment activity. Instructors, administrators and other agents of Institution, may access those recordings and data related to their students through Respondus Monitor. You must guard your password and not share it with anyone to help ensure your security and privacy.

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

Random samples of video and/or audio recordings may be collected via Respondus Monitor and used by Respondus to improve the Respondus Monitor capabilities for institutions and students. The recordings may be shared with researchers (research institutions and/or biometric experts) under contract with Respondus to assist in such research, and the researchers are under written obligation to maintain the video and/or audio recordings in confidence and under terms at least as strict as the terms herein. No personally identifiable information for students is provided with the video and/or audio recordings to researchers, such as the student's name, course name, institution, grades, or student identification photos submitted as part of the Respondus Monitor exam session. Other than the research purposes identified above, Respondus will not share recordings or personally identifying information of any particular student (collectively also referred to herein as "personal information or data") with third parties (third parties do not include the student who provided the personal information, the parent/guardian of a student under the age of 18 who provided personal information, or the institution who authorized access by the student to Respondus Monitor Services) unless specifically required by institution. For example, if institution uses third parties to manage student personal information (e.g., institution agents), the institution may direct Respondus to share the personal information with that third party under the institution's direction and control.

If, in the future, Respondus, or substantially all of its assets are acquired, the maintenance of all collected personal information or data (including any recordings) may be transferred to the acquiring party, provided that the acquiring party implement a privacy and security policy at least as restrictive as this one, or otherwise compliant with current legal standards, and provided that the collected personal information and data remain under the control of your institution.

Respondus reserves the right at all times to disclose any information or data (including recordings and any content to the extent applicable) stored by you, your institution, or any other user as necessary, to comply with the law, a regulation or a governmental request, or to edit or remove any information or data, in whole or in part, that in Respondus' sole discretion, is in violation of these Terms.

If you have any questions regarding privacy and security policy, please contact Respondus by email at or by writing to:

Respondus, Inc.
Attn: Legal - Privacy Team
8201 164th Ave NE, Suite 200
Redmond, WA 98052
USA
Via email: privacy@Respondus.com

USER CONDUCT. You promise NOT to use Respondus Monitor for any of the following purposes or activities:

- a. conducting or supporting illegal activity of any type whatsoever;
 - b. transmitting or storing worms or viruses or any code of a destructive nature;
 - c. threatening, harassing, abusing, impersonating, injuring or intimidating others;
 - d. engaging in vulgar, invasive, or hateful conduct, or conduct that invades another's privacy;
 - e. interfering with others' use of Respondus Monitor, unless such interference is for the purpose of complying with another section of these Terms;
 - f. delivering spam or collecting information to deliver spam, or sending unsolicited advertisements;
 - g. decompiling, disassembling, reverse engineering or otherwise attempting to discover any source code contained in Respondus Monitor;
 - h. disguising the origin of any content transmitted through Respondus Monitor or manipulating your presence on Respondus Monitor; and/or
 - i. causing the launch of any automated system(s) that access Respondus Monitor in a manner that sends more request messages to servers of Respondus in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser.
- RESPONDUS USERNAME/ID AND PASSWORD POLICY.** You must guard the access credentials (e.g., user name and password) that you use to access your institution's learning system to help ensure your own privacy and security with respect to recordings you initiate using Respondus Monitor, and not share those credentials with others.

ACTIVITY GENERAL. You are responsible for your conduct and activities arising during use of Respondus Monitor and for any information or data you provide to or through Respondus Monitor. You agree that Respondus is not responsible for, nor liable for, any mistakes, inaccuracies, lack of usefulness, defamation, omissions, falsehood, obscenity or otherwise offensive material in any of the information or data provided to Respondus by users. You also understand that Respondus does not, and has no obligation to, monitor, pre-screen nor pre-approve information or data, but that Respondus shall nonetheless have the right (but not the obligation) in its sole discretion, to refuse, delete or move any information or data that is available via Respondus Monitor, for any reason, including a violation of any of these Terms (however, if Respondus elects to, for any reason, refuse, delete or move any recording of student activity for violation of these Terms, Respondus may save a copy of such recording for access by the institution).

LICENSE PROVIDED TO RESPONDUS. Respondus Monitor will save all recordings of students for a period of one (1) year. Institutions have the ability to retain the data for up to an additional four (4) years. However, Respondus does not guarantee removal of all traces of any information or data (including recordings) from the Respondus Monitor Services after deletion. Respondus does not claim ownership in the information or data institution or any students provide; however, by providing information or data to Respondus, you grant Respondus, and its affiliates, a fully paid-up, perpetual license to use, store, modify, copy, and transmit any such information or data for the purpose of carrying out the Respondus Monitor Services in accordance with these Terms. **CHANGES.** Respondus reserves the right to change these Terms at any

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

time, at its discretion, without advance notice to you. Respondus also reserves the right to terminate this service at any time after the end of your current license, without notice; however, if your license is a free license, Respondus reserves the right to terminate your license at any time without notice. If your Institution terminates use of Respondus Monitor during your current license, such that you no longer require use of Respondus Monitor, no refunds will be available.

WARRANTIES YOU PROVIDE. You warrant and represent to Respondus that you are not infringing the intellectual property rights of others whenever you provide information or data on or through Respondus Monitor. You also agree that Respondus is not responsible for protecting any intellectual property rights you, or another party, may assert in any information or data you provide to Respondus Monitor.

OPT-OUT. If you cease to agree with these Terms, or the privacy and security policy at some point in the future, you may opt-out by contacting your Institution. However, opting-out may affect how you will need to complete your course, and Respondus makes no representations regarding how it will affect your relevant course. As such, we encourage you to speak with your instructor before opting out.

