



Kenton County School District | *It's about ALL kids.*

Issue Paper

DATE:

05/28/26

AGENDA ITEM (ACTION ITEM):

Consider/Approve: the purchase of 44 educator licenses for Boom Learning to support special education instruction across all Kenton County School District schools.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board

HISTORY/BACKGROUND:

The Kenton County School District has consistently purchased educator subscriptions from Boom Learning for students and staff. Upon subscription renewal, all Speech-Language Pathologists (SLPs) and special education teachers will have complete access to implement the program with students for an entire year. This platform offers instructional materials and data-gathering features to assess student progress.

FISCAL/BUDGETARY IMPACT:

\$2,199.56 with annual renewal paid out of Special Education: IDEA

RECOMMENDATION:

Approval to purchase 44 educator licenses for Boom Learning to support special education instruction across all Kenton County School District schools.

CONTACT PERSON:

Danielle Rice, Director of Special Education

Handwritten signature of Danielle Rice in black ink.

Principal/Administrator

Handwritten signature of Thana Harney in black ink.

District Administrator

Handwritten signature of the Superintendent in black ink.

Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

**Kenton County School District**

2044 Tuscanyview Dr
Ft. Wright, KY 41017-8182

Quote Number: 20260522-142655676

Quote created: May 22, 2026

Quote expires: August 31, 2026

Quote created by: TJ Triola

Melinda Neltner

Special Needs Coordinator
melinda.neltner@kenton.kyschools.us
(859)344-8888

tj@boomlearning.com

+14195035888

Subscription Dates: 8/2/26 - 8/1/27

Products & Services

Item & Description	Quantity	Unit Price	Total
Boom Cards Subscription: Educator Seat 1 year of Access to the Boom Platform for a single educator	44	\$49.99 / year	\$2,199.56 / year for 1 year
Annual subtotal			\$2,199.56
Total			\$2,199.56

Purchase terms

Please Email your POs to sales@boomlearning.com for quickest processing.

All Quotes are subject to applicable local sales tax or VAT.

Please remit all payments or hard-copy POs to:

OMEGA LABS INC. DBA BOOM LEARNING

P.O. Box 736102

Dallas, TX 75373-6102

All purchases by organizations are governed by our Entity Terms of Service, Viewable at:
<https://www.boomlearning.com/legal/entity-terms-of-service>. All terms appended to a submitted
Purchase Order are rejected.

Questions? Contact me



TJ Triola

tj@boomlearning.com

+14195035888

Omega Labs Inc. dba Boom Learning

Boom Learning

9805 NE 116th ST STE 7198

Kirkland, WA 98034

US

For assistance call 1-833-WOW-BOOM



Kenton County School District | *It's about ALL kids*

THE KENTON COUNTY BOARD OF EDUCATION

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY 41017

TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531

WEBSITE: www.kenton.kyschools.us

Dr. Henry Webb, Superintendent of Schools

VENDOR ASSURANCES REGARDING PROTECTION OF PERSONAL AND CONFIDENTIAL INFORMATION

Data Security and Breach Protocols

Vendors that receive Personal Information from Kenton County Board of Education (herein referred to as "KCBOE") as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account number, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by any agency as defined under the Act;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" includes any person or entity that has a contract or agreement with the KCBOE and receives (accesses, collects or maintains) personal information from the KCBOE pursuant to the contract or agreement.

The vendor hereby agrees to cooperate with the KCBOE in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, KCBOE, the Commissioner of the Kentucky State Police, the Kentucky Auditor of Public Accounts, the Commonwealth (Kentucky) Office of Technology, and the Commissioner of the Kentucky Department of Education of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)(2) applies and the vendor abides by the requirements set forth in that exception. Notification shall be in writing on a form developed by the Commonwealth (Kentucky) Office of Technology.

The vendor hereby agrees to report to the KCBOE, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor hereby agrees that the KCBOE may withhold payment(s) owed to the vendor for any violation of the Act's notification requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any security breach as defined under the Act in accordance with KRS 61.933.

Upon conclusion of an investigation of a security breach as defined under the Act as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a), the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth (Kentucky) Office of Technology and that are reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction.

