



You, Your Privacy Policy and COPPA



How to Comply with the Children's Online Privacy Protection Act

Federal Trade Commission
Bureau of Consumer Protection
www.ftc.gov

Contents

I	Drafting A COPPA-Compliant Privacy Policy	1
	INTRODUCTION	1
	THE BASIC REQUIREMENTS	2
	LOCATION	2
	CLEAR AND PROMINENT LINKS	2
	CLEAR LABELS	3
	LOCATION: THE BASICS	3
	CONTENT	3
	THIRD PARTIES	5
	THE BAN ON CONDITIONING PARTICIPATION ON INFORMATION COLLECTION	5
	PARENTAL RIGHTS	6
	CONTENT: THE BASICS	6
	RESOURCES	7
	ENDNOTES	7
II	FAQs About Privacy Policies	8
III	Compliance Checklist	11
	LOCATION	11
	CONTENT	12
	STYLE	17



Drafting A COPPA-Compliant Privacy Policy

INTRODUCTION

The Children's Online Privacy Protection Act (COPPA), passed by Congress in October 1998, requires the Federal Trade Commission (FTC) to issue and enforce rules concerning children's online privacy. The FTC issued the Children's Online Privacy Protection Rule in November 1999; it has been in effect since April 21, 2000.¹ The Rule's primary goal: to place parents in control over what information is collected from their children online.

The Rule applies to:

- operators of commercial websites or online services directed to children under 13 that collect personal information from children;
- operators of general audience sites that knowingly collect personal information from children under 13; and
- operators of general audience sites that have a separate children's area and that collect personal information from children.

The Rule requires these operators to:

- **Post a privacy policy** on the homepage of the website and link to the privacy policy everywhere personal information is collected.
- **Provide notice to parents** about the site's information collection practices and, with some exceptions, get verifiable parental consent *before* collecting personal information from children.
- **Give parents the choice to consent** to the collection and use of a child's personal information for internal use by the website, and give them the chance to choose not to have that personal information disclosed to third parties.
- **Provide parents with access** to their child's information, and the opportunity to delete the information and opt out of the future collection or use of the information.
- **Not condition a child's participation** in an activity on the disclosure of more personal information than is reasonably necessary for the activity.
- **Maintain the confidentiality, security and integrity** of the personal information collected from children.

Where information is collected, post a clear and prominent link to your privacy policy.



The FTC has prepared this guide to help website operators comply with the Rule. The guide explains each component of a COPPA-compliant privacy policy, answers questions that website operators have asked, and features a Compliance Checklist to help website operators identify areas where their privacy policies could be improved.



THE BASIC REQUIREMENTS

A privacy policy tells the visitor about the information collection practices of the website. For sites that are covered by COPPA, the policy must explain what types of personal information are collected, how it is collected, and how the website will use the information. It also needs to tell the visitor whether the website gives the personal information to anyone else. If so, the policy must identify the third parties and tell the visitor how the third parties will in general use the information. The privacy policy must be placed where it can be found easily, and it must be written so that the average person can understand what it says.

LOCATION

To comply with the Rule, a website directed to children must put the link to its privacy policy in a clear and prominent place on the home page and at every area on the website where children are asked to provide personal information. The links to the privacy policy also must be close to the requests for information.

General audience websites with separate children's areas must post a clear and prominent link on the home page of the children's area, as well as at every area where personal information is collected from children. A general audience website is not required to have a separate privacy policy for its children's area, and may combine its general audience and children's privacy policies into one document. However, a website without a separate privacy policy for its children's area should clearly disclose at the top of its privacy policy that a specific section discusses the site's information practices with respect to children. A general audience site also can link from the children's area directly to the part of its privacy policy that pertains to children.²

CLEAR AND PROMINENT LINKS

The Rule requires that the link to the privacy policy be placed in a clear and prominent place on the home page and everywhere that children provide — or are asked to provide — personal information.³ "Clear and prominent" means that the link stands out and is noticeable to visitors through the use of different type sizes, different fonts, different colors, or contrasting backgrounds. A link that is in tiny print at the bottom of the home page — or one that is indistinguishable from adjacent links — is not considered clear and prominent.⁴

Use your imagination: Some children's websites have created bright, attention-grabbing icons — like animated characters or objects — that direct the visitor to the privacy policy. Other websites provide several links from different parts of the homepage to the privacy policy, making it easy for parents and other visitors to find the privacy policy.