DISCLAIMERS. Respondus disclaims responsibility or liability for the accuracy, content, completeness, legality, reliability, operability or availability of information or data in Respondus Monitor. Respondus further disclaims any responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any information or data. Respondus disclaims any responsibility for any harm resulting from downloading or accessing any information or data through Respondus Monitor. You will bear all risk associated with any information or data you access. Your access or use of any information or data provided by Respondus Monitor or third parties in connection with Respondus Monitor is conditioned on your agreement to these Terms including these disclaimer provisions.

RESPONDUS MONITOR IS PROVIDED TO YOU, "AS IS," WITH NO WARRANTIES WHATSOEVER. ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, ARE EXPRESSLY DISCLAIMED. TO THE FULLEST EXTENT PERMITTED BY LAW, RESPONDUS DISCLAIMS ANY WARRANTIES FOR THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF RESPONDUS MONITOR. RESPONDUS SIMILARLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY WARRANTIES FOR ANY INFORMATION OR ADVICE OBTAINED THROUGH RESPONDUS MONITOR.

YOU UNDERSTAND AND AGREE THAT ANY INFORMATION OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF RESPONDUS MONITOR IS OBTAINED AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT MAY RESULT IN THE DOWNLOAD OF SUCH INFORMATION OR DATA. UNDER NO CIRCUMSTANCES SHALL RESPONDUS BE LIABLE TO ANY USER ON ACCOUNT OF THAT USER'S USE OR MISUSE OF AND RELIANCE ON RESPONDUS MONITOR. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF RESPONDUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON RESPONDUS MONITOR, FROM INABILITY TO USE THE RESPONDUS MONITOR, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF RESPONDUS MONITOR OR BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH RESPONDUS MONITOR. THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

INTELLECTUAL PROPERTY. All web design, text, graphics, the selection and arrangement thereof, and all software compilations, underlying source code, software and all other material on Respondus Monitor are either the copyright or trademark of Respondus, or covered by other intellectual property rights of Respondus or a third party licensor of Respondus. Any use of Respondus Monitor beyond the purpose indicated above is strictly prohibited. You shall not acquire any rights in Respondus' Intellectual property by using Respondus Monitor.

MISCELLANEOUS. All legal issues arising from or related to the use of Respondus Monitor between you and Respondus shall be construed in accordance with the laws of the State of Washington, without regard to conflicts of law principles. Respondus may terminate your use of Respondus Monitor if you violate these Terms, and will terminate your use if you use Respondus Monitor to repeatedly infringe on the intellectual property rights of others. These Terms constitute the entire agreement between the parties with respect to the subject matter contained herein and supersede any other agreements between Respondus and you regarding Respondus Monitor. If Respondus should fail to enforce any right or provision in these Terms, this failure shall not constitute a waiver of such right or provision or of any other rights or provisions in these Terms. If a court should find that one or more rights or provisions set forth in these Terms are invalid, you agree that the remainder of the right or provisions shall be enforceable and that, to the extent permitted by law, the court shall give effect to the parties' intentions, as reflected in any such right or provision that has been declared invalid or unenforceable. If you do not agree to the Terms, you will not be permitted to use this Service. Any term that would naturally survive termination of these Terms shall survive, such as, for example, the DISCLAIMERS, WARRANTIES YOU PROVIDE, and this MISCELLANEOUS section.

Respondus Help Center Terms of Use ("Help Center Terms")

The Respondus Help Center is a group of services ("Help Services") provided by Respondus, Inc. ("Respondus") that enable users of LockDown Browser® and Respondus Monitor® to troubleshoot technical issues. The Help Services include, for example, a webcam check, system check, the ability to report an issue to Respondus, and links to a knowledge base and technical support.

Accepting the Terms

In order to use the Help Services, you must first agree to the terms ("Help Center Terms") as outlined herein. You may not use the Help Services if you do not accept the Help Center Terms. You can accept the Help Center Terms by: (A) clicking to accept or agree to the Help

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

Center Terms, where this option is made available to you by Respondus in the user interface of the Help Services or other Respondus services; or (B) by otherwise using the Help Services. In any case, you understand and agree that Respondus will treat your use of the Help Services as acceptance of the Help Center Terms.

Data Collection

Respondus collects data to operate effectively and to strive to provide you with the best experience with LockDown Browser and Respondus Monitor. You provide some of this data directly, such as when you contact us for support. Some data is obtained by recording how you interact with LockDown Browser and Respondus Monitor by, for example, receiving error reports or usage data from software running on your device. The data we collect depends on the features you use within the Help Services, and includes the following:

Webcam & Microphone Check. The webcam and microphone check streams video and audio from your webcam to the Respondus servers. The video and audio can then be played back by you to ensure the webcam and microphone are working properly. The video and audio recorded during the webcam and microphone check is stored in temporary cache on the Respondus server and is automatically deleted in about an hour. Persistent storage is not used for these recordings, and Respondus does not provide a way to electronically identify the recordings as being transmitted from a specific user.

System Check. The System Check gathers certain information from your computing device, the networking environment, the institution's Learning Management System, and the Respondus Monitor server itself.

All data gathered during the System Check is presented to you on your screen, including a unique System Check ID. The System Check does NOT contain username, user ID, or the password used to access the institution's Learning Management System.

You have the option to send System Check results by email, and if so, you must enter an email address for the recipient of the email message. If the System Check results are sent by email, log files from software of LockDown Browser are additionally transmitted to a Respondus server. Log files contain details of the interaction between the LockDown Browser and/or Respondus Monitor and your institution's Learning Management System, from the time you log into the Learning Management System using LockDown Browser and Respondus Monitor until the session is exited or terminated. Log files are stored locally on your computer in an encrypted format and, if transmitted to Respondus, are sent in encrypted format over HTTPS. Log files do NOT contain user name, user ID, or the password used to access the institution's Learning Management System.