Student Data Security

Pursuant to KRS 365.734, if the vendor is a cloud computing service provider (which is defined pursuant to KRS 365.734(1)(b) as any person or entity other than an educational institution that operates cloud computing services) or, through service to the KCBOE, becomes the equivalent of a cloud computing service provider, the vendor further hereby agrees that:

- The vendor shall not process student data as defined pursuant to KRS 365.734 for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the vendor receives express permission from the student's parent. The vendor shall work with the KCBOE to determine the best method of collecting parental permission.
- With a written agreement for educational research, the vendor may assist the KCBOE to conduct educational research as permitted by the Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. sec. 1232g.
- Pursuant to KRS 365.734, the vendor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.
- Pursuant to KRS 365.734, the vendor shall not sell, disclose, or otherwise process student data for any commercial purpose.
- Pursuant to KRS 365.734, the vendor shall certify in writing to the agency that it will comply with KRS 365.734(2).

Family Educational Rights and Privacy Act, National School Lunch Act and Child Nutrition Act

If during the course of this agreement, the KCBOE discloses to the vendor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. sec. 1232g, *et seq.*), and its regulations, and data protected by the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. sec. 1751 *et seq.*), and the Child Nutrition Act of 1966 (CNA) (42 U.S.C. sec. 1771 *et seq.*), the vendor agrees that it is bound by and will comply with the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA.

The vendor hereby agrees to report to the KCBOE, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor agrees that FERPA-protected information is confidential information. FERPA-protected information includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, and other information that, alone or in combination, is linked or linkable to a specific

student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

The vendor understands and acknowledges that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. sec. 3571) or imprisonment for not more than five years (under 18 U.S.C. sec. 3559), or both.

The vendor understands and acknowledges that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the NSLA or the CNA is confidential information and that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

In the event there is a conflict between this agreement and any other agreement between KCBOE and Vendor, the terms of this agreement shall apply.

Boom Learning (a dba of Omega Labs Inc.)

Vendor Name

9805 NE 116th Street, Ste 7198, Kirkland, WA 98034

Vendor Address

833-969-2666

Vendor Telephone

legal@boomlearning.com

Vendor Email Address


Mary Oemig (May 21, 2026 13:42:05 PDT)

Signature by Vendor's Authorized Representative

Mary Oemig

Print Name

May 21, 2026

Date

KCBOE Vendor Assurance (1)

Final Audit Report

2026-05-21

Created:	2026-05-21
By:	Lillith Leonard (lillith@boomlearning.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAq7d9NhIJludcxtyfhglwON1tEheelZI

"KCBOE Vendor Assurance (1)" History



Document created by Lillith Leonard (lillith@boomlearning.com)

2026-05-21 - 8:37:04 PM GMT



Document emailed to Mary Oemig (mary@boomlearning.com) for signature

2026-05-21 - 8:37:09 PM GMT



Email viewed by Mary Oemig (mary@boomlearning.com)

2026-05-21 - 8:39:06 PM GMT



Document e-signed by Mary Oemig (mary@boomlearning.com)

Signature Date: 2026-05-21 - 8:42:05 PM GMT - Time Source: server - Signature Appearance Selected: DRAW



Agreement completed.

2026-05-21 - 8:42:05 PM GMT



Adobe Acrobat Sign

District Terms of Service



Modified on: May 27, 2026

Effective Date: July 1, 2026

The District Terms of Service ("District Terms")

You may contact us to receive a fill-in version of this form including the ability to sign electronically and provide suggested changes.

1. The Agreement

1.1. The District may purchase Ordered Services by accepting a "Quote" sent from the Boom Learning sales team. Quotes state a price for listed Ordered Services and may also be labeled "Estimate." Acceptance is communicated by one of these methods (each an "Order"):

- 1.1.1. issuing a purchase order referring to the Quote or by signature on a quote by an authorized representative of the District, OR
- 1.1.2. by an authorized representative of the District making a payment on the amount due on a Quote via a payment card, check, ACH, or wire.