CLEAR LABELS

The link must be labeled clearly, which allows the visitor to know the link goes to the site's privacy policy and a description of its information collection practices. For example, a link that says ***Privacy Policy***, ***Privacy Statement*** or ***Information Collection Practices Statement*** is considered to be labeled clearly. Links labeled ***Important Information***, ***Legal Notice*** or ***Note to Parents*** would not be as effective in letting the visitor know that a click would take him or her to the site's privacy policy.

LOCATION: THE BASICS

- Place a link to the privacy policy on the website's homepage — or on the homepage of the children's area of a general audience site.
- Place a link to the privacy policy close to all areas where personal information is collected from children.
- Make the link to the privacy policy "clear and prominent."
- Label the link clearly so visitors know it goes to the website's privacy policy.

CONTENT

A privacy policy tells visitors about the types of information the website collects, how the site handles the information, and whether the site gives the information to anyone else. The Rule requires that the privacy policy be clear and understandable. The policy must give a complete description of the site's information practices; it must not contain confusing or contradictory information.

The privacy policy plays a very important role in a parent's decision to agree to a website's request for information from their children. One that is clearly written, easy-to-understand, and full of relevant information helps parents make an informed decision.

To be COPPA-compliant, a privacy policy must contain the following information:

- **Contact information**, including the name, mailing address, telephone number, and email address of all operators collecting or maintaining personal information from children through the website. This requirement lets parents know who will see and use their children's personal information; it gives them the information they need to get in touch with the operators who collect or maintain their children's personal information.

According to the Rule, if several operators are collecting information through the website, the site operator may list the name, address, phone number, and email address of *one* operator who will respond to all inquiries from parents about the



operators' privacy policies and uses of children's information — but only if it makes the names of *all* the operators available, either by listing them in the policy or linking to them from the policy.⁵

- **What types of personal information are collected, and how.** Website operators should be specific enough about the types of personal information they collect from children to allow parents to make an informed decision about whether to agree to the collection and use of the information. A policy that uses descriptors like name, address, telephone number, hobbies, gender, and age tells parents exactly the types of personal information that the website collects from children. A privacy policy that notes it collects “contact information” gives parents no idea whether the website is collecting an email address or a home telephone number.

In addition, the privacy policy must state whether personal information is collected actively or passively. Active collection includes registration forms and email newsletter sign-up boxes. Passive collection includes the use of cookies or other identifiers when the information is combined with “personal information.”⁶

- **How the website will use the personal information.** The privacy policy should state if the personal information is to be used to fulfill a requested transaction, keep records or market back to the child. For example, it should explain that email addresses are used to send weekly newsletters, or that a mailing address is used to send a prize or magazine subscription or fulfill another request.

In addition, the privacy policy must state whether the website offers activities that allow the child or the site to disclose the child's personal information publicly — for example, through chat rooms, message boards or email accounts.

- **Whether the website operator gives or discloses the personal information it has collected from children to third parties.**⁷ The website also must give parents the option of consenting to its collection and internal use of their child's personal information while refusing to permit the site to share the information with third parties.

If the website shares personal information with third parties, the privacy policy must explain the types of businesses the third parties

To be COPPA-compliant,
your privacy policy must include:
contact information;
the kinds of personal information you collect;
how you collect and use it;
whether you disclose it to third parties.





are in and the general purposes for which they will use the information. The privacy policy also must tell the visitor whether the third parties have agreed to maintain the confidentiality, security and integrity of the personal information they obtain from the website operator.

A privacy policy is not COPPA-compliant if it tells parents that the website “may” disclose information to third parties without giving details about the third parties or giving the parent the option to say ‘no’ to sharing of information.

THIRD PARTIES

The Rule defines a third party as a person who is *not* an operator of the website or who does not provide support for the internal operations of the website.⁸

If the website is sharing the personal information with a company or person whose only role is to provide support for the internal operations of the website — like a fulfillment house or a shipping company — the disclosure of the personal information is not to a “third party” and does not have to be spelled out in the privacy policy. The Rule specifically defines “third party” to exclude people who provide internal support. These providers are obligated to use the personal information only to carry out their specific obligations. They cannot use the information for any other purpose.



Whether an “affiliated or related company” is considered a third party and triggers the third-party disclosure requirements, depends on the affiliated or related company’s relationship to the personal information. If the affiliated or related company is an operator of the website because it collects personal information on the site, or because personal information is being collected on its behalf, it is not considered a third party. Rather, it is considered an operator — and subject to the Rule. If the affiliated or related company is not an operator and isn’t providing internal support services, it is considered a third party. The privacy policy must tell parents about the sharing of personal information with this affiliated or related company and must give parents the choice to allow the disclosure of information — or not.