System Check data and log files may be sent to a Respondus web server or a third party cloud server for storage and further processing by Respondus. Respondus may use System Check data and log files to assist you with a technical issue. Respondus may also aggregate and analyze the System Check data to, for example, improve the Software or its technical support services. System Check data and log files aren't sold, distributed, or made available to affiliate or third party businesses. Report An Issue. The Report An Issue feature enables you to provide feedback to Respondus about LockDown Browser and Respondus Monitor. System Check data and log files, as described above, are collected by Respondus during this process. You are informed of this transfer of data each time the Report An Issue feature is used. You may choose, but you are not required, to provide an email address and contact information when using this feature. System Check data, log files, contact information, and feedback you provide may be sent to a Respondus web server or third party cloud server for storage and further processing by Respondus. No data transmitted to Respondus from the Report An Issue feature will be sold, distributed, or made available to affiliate or third party businesses.

Knowledge Base. A link to a knowledge base is included with the Help Services. No individual data is collected by Respondus during the use of the knowledge base, although Respondus may analyze aggregated usage data of the knowledge base to improve the service.

Technical Support. The Help Services contains a link that enables users to open a support ticket with Respondus. The System Check ID for the most recent System Check is automatically populated in the form used to create a support ticket. You must additionally enter your name and a valid email address through which communication with the Respondus support team will occur. Throughout the support process, you may, at your own discretion, provide personally identifiable information that will be used by the Respondus support team to analyze the issue and communicate with you. All communication between you and the Respondus team is stored on a Respondus web server, and may be used by Respondus to improve LockDown Browser and/or Respondus Monitor.

Express Incorporation. All conditions set forth in the Respondus Monitor Terms of Use, including the RESPONDUS PRIVACY POLICY at www.respondus.com/privacy, and the sections PRIVACY & SECURITY POLICY, USER CONDUCT, RESPONDUS USERNAME/ID AND PASSWORD POLICY, ACTIVITY GENERAL, CHANGES, WARRANTIES YOU PROVIDE, OPT-OUT, DISCLAIMERS, INTELLECTUAL PROPERTY, and MISCELLANEOUS are expressly included in these Help Center Terms to the extent applicable. Respondus will not use data collected via the Help Services in any way that conflicts with the Respondus Monitor Terms of Use. You also expressly agree not to use the Help Services in any way that conflicts with any of the Respondus Monitor Terms of Use, including, for example, the prohibitions set forth in the USER CONDUCT section. Respondus cannot make representations regarding the security of information you transmit through a third party email service provider while using the Help Services; however, to the extent Respondus stores any such information, the storage of such information by Respondus will be compliant with the PRIVACY & SECURITY POLICY and the RESPONDUS PRIVACY POLICY at www.respondus.com/privacy.

Vs 04ADMINTOU20

11/2/2020

Terms of Use - Respondus Monitor (Student) - Respondus

Respondus

- [About](#)
- [Support](#)
- [Student Help](#)
- [Contact](#)
- [Privacy](#)
- [Trademark](#)
- [Twitter](#)

- [Respondus for Higher Ed](#)
- [LockDown Browser](#)
- [Respondus Monitor](#)
- [Respondus 4.0](#)
- [StudyMate Campus](#)
- [Test Bank Network](#)

- [Respondus for K-12](#)
- [LockDown Browser](#)
- [Respondus 4.0](#)
- [StudyMate Campus](#)

- [Partnerships](#)
- [SDK Licensing](#)
- [Technology Partners](#)
- [Publishing Partners](#)

Copyright © 2020 Respondus, Inc. All rights reserved.

FILED
ROBERT M. SPEARS
2/12/2021
CLERK OF THE CIRCUIT COURT
PEORIA COUNTY, ILLINOIS

EXHIBIT B

11/2/2020

Privacy Policy - Respondus

This website uses cookies to offer you a better browsing experience. To learn about our use of cookies, see our [Privacy Policy](#). Click yes to accept. [Yes](#) [No](#)

- [Home](#)
- [Toggle submenu \(Solutions for Higher Education\)Solutions for Higher Education](#)
 - [LockDown Browser](#)
 - [Respondus Monitor](#)
 - [Respondus 4.0](#)
 - [StudyMate Campus](#)
 - [Test Bank Network](#)
- [Toggle submenu \(Solutions for K-12\)Solutions for K-12](#)
 - [LockDown Browser](#)
 - [StudyMate Campus](#)
 - [Respondus 4.0](#)
- [Toggle submenu \(Partnerships\)Partnerships](#)
 - [SDK Licensing](#)
 - [Technology Partners](#)
 - [Publishing Partners](#)
- [About Respondus](#)
- [News](#)
- [Support + Resources](#)
- [Webinars](#)
- [Events](#)
- [Contact](#)

[Skip to main content](#)

[About](#) [News](#) [Webinars](#) [Support](#) [Contact](#) [Customer Login](#)

Respondus[®]

Assessment Tools for Learning System



Privacy Center

- [Privacy Center](#)
- [Privacy Policy](#)
- [Privacy Contact](#)
- [GDPR + Privacy Shield](#)
- [Data Processing Agreement](#)

Respondus Privacy Policy

Last Updated: September 28, 2020

Overview

Respondus cares about your privacy. For this reason, we collect and use personal data only as it might be needed to deliver an exceptional experience using a Respondus application, website, service, or tool (collectively "Services"), regardless of how you access or use them, including through mobile devices.

Our Privacy Policy is intended to describe how and what data we collect, and how and why we use your personal data. It also describes options we provide that let you take control of your personal data that we process.

If at any time you have questions about our practices or any of your rights described below, you may contact us at privacy@respondus.com. This inbox is actively monitored and managed so we can deliver an experience that you can trust.