1.2. "Agreement" means the collection of documents that constitute the agreed-upon terms between Boom Learning and the District. In all cases, the Quote (or if no Quote, the fulfilled Ordered Services) and these District Terms and terms incorporated therein are the record of the Agreement that applies to the Order. If there is a conflict between terms in incorporated documents, the term in the document with the lower numeral in the list below shall prevail over the terms in documents with higher numerals:

- (1) Any separately signed data protection agreement, including Student Data Privacy Alliance agreements (which is incorporated herein by reference).
- (2) The Boom Learning Data Privacy and Security Plan (which is incorporated herein by reference).
- (3) The Quote listing or identifying the Ordered Services.
- (4) Any separately signed master service agreement, including cooperative agreements that you participate in that supersede any portion of these District Terms.
- (5) These District Terms.
- (6) Any District-provided Purchase Order Terms and Conditions, but only to the extent they do not supersede any of the above terms, and only to the extent they do not impose obligations rejected by these District Terms.
- (7) If United States federal award monies are utilized in procuring the services covered by these District Terms, then 2 CFR Appendix II to Part 200 shall be the controlling law, voiding any language in the agreements that conflicts with Appendix II. This agreement is not a funding agreement as defined in 37 CFR § 401.2(a).

1.3. **Annual Term.** Unless otherwise agreed by the parties, the subscription term for the Subscription Products is for a specified school year and assumes a July 1 to June 30 period. Correspondingly, all District Terms are in effect from July 1 to June 30 of the applicable school year. On renewal, the then current version of the District Terms for the applicable school year will apply. If the contract applies to multiple school years, the contract updates for each subsequent school year. If the contract is for a single year, but the contract period does not align to a July 1 to June 30 period, the controlling contract shall be the one available in our legal center on the date the contract period commences.

- 1.3.1. If we are not in compliance with our obligations under the Agreement, the District may (a) terminate its relationship with us for cause in writing, and (b) demand a refund of all unredeemed Curriculum Points and a pro-rata refund of the remaining portion of Subscription Product fees.

1.3.1. If we are not in compliance with our obligations under the Agreement, the District may (a) terminate its relationship with us for cause in writing, and (b) demand a refund of all unredeemed Curriculum Points and a pro-rata refund of the remaining portion of Subscription Product fees paid.

1.3.2. The termination for cause shall be effective on either (a) the acknowledgement of receipt of notice by email to the Boom Learning Legal Email Address or (b) the delivery by certified mail to the Boom Learning mailing address.

1.4. Authorized Signatory. A person with authority to bind the District must sign and return these District Terms. Failure to provide the requested District Identifying Information and District Recipients of Notifications data will waive any provisions that require information from the District to effectuate the provision.

1.5. Changes: We update our District Terms effective each July 1. If we make material changes, we will notify the District via our newsletter. Reorganizing components between cross-referenced documents and adding details previously stated in our FAQs that do not alter fundamental commitments are not material changes.

1.5.1. The District is bound by the updated District Terms unless the terms are superseded by a separately signed Agreement or unless the District contacts us to object to an updated term and the parties agreed to a modification.

1.5.2. The District agrees to send us updated contact information when its information changes. The authorized representative may download and send the renewed District Terms of Service as early as June 1 of each calendar year.

1.5.3. These District Terms are the successor to our prior Entity Terms of Service. We have updated terminology, reordered sections, and made a few material changes, namely:

1.5.3.1. Additional benefits for organizations are included, such as audits, insurance carriage, and certain implementation services. Some benefits are now expressly limited to organizations who purchase Subscription Products designed for purchase by Organizations. They are no longer extended to products intended for purchase by individuals.

1.5.3.2. We explicitly state that Limitation of Liability terminology from a separately negotiated student data privacy agreement will supersede any limitation of liability language contained in these District Terms.

2. Definitions

Definitions not provided below are provided throughout the Agreement in context.

2.1. 'Authorized Users' refers to educators, specialists, therapists, and administrators authorized by the District to create a user account on the Ordered Services associated with the District and who are governed by this Agreement. We sometimes refer to Educator Accounts and Admin Users to distinguish the roles.

2.2. 'Consulting' means any optional or add-on consulting or implementation services not included in our base price.

2.3. 'Curricula' means any teaching resources that are acquired through one-time, non-renewing transactions. Curricula are typically acquired by organizations using **'Curriculum Points'**, an allocation of license credits applied to redeem selected Curricula. Some organizations may purchase Curricula from third parties.