THE BAN ON CONDITIONING PARTICIPATION ON INFORMATION COLLECTION

The Rule prohibits website operators from conditioning a child’s participation in an activity — like a game or prize offer — on the child’s disclosure of more personal information than is reasonably necessary to participate in the activity. This provision prevents tying personal information from children to popular and persuasive incentives like games and prizes, and preserves a child’s access to such activities. For example, to send a child a prize, it is reasonably necessary for a website to collect the child’s mailing



address. Asking the child for a postal or mailing address when offering an email newsletter would not be reasonably necessary. The Rule requires that privacy policies state this prohibition explicitly.

PARENTAL RIGHTS

The privacy policy must state that a parent can review the child's personal information, have it deleted, and refuse to allow the further collection or use of the child's information — and explain the procedures for doing so. For example, the privacy policy could provide contact information, like an email address or toll-free telephone number, for the parent to use.

CONTENT: THE BASICS

The privacy policy must:

- Be written clearly and understandably. It should not contain any confusing or contradictory information.
- Describe the site's information practices completely and accurately.
- Include contact information (name, mailing address, telephone number, and email address) for all operators collecting or maintaining personal information through the website.
- Explain what types of personal information the site collects, whether it collects the information actively or passively, and how it will use the information.
- Provide all the required information about the disclosure of personal information to third parties.
- Tell parents they can consent to the collection and use of their child's personal information without consenting to the disclosure of the information to third parties.
- Explain that website operators cannot condition a child's participation in an activity on the child providing more personal information than is reasonably necessary for the activity.
- Tell parents that they can review their child's personal information, have it deleted and refuse to permit any further collection — and how to do it.



RESOURCES

For more information about children's privacy issues, call the FTC's help-line, 202-326-3140, or visit www.ftc.gov/kidzprivacy.

ENDNOTES

- 1 16 C.F.R. § 312.5. See also <http://www.ftc.gov/os/1999/9910/64fr59888.pdf>.
- 2 64 Fed. Reg. 59,888, 59,894 at n.98 (Nov. 3, 1999).
- 3 See 16 C.F.R. §§ 312.4(b)(1)(ii) and (iii).
- 4 64 Fed. Reg. at 59,894.
- 5 See 16 C.F.R. § 312.4(b)(2)(i).
- 6 The Rule defines personal information as including information collected through the use of cookies or other identifiers when tied to personal information, such as an email address. 16 C.F.R. § 312.2.
If your site uses cookies and links the information stored in the cookie with other individually identifiable information, such collection must be disclosed in the privacy policy.
- 7 Because the Rule regulates operators and not "third parties," the Rule requires operators to tell parents about the third party and what the third party plans to do with the information given to it by the operator.
- 8 16 C.F.R. § 312.2.



FAQs About Privacy Policies

Q. COPPA applies to “websites directed to children.” What factors should I use to determine whether my website is targeted to children?

A. According to the Rule, the factors to use in determining whether your site is targeted to kids include subject matter, language, whether the site uses animated characters, and whether advertising on the site is directed to children. The Commission also considers empirical evidence regarding the ages of the site’s visitors. These standards are similar to those for TV, radio and print advertising.

Q. My site is a general audience site that has a separate children’s area. What are my COPPA obligations?

A. The portion of your website that is directed to children must be COPPA-compliant. The Rule requires that you post a prominent link to your privacy policy on the homepage of your children’s area. In addition, it requires that you place a prominent link to your privacy policy near every area that asks for personal information from children.

You may have a separate privacy policy for the children’s area of your website or a separate section within your general privacy policy that describes your information collection practices with respect to children. If you decide on a privacy policy with a separate section for your information practices regarding children, you’ll need a link from the homepage of the children’s area directly to the children’s portion of the privacy policy. Or, state clearly at the top of the privacy policy that a specific section discusses the information practices regarding children.

Q. My site does not collect personally identifiable information from children — or anyone else. Do I still need to post a privacy policy?

A. COPPA applies only to websites that collect personal information from children. However, posting a privacy policy may reassure visitors about a website operator’s information practices. Surveys show that most parents are uncomfortable with their children revealing any personal information on the Internet. As a practical matter, parents should be pleased to read your privacy policy and find out quickly that you don’t collect personally identifiable information.



Q. COPPA is triggered by the collection of personal information from children. But the information I collect at my site is voluntary, not mandatory. Does COPPA apply?

A. Yes. Information collection is what triggers the Rule, whether it is voluntary or mandatory.

Q. Is it okay for the link to my privacy policy to be at the bottom of my home page?

A. As long as the link is “clear and prominent,” it can be at the bottom of the home page. The Rule requires that the link to your privacy policy “be placed in a clear and prominent place and manner on the home page of the website or online service” and at each area where children provide, or are asked to provide, personal information. According to the Commission, “‘clear and prominent’ means that the link must stand out and be noticeable to the site’s visitors.... The Commission does not consider ‘clear and prominent’ a link that is in small print at the bottom of the page, or a link that is indistinguishable from a number of other, adjacent links.”