11/2/2020

Privacy Policy - Respondus

Similarly, we've created a [Privacy Center](#) to provide answers to your most common questions and service-specific details about personal data collection and usage.

What is Personal Information?

Personal Information is a name, address, telephone number, email address, identification number, online identifier, and other data collected that could directly or indirectly identify you.

We do not consider personal information to include information that has been anonymized or aggregated so that it can no longer be used to identify a specific natural person, whether in combination with other information or otherwise.

What information do we collect?

We collect information so we can provide the best possible experience when you use our Services. Much of what you likely consider personal data is collected directly from you when you:

1. create an account or purchase any of our Services (e.g. name, address, email, phone number, and other billing information);
2. interact with an account manager (e.g. email, phone number, address, job title, institution);
3. request assistance from our customer support team (e.g. email, phone number);
4. complete contact forms, register a product, sign up for a beta program, submit feedback, sign up for a newsletter, or request other information from us (e.g. email); or,
5. participate in contests and surveys, visit our exhibit at a tradeshow, attend a training webinar, or otherwise participate in activities we promote that might require information about you.

We also collect additional information when delivering our Services to you to ensure necessary and optimal performance. This might include account related information that's collected in association with your use of our Services, such as account number, purchases, when products renew or expire, information requests, and customer service requests and notes or details explaining what you asked for and how we responded.

We may also collect information when you open or view a marketing email from us or click on a link within a marketing email.

Our [Privacy Center](#) provides further details about the personal information gathered across various Services, how that information is used, and the legal basis for using the data.

Cookies and similar technologies

Cookies and similar tracking technologies store information about your use of a particular website or service and are typically used to make services more convenient and personalized. Most cookies are "session cookies," which are automatically deleted whenever you leave a website (and end the "session"). Some cookies remain on your computer until you remove them.

We use cookies and similar tracking technologies on our websites (1) to estimate the number of visitors to the site, (2) to measure general traffic patterns, (3) to store the items you've placed in your shopping cart, and (4) to improve and customize your user experience with our Services. For additional information, and to learn how to manage the technologies we utilize, you can read our policy on [our use of cookies, web beacons and similar technologies](#).

Most browsers permit you to set the browser to accept, reject, or notify you of cookie use. However, some parts of our Services may not function properly if your browser is set to reject cookies. For example, the Administrator Area of Respondus.com uses session cookies to allow a user to navigate from one page to the next without having to login again for each page.

How we use your personal information

We strongly believe in both minimizing the data we collect and limiting its use and purpose to only (1) that for which we have been given permission, (2) that which is necessary to deliver the Services you purchase or interact with, or (3) as we might be required or permitted for legal compliance or other lawful purposes.

We collect various information relating to your purchase or use and/or interactions with our Services to deliver, improve, update and enhance the Services we provide you. We use this information to:

- Improve and optimize the operation and performance of our Services (again, including our websites and mobile applications)
- Diagnose problems with and identify any security risks, errors, or needed enhancements to the Services
- Detect and prevent fraud and abuse of our Services and systems
- Collect aggregate statistics about use of the Services
- Understand and analyze how you use our Services and what products and services are most relevant to you.

Often, much of the data collected is aggregated or statistical data about how individuals use our Services, and is not linked to any personal data, but to the extent that usage data is itself personal data, or is linked or linkable to personal data, we treat it accordingly.

11/2/2020

Privacy Policy - Respondus

How we might share your personal information

We do not sell, rent, or otherwise disclose your personal information to third parties for their marketing and advertising purposes. We may disclose your personal information to partner companies where you have agreed to have that information shared. This disclosure may be required for us to provide you access to our Services, to comply with our legal obligations, to enforce our Terms of Use, to facilitate our marketing activities, or to prevent, detect, mitigate, and investigate fraudulent or illegal activities related to our Services. We attempt to minimize the amount of personal information we disclose to what is directly relevant and necessary to accomplish the specified purpose.

If you use our Services from a country other than the country where our servers are located, your communications with us may result in the transfer of your personal data across international borders. Also, when you call us or initiate contact with a Respondus representative, we may provide you with support from one of our global locations outside your country of origin. In these cases, your personal data is handled according to this Privacy Policy.

We cooperate with government and law enforcement officials and private parties to enforce and comply with the law. We will disclose any information about you to government or law enforcement officials or private parties as we, in our sole discretion, believe necessary or appropriate to respond to claims and legal process (such as subpoena requests), to protect our property and rights or the property and rights of a third party, to protect the safety of the public or any person, or to prevent or stop activity we consider to be illegal or unethical. To the extent we are legally permitted to do so, we will take reasonable steps to notify you in the event that we are required to provide your personal information to third parties as part of a legal process.

We remain responsible for care of the data that is transferred to third parties, unless you direct us to forward it to the third party.

How we might communicate with you

We may contact you directly regarding products or services you have purchased from us, such as may be necessary to deliver transactional or service related communications. We may also contact you regarding products or services when additional information is requested. We may contact you with offers for additional services we think you'll find valuable if you give us consent, or where allowed based upon legitimate interests. These contacts may include email, text (SMS) messages, telephone calls, and printed mailings.

How you can access, update or delete your data

To update your subscription preferences or discontinue receiving marketing emails from us, scroll to the bottom of a Respondus email message and select the "Unsubscribe" or "Profile Center" link. Follow the instructions from there.

You can also email subscribe@respondus.com with instructions on your communication preferences; to unsubscribe from all email communications, include the word UNSUBSCRIBE in the subject line.

If you would like to request that your personal information be completely removed from our database, please contact us at privacy@respondus.com.

If you would like to access or update your personal information, please contact us at privacy@respondus.com.

How we secure, store and retain your data

We follow generally accepted standards to store and protect the personal data we collect, both during transmission and once received and stored, including the use of encryption where appropriate.