2.4. 'District Account' means the collection of Educator Accounts and Admin Users administered together for a set of Ordered Services purchased by the District. The District may have multiple District Accounts, such as for different buildings, different teams, and/or different programs.

2.5. 'Educator Account' means the collection of adult and student data, Subscription Products, and/or Curricula associated with a unique authenticated adult user in an account type designed for the delivery of instruction or services to a student or patient:

2.5.1. For secondary, it includes all the subjects the person teaches.

2.5.2. For elementary, it includes all the students the person teaches.

2.5.3. For specialists, it includes all the students the specialist directly serves for the special services.

2.5.4. For therapists, it includes all the patients the therapist directly serves – but not all the patients in a practice.

2.5.5. Each adult user, specialist, or therapist must have a unique Educator Account.

2.6. 'Governmental Entity' means an Organization that is a local, state, provincial, federal, tribal, or national governmental unit supervised by an elected person or body and which may have statutory immunities.

2.7. 'District' (also **'you'** or **'your'**) means the specific Organization agreeing to these District Terms. We shall require the District to provide identifying information through a filable form. If District is a school district, the Agreement covers the schools within that school district unless otherwise agreed by the parties. District may purchase Ordered Services for multiple District Accounts.

2.8. 'Ordered Services' means the collection of Subscription Products, Curricula, and Consulting ordered by the District pursuant to Orders under this Agreement.

2.9. 'Organization' means schools, school districts, hospitals, therapy practices, and educational services businesses (for-profit or non-profit) that are not individuals and that are not Publishers who deliver educational or therapeutic services to students and/or patients and who may be covered by national and state or provincial statutes governing the privacy protections of student and/or patient data. For the purposes of this Agreement, "District" includes all "Organizations", even if the Organization is not a school or governmental entity.

2.10. 'Student Users' are students authorized by the District to use the Subscription Products and Curricula. Use of the Subscription Products by Student Users is governed by this agreement. Creation of a Student Account by an Authorized User is considered authorization by the district for use by that student.

2.11. 'Subscription Products' means the Boom Learning subscription offerings designed for purchase by Organizations. It explicitly excludes any subscription that is marketed and sold to individuals.

3. Dispute Resolution

3.1. Negotiations First: If the Parties have a falling out, the Parties agree to attempt in good faith to resolve all disputes by negotiations between representatives with the authority to settle the controversy.

3.2. District Selected Mediation Second: If negotiations do not resolve the matter and the total amount in controversy is less than \$100,000, upon the election of the District, the matter may proceed to mediation to be conducted online through JAMS or a mediation service selected by the District. The initiation of mediation shall toll the limitations period from the date of initiation through the date of completion of the mediation.

3.3. Copyright Claims Board: If negotiations do not resolve the matter and it falls within the jurisdiction of the Copyright Claims Board, the District agrees that we will refer the matter to the Copyright Claims Board for resolution.

3.4. DISTRICT ELECTED ARBITRATION: If mediation fails and the matter is not within the jurisdiction of the Copyright Claims Board, the District may elect to initiate virtual arbitration administered by JAMS following their Streamlined Arbitration Rules and Procedures. If the District is situated outside of the United States, the JAMS will use their International Arbitration Rules.

3.5. Venue and Choice of Law If Court Action is Involved

3.5.1. For United States state or local Governmental Entities: If the District is a US local, city, county, parish, tribal, or state Governmental Entity then these District Terms are silent regarding governing law and venue.

3.5.2. For United States federal Governmental Entities: If the District is a US Governmental Entity, then the following applies: ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE UNITED STATES OF AMERICA, EXCLUDING ITS CONFLICTS OF LAWS RULES, SOLELY TO THE EXTENT PERMITTED BY FEDERAL LAW. (i) THE LAWS OF THE STATE OF WASHINGTON (EXCLUDING WASHINGTON'S CONFLICT OF LAWS RULES) WILL APPLY IN THE ABSENCE OF APPLICABLE FEDERAL LAW, AND (ii) FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES CONSENT TO THE PERSONAL JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE COURTS IN KING COUNTY, WASHINGTON.