Q. I run a general audience site, but it has a separate children’s section. Can I structure my privacy policy so that information about my children’s practices and non-children’s practices are mixed, or do I have to have a separate privacy policy about my practices with respect to children?

A. You may have one privacy policy that contains information about your practices as they apply to children and other people. But make sure that there is a link to the privacy policy on the home page of the children’s area and at each area where personal information is collected from children.

If you use one privacy policy for both the general audience and children’s portions of your website, make sure that:

- the link on the homepage of the children’s area takes visitors directly to the part of the privacy policy that discusses children, or
- you clearly state at the top of the privacy policy that there is a specific section discussing information practices with respect to children.



Q. Can my privacy policy include materials promoting products or services?

A. No. COPPA requires that privacy policies be “clearly and understandably written, complete, and contain no unrelated, confusing, or contradictory materials.” The more complicated and confusing the policy, the less likely it is that parents will understand or even read it. Parents who find a policy confusing or difficult to wade through may be less likely to grant you consent.

Q. Does COPPA require that I list the contact information for all the operators at my site? This could make my privacy policy very long and confusing.

A. If there are multiple operators collecting information through your site, you may list the name, mailing address, phone number, and email address of *one* operator who will respond to all inquiries from parents regarding all the operators’ privacy policies and the uses of children’s information. But that’s the case only as long as the *names* of all the operators are listed in the notice.

Alternatively, if you want to list the contact information for all the operators — but still keep your privacy policy and notice simple — include a link in the privacy policy to the list of operators and all their contact information. When you send your notice to parents to request consent, be sure they can access the list.

Q. Does my privacy policy have to disclose my use of cookies, GUIDS, IP addresses, or the fact that I use other passive information collection technology?

A. Yes, it does, when the information is combined with “personal information.” The Rule defines personal information as including identifiable information about an individual collected online, including any persistent identifier that is tied to identifying information. For example, if you tied a child’s email address to the information that your cookies collected about the length of the child’s visit, all the information collected would be considered “personal information.”



Compliance Checklist

Your website's privacy policy must accurately represent your site's information practices. That is, you must deliver what your privacy policy promises. The policy also should be well-organized, concise and easy to understand. This will help ensure that parents will have all the information they need to make decisions about giving consent.

Use this checklist to help identify the elements that your website's privacy policy needs to be COPPA-compliant. It addresses issues related to the placement, content and style of your privacy policy. The person completing the checklist should be knowledgeable about your website's information practices and have a copy of your site's policy handy for review.

But you also may want to ask someone who *isn't* familiar with your information practices to read your privacy policy and help you answer the following questions. Should a question in the checklist identify an issue in your privacy policy that needs correction, it will refer you to the appropriate part of Section 1 for guidance.

LOCATION

1. Is there a link to your privacy policy on the homepage of your website or on the homepage of the children's area of your website?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, place a link to your privacy policy in the appropriate places. See page 2 for details.

2. Are the links to your privacy policy near each and every place on your website where you collect personal information from children?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, review the areas where you collect personal information from children and put links to your privacy policy near each of these places.



You must deliver what your privacy policy promises.



3. Does the link to your privacy policy stand out so that the website visitor can locate it easily?

- ☐ If **YES**, describe how the link stands out:

_____.

Go to the next question.

- ☐ If **NO**, change your link by using contrasting colors, changing the font or type size or creating a noticeable icon. See page 2.

4. Is the link in a different color, a different font, or a larger type size?

- ☐ If **YES**, go to the next question.
☐ If **NO**, change it so it is prominent and stands out. See page 2.

5. Is the link to your privacy policy labeled clearly so a visitor can tell what it is?

- ☐ If **YES**, record the label of your link:

Go to the next question.

- ☐ If **NO**, change the link to your privacy policy so that a casual visitor can tell what it is. See page 3.

CONTENT

6. Does your privacy policy include the names of all the website operators who collect or maintain personal information from children through your site?

- ☐ If **YES**, go to the next question.
☐ If **NO**, revise your privacy policy to include the name of each operator. See pages 3-4.

The person most familiar with your site's information practices should complete this checklist.