We retain personal data only for as long as necessary to provide the Services you have requested and thereafter for a variety of legitimate legal or business purposes. These might include retention periods:

- mandated by law, contract or similar obligations applicable to our business operations;
- for preserving, resolving, defending or enforcing our legal/contractual rights; or
- as needed to maintain adequate and accurate business and financial records.

If you have any questions about the security or retention of your personal data, you can contact us at privacy@respondus.com.

Changes in our Privacy Policy

We reserve the right to modify this Privacy Policy at any time. If we decide to change our Privacy Policy, we will post those changes on our website and any other places we deem appropriate, so that you are aware of what information we collect, how we use it, and under what circumstances, if any, we disclose it. If we make material changes to this Privacy Policy, we will notify you here, by email, or by means of a notice on our home page, at least thirty (30) days prior to the implementation of the changes.

Contact Us

11/2/2020

Privacy Policy - Respondus

If you have any questions, concerns or complaints about our Privacy Policy, our practices or our Services, you may contact us by email at privacy@respondus.com.

If you prefer, you can send correspondence to:

Respondus
Attn: Legal - Privacy Team
8201 164th Ave NE, Suite 200
Redmond, WA 98052
USA

We will respond to all requests, inquiries or concerns within thirty (30) days, but probably much sooner than that.

Respondus

- [About](#)
- [Support](#)
- [Student Help](#)
- [Contact](#)
- [Privacy](#)
- [Trademark](#)
- [Twitter](#)

- [Respondus for Higher Ed](#)
- [LockDown Browser](#)
- [Respondus Monitor](#)
- [Respondus 4.0](#)
- [StudyMate Campus](#)
- [Test Bank Network](#)

- [Respondus for K-12](#)
- [LockDown Browser](#)
- [Respondus 4.0](#)
- [StudyMate Campus](#)

- [Partnerships](#)
- [SDK Licensing](#)
- [Technology Partners](#)
- [Publishing Partners](#)

Copyright © 2020 Respondus, Inc. All rights reserved.

FILED
ROBERT M. SPEARS
2/12/2021
CLERK OF THE CIRCUIT COURT
PEORIA COUNTY, ILLINOIS

EXHIBIT C

This website uses cookies to offer you a better browsing experience. To learn about our use of cookies, see our [Privacy Policy](#). Click yes to accept. [Yes](#) [No](#)

- [Home](#)
- [Toggle submenu \(Solutions for Higher Education\)Solutions for Higher Education](#)
 - [LockDown Browser](#)
 - [Respondus Monitor](#)
 - [Respondus 4.0](#)
 - [StudyMate Campus](#)
 - [Test Bank Network](#)
- [Toggle submenu \(Solutions for K-12\)Solutions for K-12](#)
 - [LockDown Browser](#)
 - [StudyMate Campus](#)
 - [Respondus 4.0](#)
- [Toggle submenu \(Partnerships\)Partnerships](#)
 - [SDK Licensing](#)
 - [Technology Partners](#)
 - [Publishing Partners](#)
- [About Respondus](#)
- [News](#)
- [Support + Resources](#)
- [Webinars](#)
- [Events](#)
- [Contact](#)
- [Customer Login](#)

[Skip to main content](#)

[About](#) [News](#) [Webinars](#) [Support](#) [Contact](#) [Customer Login](#)



A copy of the Respondus Monitor Terms of Use for institutions is shown below for reference. Please note, terms may vary by region. Certain institutions may also use customized versions of these terms. License administrators can find the terms of use specific to their institution in the Respondus Administrator area.

Respondus Monitor - Institution License and Terms of Use

These Terms of Use ("Terms") are an agreement between the institution to which license and access to Respondus Monitor is granted ("Institution"), and Respondus, Inc., ("Respondus"), regarding the Institution's use of Respondus Monitor. Institution agrees to these Terms in full before using Respondus Monitor.

SERVICE AND SOFTWARE COMPONENTS. Respondus Monitor is a cloud-based service ("Respondus Monitor Services") and software ("the Software") (also collectively referred to herein as "Respondus Monitor"), that work together to provide an online interactive database of video/audio

recordings and associated data featuring student activity captured during student assessment sessions for use in monitoring students.

LICENSE GRANT AND USE. If Institution accepts these Terms, Institution is granted a non-exclusive, non-transferable, non-assignable license to use the Software and to access and use the Respondus Monitor Services, in accordance with these Terms, subject to license fees requirements as explained below, and as may be further specified in a separate license fee agreement. Institution may not modify, distribute, sell, or sublicense any part of Respondus Monitor. Institution may not reverse engineer or attempt to extract the source code of Respondus Monitor, unless laws prohibit those restrictions or unless Institution otherwise receives written permission from Respondus. Respondus Monitor is licensed to Institution, not sold or transferred to Institution. Institution agrees that it may not use Respondus Monitor in any way that conflicts with or violates these Terms or other agreements between Institution and any third-party, including that of the learning management system ("LMS") through which Institution accesses Respondus Monitor Services. Institution warrants and represents that it will not violate any law, regulation or contractual obligation by entering into these Terms, and that it is free to enter into these Terms.

FEES. The license grant for Respondus Monitor is separate from that of Respondus Lockdown Browser. If Institution is being granted access to a "beta" version of Respondus Monitor under these Terms, or is participating in a pilot program for Respondus Monitor under these Terms, no license fees will be charged by Respondus for Institution's use of Respondus Monitor as part of the pilot program, or for Institution's use of the beta version made available by Respondus. However, Respondus reserves the right to terminate any non-paid license grant to the Software or non-paid grant of access to Respondus Monitor Services (including for a beta version or pilot program), at any time, subject to any other written agreement(s) between the parties. License fees for Respondus Monitor are provided in a separate license fee agreement, if and when applicable, and are incorporated herein by reference.