3.5.3. For all other organizations: If the District is not identified in 3.5.1 or 3.5.2 above, then the following applies: ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL BE GOVERNED BY WASHINGTON LAW, EXCLUDING WASHINGTON'S CONFLICT OF LAWS RULES, AND WILL BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF KING COUNTY, WASHINGTON. THE PARTIES CONSENT TO PERSONAL JURISDICTION IN THOSE COURTS.

4. Limitations on Usage and License Restrictions

4.1. Minimum Purchase Required: Minimum purchase requirements apply to the Ordered Services. The District must renew each year at the minimum rate to retain the benefits associated with the Ordered Services. Certain features and services are available only for an additional fee, including customized authentication services, training, and other Consulting services.

4.2. Benefits Apply to Organization Ordered Services Only: The additional benefits and terms offered to Districts under these District Terms are not available for Boom Learning subscription offerings sold to individuals, including our Publisher subscription, even if paid for by the District. These benefits include, but are not limited to, ability to reassign accounts, certain SSO and restoring services, audit rights, security questionnaire compliance, negotiated agreements, non-standard terms, issuance of certificates of insurance, and more.

4.2.1. Subscription Products sold to individuals are covered by our Boom App Terms of Service.

4.2.1.1. Release by District of an Educator Account to an individual will result in all items, including undeleted student accounts, in the Educator Account at the time of release being gifted to and following the individual. The Educator Account will then become an individual account no longer subject to these District Terms and is immediately subject to the Boom App Terms of Service.

4.2.1.2. Acceptance of an invitation from District to join a District Account is an agreement by an individual to transfer ownership of the account to the District. These District Terms will apply and the Educator Account can then be reassigned by the District.

4.3. Modifications: Boom Cards are owned by their Publishers. The District receives a license to use them. Publishers reserve the right to modify Boom Cards to correct errors and omissions. The Boom Cards included in a Subscription Product may change from time to time. We reserve the right to add or remove Boom Cards from Subscription Products at any time in our sole discretion.

4.4. Cloud Only: Users can't use Boom Cards offline; they require a connection to the internet (wired, wireless, or cellular). Boom Cards decks cannot be exported. The District and its Authorized Users may not extract or attempt to extract images, fonts, video, sound, or other elements from Boom Cards using any means. Attempting to do so can result in the District and/or individual users being banned from our system and/or subject to civil or criminal action.

4.5. Subscription Products Can Change and Limitations Can Be Enforced: Each Subscription Product has specific limits, conditions, and available services. We reserve the right to enforce those limits technologically or administratively. We reserve the right to change or discontinue Subscription Products, Curricula, and Consulting services available from time to time. Changes to Subscription Products will take effect on renewal.

4.6. Subscription Product Metrics and Included Materials

4.6.1. Dashboard: A Dashboard is used to administer the Educator Accounts associated with a specific District Account. Each District Account has its own Dashboard. Features available in the Dashboard may vary based on the Ordered Services. Each Dashboard Administrator or Delegee should have their own login.

4.6.2. Included Materials: If a Subscription Product includes Boom Cards resources, the included Boom Cards are available for all Educator Accounts included in the Order.

4.6.3. Restrictions on Sharing Curricula: Curricula, regardless of where licensed, and even if otherwise an Included Material, are only for use with the specific Educator Account that licensed the Curricula.

4.6.3.1. If Educator Accounts use materials in excess of the terms of the Ordered Services, the District will need to pay for the additional usage to bring the account into compliance.

4.6.3.2. Disallowed sharing includes, but is not limited to: redeeming Boom Cards purchased elsewhere to multiple Educator Accounts; creating distinct classrooms for multiple Educators inside a single Educator Account; and sharing Fast Pins created by an Educator Account with staff at the District that were not included in the Ordered Services.

4.6.4. Educator Accounts: Educator Accounts can be assigned to certified, classified, and contract staff, as well as volunteers, supervised by the District. Each person delivering instruction or services must be assigned a unique Educator Account.

4.7. International Use The Ordered Services are not available in all languages or all countries. Boom Learning makes no representation that the Boom Cards or other products or services available from Boom Learning are appropriate or available for use in any particular location or country. District bears the risk of any use it allows from various locations. District is responsible for compliance with any applicable laws, including applicable local laws that may be based on user location. The District represents, warrants, and covenants that it is not providing services in or to any person (a) located in, or a resident or a national of, China, Russia, Belarus, or any country subject to a U.S., UK, or EU government embargo or other restriction, or that the U.S. government has designated that as a "terrorist supporting" country ("**Prohibited Territories**"); or (b) on any of the U.S. government lists of restricted end users. Boom Learning, in its sole discretion and at any time, may add to or remove from the list of Prohibited Territories.