7. Does your privacy policy provide mailing addresses for all the website operators who collect or maintain personal information through your site?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, does the privacy policy provide contact information (mailing address, telephone number and email address) for one operator who, in turn, will respond to inquiries from parents on behalf of the other operators?
 - ☐ If **YES**, go to question 10.
 - ☐ If **NO**, revise your privacy policy to include full contact information for each operator who collects or maintains personal information from children through your website, or for one operator who will respond to all inquiries. See pages 3-4.

8. Does your privacy policy provide the telephone numbers for all website operators who collect or maintain personal information through your site?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise your privacy policy to include telephone numbers for all operators. See pages 3-4.

9. Does your privacy policy provide the email addresses of all website operators who collect or maintain personal information through your site?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise your privacy policy so it includes email addresses. See pages 3-4.

10. Does your privacy policy state each type of personal information (full name, email address, mailing address, phone number, etc.) that you collect from children?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise your privacy policy so it tells each type of personal information the site collects. See page 4.

Keep a copy of your
privacy policy handy for review.





11. Is your statement of the types of personal information collected descriptive? Is it specific enough to let parents know the kinds of personal information you will be collecting from their children?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the statement to be more descriptive. See page 4.

12. Does your privacy policy tell parents whether personal information is collected actively — that is, from the child — or passively — for example, through the use of cookies?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy to tell parents how your website collects personal information from children. See page 4.

13. Does your privacy policy tell parents how your website will use the personal information that it collects?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy so it gives parents that information. See page 4.

14. Does your website share or disclose children's personal information with third parties?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, go to question 19.

15. Does your privacy policy state what kinds of businesses the third parties are engaged in?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy. See pages 4-5.

16. Does your privacy policy tell parents the general purposes the third parties will use their children's personal information for?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy. See pages 4-5.



17. Does your privacy policy state whether the third parties that your site shares personal information with have agreed to maintain the confidentiality, security and integrity of the information?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy to address whether the third parties have agreed. See pages 4-5.

18. Does your privacy policy tell parents they can agree to the collection and use of their child's personal information by your site without agreeing to you disclosing the information to third parties?

- ☐ If **YES**, go to question 20.
- ☐ If **NO**, revise the privacy policy to tell parents they have the right to consent to your site's collection and use of their child's personal information, while saying no to your disclosure of the information to third parties. See page 5. Then go to question 20.

19. Does your privacy policy clearly state that your website does not disclose personal information to third parties?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the language in your privacy policy to explain that the website doesn't share children's personal information with third parties. See pages 4-5.

20. Does your privacy policy state that your site cannot condition a child's participation in an activity on the child's disclosure of more personal information than is reasonably necessary to participate in the activity?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, add appropriate language to your privacy policy. See page 5.

21. Does your privacy policy let parents know that they can review the personal information that your website has collected from their child?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy to tell parents they have the right to review the information the site has collected from their child. See page 6.



22. Does your privacy policy tell parents how they can review their child's personal information?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy to let parents know how to review their child's personal information. See page 6.

23. A. Does your privacy policy tell parents they can have their child's personal information deleted from your site?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the language in the privacy policy. See page 6.

B. Does your privacy policy tell parents how they can have their children's personal information deleted from your site?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy. See page 6.

24. A. Does your privacy policy tell parents that they can stop your website from further collecting or using the additional personal information from your child?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy as appropriate. See page 6.

B. Does your privacy policy tell parents how they can stop the further collection and use of their child's personal information?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, revise the privacy policy. See page 6.

Consider testing your privacy policy's clarity with a parent or a youngster.





STYLE

25. Is your privacy policy clear and understandable? Easy to read? Consider testing it with potential readers.

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, rewrite and simplify the privacy policy so the parents of your visitors would be likely to find it easy to read and understand. See pages 2-3.

26. Does your privacy policy give a complete description of your information practices? Does it explain all the personal information you collect? Does it spell out how you will use the information?

- ☐ If **YES**, go to the next question.
- ☐ If **NO**, review the privacy policy and add information to make the description complete. See page 4.

27. Does your privacy policy include any contradictory, confusing or ambiguous language?

- ☐ If **YES**, edit the policy. See pages 2-3.
- ☐ If **NO**, go to the next question.

28. Does your privacy policy contain any material or content that doesn't relate to your information practices?

- ☐ If **YES**, edit the policy so it focuses on your information practices. See pages 3-4.
- ☐ If **NO**, go to the next question.

29. Is your privacy policy well-organized and easy to follow?

- ☐ **YES.**
- ☐ **NO.** It's time to reorganize the information in the policy to make it easier to follow. Consider using a question and answer format.

30. Do your practices reflect the promises you make in your privacy policy?

- ☐ **YES.** Keep up the good work.
- ☐ **NO.** Go back to square one.



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