SUPPORT AND MAINTENANCE. Support and maintenance terms for Respondus Monitor are detailed in the separate license fee agreement, if and when applicable, and are incorporated herein by reference.

PRIVACY & SECURITY POLICY. Respondus cares about your privacy and the security of your personal data. The Respondus Privacy Policy is available at www.respondus.com/privacy, and we recommend that you review it carefully, particularly if you reside in the European Economic Area. The information below summarizes important aspects of the security used with Respondus Monitor and how we process your personal data. Together with your Institution, the controller of the data, we work to protect the online privacy of those who use Respondus Monitor.

Respondus Monitor uses the following methods to limit access to video sessions and associated data.

1. Respondus Monitor uses industry standard SSL (Secure Sockets Layer) or TLS (Transport Layer Security) encryption to transfer information.
2. Student identifiable information including name, grade, course name, and photos that show identification cards can only be accessed through the learning management system's (LMS's) extension architecture (e.g., Blackboard Building Block).
3. Only users with instructor credentials for the LMS course (e.g., instructors, teaching assistants, LMS administrators) are able to view video sessions in conjunction with the student identifiable information.
4. Video URLs are "one-time use" and will not function if copied.
5. Respondus uses independent, third-party security firms to perform "penetration testing" of the Respondus Monitor system. This includes a review of the Respondus Monitor architecture and the testing for vulnerabilities and exploits.

Unfortunately, no data transmission over the Internet is 100% secure, and Respondus does not warrant the security of any information collected using its services. By agreeing to these Terms, Institution agrees to use Respondus Monitor at its own risk, and agrees that Respondus shall not be liable if a security breach occurs, if the site malfunctions, or if information is misused or mismanaged in any way to Institution's detriment or to the detriment of a student, staff member or third party, whether by Respondus, Institution, or an unauthorized third party.

Each student that is recorded will have a unique username or identification code ("ID") and password through the Institution's LMS. The ID and password will be usable by students, at the discretion of Institution, to allow students to transmit recordings to the online component of Respondus Monitor if required by Institution as part of an assessment activity. Instructors, administrators, and other agents of Institution may access those recordings related to the Institution's students through Respondus Monitor.

Random samples of video and/or audio recordings may be collected via Respondus Monitor and used by Respondus to improve the Respondus Monitor capabilities for institutions and students. The recordings may be shared with researchers (research institutions and/or biometric experts) under contract with Respondus to assist in such research, and the researchers are under written obligation to maintain the video and/or audio recordings in confidence and under terms at least as strict as the terms herein. No personally identifiable information for students is provided with the video and/or audio recordings to researchers in the nature of student names, course names, institution, grades, or student identification photos submitted as part of the Respondus Monitor exam session.

Other than the research purposes identified above, Respondus will not share recordings or personally identifying information of any particular student (collectively also referred to herein as "personal information or data") with third parties (third parties do not include the student who provided the personal information, the parent/guardian of a student under the age of 18 who provided personal information, or the institution who authorized access by the student to Respondus Monitor Services), unless specifically required by Institution. For example, if Institution uses third parties to manage student personal information, Institution may direct Respondus to share the personal information or data with that third party

under Institution's direction and control.

If, in the future, Respondus, or substantially all of its assets are acquired, the maintenance of all collected personal information or data (including any recordings) may be transferred to the acquiring party, provided that the acquiring party implement a privacy and security policy compliant with current legal standards, and provided that the collected personal information and data remain under the control of Institution.

Respondus Monitor analyzes the recordings of student activity as part of an automated proprietary process. Respondus personnel do not review/analyze the recordings except as may be required to resolve technical problems, improve system performance, modify Respondus Monitor services, investigate violations of these Terms, or as may be directed by Institution.

Respondus reserves the right at all times to disclose any information or data (including recordings and any content to the extent applicable) stored by Institution, students or any other user as necessary, to comply with the law, a regulation or a governmental request, or to edit or remove any information or data, in whole or in part, that in Respondus' sole discretion, is in violation of these Terms (however, if Respondus elects to, for any reason, refuse, delete or move any recording of student activity for violation of these Terms, Respondus will save a copy of such recording for access by the Institution, subject to conditions of these Terms that define the duration of storage of such recordings otherwise).

If you have any questions regarding privacy and security policy, please contact Respondus by email or by writing to:

Respondus, Inc.
Attn: Legal - Privacy Team
8201 164th Ave NE, Suite 200
Redmond, WA 98052 USA
Via email: privacy@respondus.com

USER CONDUCT. Institution shall be responsible for the conduct of all of its agents, including, such as, for example, instructors that use Respondus Monitor, to ensure that Institution's agents comply with these Terms on behalf of Institution. Institution promises NOT to use Respondus Monitor Services or Software for any of the following purposes or activities:

- a. conducting or supporting illegal activity of any type whatsoever;
- b. transmitting or storing worms or viruses or any code of a destructive nature;
- c. threatening, harassing, abusing, impersonating, injuring or intimidating others;
- d. engaging in vulgar, invasive, or hateful conduct, or conduct that invades another's privacy;
- e. interfering with others' use of Respondus Monitor Services or Software, unless such interference is for the purpose of complying with another section of these Terms;
- f. delivering spam or collecting information to deliver spam, or sending unsolicited advertisements;
- g. decompiling, disassembling, reverse engineering or otherwise attempting to discover any source code contained in the Software or the Respondus Monitor Services;
- h. disguising the origin of any content transmitted through the Respondus Monitor Services or Software or manipulating a user's presence on Respondus Monitor Services or Software; and/or
- i. causing the launch of any automated system(s) that access the Respondus Monitor Services or Software in a manner that sends more request messages to servers of Respondus in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser.