5. FERPA

5.1. We comply with the Family Education Rights and Privacy Act ("**FERPA**") We do not require students' personally identifiable information to serve our educational purpose.

5.2. Parents and legal guardians may review student accounts from the student dashboard. Parents must contact the Educator if they need a password reset for a student account, to correct an error in a student record, or to request an export of student performance records. We must have authorization from the Educator or a legal authority to fulfill parent requests.

6. Data Storage Locations

Student Data is stored in the United States. Please see our Non-US Data Subject Privacy Notice if you are not located in the United States.

7. Referrals, Rewards, and Special Offers

7.1. From time to time, we extend special offers. Authorized Users may opt in to receive special offers by changing their communication preferences on their newsletter subscription, provided, however, the Authorized Users are responsible for ensuring compliance with the District's rules and regulations regarding offers, vendor gifts, and compensation.

7.2. The District may contact us to have its Authorized Users excluded from the ability to opt in to special offers.

8. Acceptable Use Policy

8.1. The Policies: The District will require its Authorized Users to follow Boom's acceptable use policies, applicable law, and any integrated subprocessor acceptable use policies. We will tell Authorized Users if they made a mistake, and we expect them to fix their mistakes. Authorized Users must:

8.1.1. only disclose the private information of others that they have a right to disclose and only to authorized persons.

8.1.2. only incorporate the intellectual property of others into materials that District staff creates with permission.

8.1.3. give credit where required to give credit.

8.1.4. comply with all applicable laws that apply.

8.1.5. access Boom Learning only through pages we make publicly available using authorized login credentials.

8.1.6. ensure messages and electronic instructions delivered to us do not include malicious code or otherwise attack our systems;

8.1.7. inspect all materials created, selected, shared, and delivered to students before assigning the materials.

8.1.8. take responsibility for any artificial intelligence (AI) created materials incorporated by District staff into Boom Cards, and

8.1.9. not engage in any conduct in any forum hosted by Boom Learning that is harassing, threatening, fraudulent, inappropriate, hateful, pornographic, defamatory, obscene, offensive, indecent, or unlawful (as judged solely by us).

8.2. Bad Choices Have Consequences: Failure to conform to acceptable use policies can result in suspended or locked-out Authorized User or Student User accounts, or a suspension of all user accounts for the District. We are not required to monitor our sites and apps, though we have the right to do so. We may proactively disable access to content that violates applicable acceptable use policies and contact the District administrator after doing so. We'll help District administrators remove access to materials they deem inappropriate for their student population. We reserve the right to provide information to third parties such as our publishers, law enforcement, supervisory authorities, and attorneys general to resolve claims of civil or criminal misconduct.

8.3. Videos: The District may allow its Authorized Users to create and publish Boom Cards decks with videos to its "District Library" associated with the District Account. The District is solely responsible for educating its Authorized Users on which videos may be included.

9. Duty to Inspect

9.1. Before you assign any material obtained from our service, one of your Authorized Users who is an Educator must inspect it to make sure the material is suitable for the applicable students.

9.2. Refund Process: If the Educator acquires a resource directly from us and then determines it is not suitable, the District Admin or Educator may contact us to request a refund for purchased items. For items added from the Boom Passport Library, the educator may simply delete the item. Please provide the resource title, publisher, and a brief statement of the issue if requesting a refund. Refund requests must be within a reasonable proximity of the purchase date (generally within two weeks). We will grant reasonable and timely refund requests. We reserve the right to refuse refunds.

9.3. Publishers are Responsible for Content: Publishers create content on Boom Learning and are solely responsible for the content they make available in the Boom Store. We are not responsible for the accuracy, appropriateness, lawfulness, or truthfulness of any content. See Reporting Infringements and Content Removal Procedures for how to report material that raises concerns.

10. Reporting Infringements and Content Removal Procedures

10.1. Copyrights are rights to control when others can copy, display, perform, distribute, or make a variation of an original expressive work you create and capture. The Digital Millennium Copyright Act ("DMCA") provides specific guidelines for reporting infringement of copyrights to us.

10.2. If we receive a compliant DMCA claim through our Notice and Procedure for Making Claims of Copyright Infringement, we will remove the items. Follow the DMCA procedure to have us reinstate materials removed under the DMCA.

10.3. Reporting Content: The District's Authorized Users can report Boom Cards that raise concerns by clicking "Reviews" and then "Report" for the applicable Boom Card deck from within the description for the deck. For all other resources contact us through our [Help Center](#).

11. Talking About Each Other

11.1. Credit: We encourage the District's Authorized Users to talk about Boom Cards and give credit to Boom Learning and our Publishers by name. If District's Authorized Users post about Boom Learning or Boom Cards on any site available to the public, District grants Boom Learning and the Publisher permission to repost that image and to credit the District as the source.

11.2. Feedback and Ratings: We and our Publishers may freely use any suggestions, ideas, or other feedback that District's Authorized Users give us. Freely means without restriction and without owing the District money or other compensation. Ratings given by the District's Authorized Users must be based on using the resource for its intended purpose.

11.3. Boom Learning Names and Logos: Boom Learning's names and logos are the trademarks, trade names, and/or service marks of Boom Learning. Our Publishers' names and logos are the trademarks, trade names, and/or service marks of our Publishers. You may use our names to describe us in reviews. Using our names and logos must comply with our guidelines. For all other uses, ask for written permission from us or our publishers first.

11.4. Excerpting: You agree that Boom Learning may excerpt and post relevant content from any blog, social media post, or other writing the District's Authorized Users make about Boom Cards and Boom Learning so long as we give the District and the District Authorized User credit.

11.5. Business References: The District agrees that Boom Learning may use the District as a public business reference. The District grants Boom Learning permission to use the current logo of the District in Boom Learning's business reference, marketing, and promotional materials in accordance with the District's usage guidelines. If the District's guidelines are more restrictive than this paragraph, the District is responsible for notifying the Boom Learning sales team of restrictions placed on use of its name or logo.

12. Additional Privacy and Security Terms:

12.1. These terms add to our [General Privacy Notice](#), which is incorporated herein. Any negotiated data privacy agreement between us and the District supersedes these District Terms where they are in conflict.

12.2. Our security and breach response terms are in our [Data Privacy and Security Plan](#).

12.3. Deletion is irreversible. Deleting a student account deletes the record of the student's past work. **Deleting an Educator account deletes all students and decks associated with the Educator account.** You can reassign an Educator account seat (for example to a long-term substitute teacher or a new teacher assuming a particular school subject or grade-based classroom). The District may authorize us or a District staff member to delete a student account, Educator account, or District Admin account. A staff member who deletes an Authorized User account without the permission of the District is liable to the District for the loss.

12.4. Audits: We will respond to reasonable requests from the District, including responses to information security and audit questionnaires, provided that the District will not exercise this right more than once per year without cause and provided that the District is purchasing Ordered Services. Our answers to such responses are confidential and will be held in the strictest confidence by District. Such audits are subject to reasonable time and manner restrictions. We will cooperate reasonably with any state or federal agency with jurisdiction in connection with any audit or investigation of us or the delivery of the services.

12.5. Cooperation: In the event of a data breach arising because of District personnel, we will cooperate with the District and take such reasonable commercial steps as are directed by the District to assist in the investigation, mitigation, and remediation of the District's data stored on our platform, provided that the District shall reimburse us for our time and expenses attributable to a data breach resulting from actions or inactions of the District's personnel.

12.6. Ownership of Data: As between the District and us, personally identifiable information provided by the District, its Authorized Users, and students related to use of the Ordered Services is the property of the District. Parent or student requests for access to data on our systems will be directed to the District.

12.7. Deletion: We provide the District with self-help tools for data deletion. The District's Authorized Users are expected to promptly and on a regular basis use the tools provided to delete data that is no longer required by the District. If District data remains in expired and non-renewed District Accounts, we shall delete that data upon request of the District or in accordance with our standard procedures specified in the [Data Privacy and Security Plan](#).