ACTIVITY GENERAL. Institution is responsible for the conduct of all of its agents, including instructors, and their activities arising during use of Respondus Monitor and for any information or data they provide to or through Respondus Monitor. Institution agrees that Respondus is not responsible for, nor liable for, any mistakes, inaccuracies, lack of usefulness, defamation, omissions, falsehood, obscenity or otherwise offensive material in any of the information or data provided to users. Institution also understands that Respondus does not, and has no obligation to, monitor, pre-screen nor pre-approve information or data, but that Respondus shall nonetheless have the right (but not the obligation) in its sole discretion, to refuse, delete or move any information or data that is available via Respondus Monitor, if such information or data violates any of these Terms, subject to the obligation to save any student activity recordings as described above under the PRIVACY & SECURITY POLICY section and as further described below under LICENSE PROVIDED TO RESPONDUS.

LICENSE PROVIDED TO RESPONDUS. Respondus Monitor will save all recordings of students for a period of one (1) year. Institutions have the ability to retain the data for up to an additional four (4) years. However, Respondus does not guarantee removal of all traces of any information or data (including recordings) from the Respondus Monitor Services after deletion. **Respondus does not claim ownership in the information or data Institution or any students provide;** however, by providing information or data to Respondus, Institution grants Respondus, and its affiliates, a fully paid-up, perpetual license to use, store, modify, copy, and transmit any such information or data for the purpose of carrying out the Respondus Monitor Services in accordance with these Terms.

CHANGES AND TERMINATION. Respondus reserves the right to change these Terms, at its discretion, provided that it provides written notice to Institution of changes made to the Terms within fifteen (15) days after a change has been made. If the change is required by generally applicable law ("generally applicable law" means law, including, without limitation, any regulation, commonly applicable to other software or service providers providing or rendering same or similar software or services to same or similar licensees/customers as Institution), such change shall not form a basis for Institution to terminate the separate license fee agreement or receive a refund of any license fees. If the change made is not required by

generally applicable law, then after Respondus provides written notice to Institution of the change, Institution shall have the right to object to such change, but only on reasonable grounds, and only in writing provided to Respondus, within thirty (30) days after Respondus provides written notice of the change, and if no written objection is provided within those thirty (30) days, the change will not provide a basis for Institution to terminate the separate license fee agreement or receive a refund for any license fees. If Institution does object to the change based on reasonable grounds, by providing written notice of such objection to Respondus within thirty (30) days after Respondus provides written notice of the change, Respondus shall have the right to amend the Terms to delete the change and revert to the prior version of the Terms within sixty (60) days after the notice of objection is provided, in which case, Institution shall have no basis for a termination of the separate license fee agreement or refund of any licenses fees. During those sixty (60) days after Institution provides written notice of objection, Institution shall make reasonable efforts to discuss with Respondus, at Respondus' request, the content of the change to which the Institution objects, so that Respondus may propose a modified change at its discretion and Institution shall provide prompt written notice to Respondus if such modification is acceptable to institution, which acceptance shall not be unreasonably withheld, in which case, Respondus may modify the acceptable change accordingly within the sixty (60) days, and if such modification is implemented by Respondus within this period, there shall be no basis for Institution to terminate the separate license fee agreement or to collect any refund of any licenses fees. If Respondus does not take steps to delete the changes for which timely and reasonable written notice of objection has been provided by Institution by reverting to the prior version of the Terms or to modify the changes through agreement with the Institution within the sixty (60) day period, then Institution shall have the right to terminate the separate license fee agreement and any paid licenses, by providing written notice of termination to Respondus. In such case of termination, Institution may be entitled to a pro-rated refund for licenses in use after such notice of termination, such refund to be calculated as a pro-rated amount proportional to time remaining on the licenses in use after such termination versus the total term of the licenses in use, as well as a refund for advance paid licenses not in use, but such refunds and their availability are subject to the separate license fee agreement. Respondus reserves the right to terminate the services of Respondus Monitor and to license the Software, at Respondus' discretion, with at least four (4) months advance notice provided to Institution prior to the end of the term of all paid licenses (e.g., license units) that are currently in use at the time such notice is given. However, advance paid licenses that are not in use at the time such advance notice is given, may no longer be used after receipt of the advance notice, but refunds for such unused licenses may be available under the separate license fee agreement.

INDEMNIFICATION DUE TO INFRINGEMENT. Subject to prompt notification by Institution, cooperation by Institution, and control of all litigation and/or settlement by Respondus, Respondus shall indemnify, defend and hold harmless Institution from and against any and all costs and damages assessed against Institution by a judgment that Respondus Monitor infringes upon any third party intellectual property right. Each party agrees to notify the other promptly of any matters in respect to which this indemnification may apply. If notified in writing of any action or claim for which Respondus is to provide indemnity, Respondus shall defend those actions or claims at its own expense and pay the costs and damages awarded against Institution in any such action, or pay any settlement of such action.

WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY. Respondus warrants and represents that, to the best of its knowledge, at the time these Terms are first accepted by Institution, Respondus Monitor does not infringe any patent, trademark or copyright or misappropriate any trade secret of any third party. If Respondus should later discover that a potential infringement exists, and if Respondus is unable to immediately modify Respondus Monitor to avoid such potential infringement, Respondus shall promptly notify Institution and Institution shall have the independent right to immediately terminate use of Respondus Monitor and to obtain a refund of any advanced paid license fees, unless Respondus Monitor is able to provide a non-infringing alternative within ninety (90) days. Also, in the case such potential infringement is discovered, Respondus shall have the right to immediately terminate Respondus Monitor at its own discretion, in which case, Respondus shall refund all advanced paid license fees.

DISCLAIMERS. The disclaimers in this section are subject to Respondus' promise of Indemnification Due to Infringement, and Respondus' Warranty Regarding 3rd Party Intellectual Property, under the respective sections of those terms above, and no term in this section shall limit Respondus' promises under those terms. Respondus disclaims responsibility or liability for the accuracy, content, completeness, legality, reliability, operability or availability of information or data in the Respondus Monitor Service or Software. Respondus further disclaims any responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any information or data. Respondus disclaims any responsibility for any harm resulting from downloading or accessing any information or data through Respondus Monitor. Institution will bear all risk associated with any information or data Institution accesses. Institution's access or use of any information or data provided by Respondus Monitor or third parties is conditioned on Institution's agreement to these Terms, including these disclaimer provisions.

SUBJECT TO RESPONDUS' WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY AS SET FORTH ABOVE, RESPONDUS MONITOR IS PROVIDED "AS IS" WITH NO WARRANTIES WHATSOEVER. ALL OTHER EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, ARE EXPRESSLY DISCLAIMED. TO THE FULLEST EXTENT PERMITTED BY LAW, RESPONDUS DISCLAIMS ANY WARRANTIES FOR THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF RESPONDUS MONITOR. RESPONDUS SIMILARLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY WARRANTIES FOR ANY INFORMATION OR ADVICE OBTAINED THROUGH RESPONDUS MONITOR.

SUBJECT TO RESPONDUS' WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY AS SET FORTH ABOVE, INSTITUTION UNDERSTANDS AND AGREES THAT ANY INFORMATION OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF RESPONDUS MONITOR IS OBTAINED AT ITS OWN DISCRETION AND RISK AND THAT INSTITUTION WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO ITS COMPUTER SYSTEM(S) OR LOSS OF DATA THAT MAY RESULT IN THE DOWNLOAD OF SUCH INFORMATION OR DATA. SUBJECT TO RESPONDUS' WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY AS SET FORTH ABOVE, UNDER NO CIRCUMSTANCES SHALL RESPONDUS BE LIABLE TO INSTITUTION ON ACCOUNT OF ITS USE OR MISUSE OF AND RELIANCE ON RESPONDUS MONITOR. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF RESPONDUS HAS BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON RESPONDUS MONITOR, FROM INABILITY TO USE THE RESPONDUS MONITOR, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE RESPONDUS MONITOR SERVICES OR BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH THE RESPONDUS MONITOR SERVICES. THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

INTELLECTUAL PROPERTY. All web design, text, graphics, the selection and arrangement thereof, and all software compilations, underlying source code, software and all other material on Respondus Monitor are either the copyright or trademark of Respondus, or covered by other intellectual property rights of Respondus or a third party licensor of Respondus. Any use of Respondus Monitor beyond the purpose indicated above is strictly prohibited. Institution shall not acquire any rights in Respondus' Intellectual property by using Respondus Monitor.

MISCELLANEOUS. Respondus may terminate Institution's use of Respondus Monitor if Institution breaches or violates these Terms, provided that Respondus allow Institution a period of fifteen (15) days to cure any such breach or violation. Unless otherwise specified in writing, these Terms constitute the entire agreement between the parties with respect to the subject matter contained herein and supersede any other prior agreements between Respondus and Institution regarding Respondus Monitor. If Respondus should fail to enforce any right or provision in these Terms, this failure shall not constitute a waiver of such right or provision or of any other rights or provisions in these Terms. If a court should find that one or more rights or provisions set forth in these Terms are invalid, the parties agree that the remainder of the rights or provisions shall be enforceable and that, to the extent permitted by law, the court shall give effect to the parties' intentions, as reflected in any such rights or provisions that have been declared invalid or unenforceable. If Institution does not agree to these Terms, Institution will not be permitted to use Respondus Monitor. Any term that would naturally survive termination of these Terms shall survive, including, for example, INDEMNIFICATION DUE TO INFRINGEMENT as to Institution's prior use of Respondus Monitor before termination. Any notice required to be given under these Terms shall be deemed effective on the date sent if provided by email and later acknowledged, or if provided by registered or certified mail addressed to an administrator of the Institution or to Respondus, within three (3) days after deposit with the US Postal Service.

Vs 04ADMINTOU20

Respondus

- [About](#)
- [Support](#)
- [Student Help](#)
- [Contact](#)
- [Privacy](#)
- [Trademark](#)
- [Twitter](#)

- [Respondus for Higher Ed](#)
- [LockDown Browser](#)
- [Respondus Monitor](#)
- [Respondus 4.0](#)
- [StudyMate Campus](#)
- [Test Bank Network](#)

- [Respondus for K-12](#)
- [LockDown Browser](#)
- [Respondus 4.0](#)
- [StudyMate Campus](#)

- [Partnerships](#)
- [SDK Licensing](#)
- [Technology Partners](#)
- [Publishing Partners](#)

Copyright © 2020 Respondus, Inc. All rights reserved.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
JOHN DOE, individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff COOK
(EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
Brian K. Murphy, Murray Murphy Moul + Basil LLP, 1114 Dublin Road, Columbus, OH 43215, (614) 488-0400

DEFENDANTS
BRADLEY UNIVERSITY
County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Scott J. Helfand, Husch Blackwell LLP, 120 S. Riverside Plaza, Suite 2200, Chicago, IL 60606, (312) 655-1500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
 1 U.S. Government Plaintiff
 2 U.S. Government Defendant
 3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1 Incorporated or Principal Place of Business In This State 4 4
Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5
Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)
 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
removal under 28 USC 1332(d)(2)
Brief description of cause:
Claims under Illinois Biometric Information Privacy Act

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: Mar 18, 2021 SIGNATURE OF ATTORNEY OF RECORD: /s/ Scott J. Helfand

FOR OFFICE USE ONLY
RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Bradley University's Use of Respondus Proctoring Tool Violated Illinois Students' Privacy](#)