12.8. Regulator Notice: We agree not to report a security incident directly to the applicable regulators unless directed in writing by the District. The District agrees to indemnify and hold us harmless from any fines, fees, or liabilities assessed against us for not reporting an incident that rises to a reportable incident. Where this paragraph is inconsistent with governing law, we may report a reportable incident directly with no liability to the District and without being in breach of these District Terms.

13. Payments and Financial Terms

13.1. Prices exclude taxes: Prices exclude taxes and currency exchange settlements unless stated otherwise. The District is responsible for paying taxes or other charges. In regions where we collect applicable taxes, they will be displayed on the invoice we issue to the District.

13.2. We provide electronic invoices in USD: All monetary amounts are expressed in US dollars ("USD"), and we expect payment in USD funds. We will send the District electronic invoices. The paid invoice is the receipt.

13.3. Purchase orders: The District may use purchase orders by contacting our sales team, provided that:

13.3.1. The minimum purchase requirement for the Ordered Service is met.

13.3.2. Terms and conditions in a Purchase Order are rejected to the extent they conflict with or supersede other applicable terms. Specifically:

13.3.2.1. Additional discount terms over those in the Quote are rejected.

13.3.2.2. Net payment terms on purchase orders are accepted. In the absence of net payment terms on purchase orders, the net payment terms on our invoices apply.

13.3.2.3. Entire Agreement clauses in purchase orders are rejected.

13.3.2.4. Cover remedies are rejected.

13.4. If the District doesn't pay the invoice by the due date, we reserve the right to cancel Ordered Services and send the bill to collections for the prorated amount due. The District remains responsible for all prorated actual usage of its Authorized Users for which the District failed to pay.

13.5. Curriculum Points

13.5.1. Curriculum Points are a limited, revocable license for the District to redeem Boom Cards and other assets in the Boom App within the District Account.

13.5.2. If District uses Curriculum Points to redeem Boom Cards or assets to make Boom Cards (such as images, fonts, and backgrounds), those Curriculum Points are non-refundable, non-transferable, and forfeitable. They do not constitute a personal property right and have no value outside Boom Learning. They have no cash value and cannot be exchanged for cash.

13.5.3. District Admins can assign Curriculum Points to Authorized Users and reclaim unused points.

13.5.4. If an Authorized User account is deleted and has points in it at the time of deletion, all points are forfeit and are unrecoverable. We may choose to, but are not obligated to, automatically reclaim points in released Authorized User accounts or deleted accounts to the District's Account.

13.5.5. We may reduce the District's points balance to obtain satisfaction of a debt owed to us by the District, including debts for dispute fee chargebacks and failure to pay on an account.

13.6. All sales are final. Unless otherwise provided, all purchases and redemptions are final and nonrefundable. We may, at our sole discretion, issue refunds. If we cancel or suspend a District Account, the District's (and its Authorized Users') right to acquire and use products stops immediately. We can only issue refunds for purchases made directly from Boom Learning. Direct all other refund requests to the vendor from which you made the purchase.

13.7. We Can Demand Proof of Purchase for External Redemptions at Any Time: If a District Authorized User purchased Boom Cards from a vendor other than Boom Learning, we can demand proof of purchase at any time. If the Authorized User fails to provide proof of purchase, we can remove any and all decks for which the Authorized User is unable to establish proof of purchase and prevent the Authorized User from making further external redemptions.

14. Insurance

We will maintain general liability and cyberliability insurance. Contact our sales team to obtain a Certificate of Insurance. Surcharges will be imposed for insurance requirements above and beyond our standard insurance offerings.

15. DISCLAIMER OF WARRANTIES

15.1. "AS IS": Boom Cards, the Boom App, and the Ordered Services are provided "AS IS" and "AS AVAILABLE" without warranty of any kind, whether express or implied. This includes without limitation the implied warranties of merchantability, fitness for a particular purpose, title, or non-infringement.

15.2. The entire risk arising out of the use or performance of any Ordered Services remains with the District. No communication, whether oral or written, from us to the District or its representatives creates any warranty. We and our Publishers may change, suspend, or discontinue any Ordered Service at any time for any reason, with or without notice. If we discontinue services, materials created by or purchased by Authorized Users may no longer be available. The District agrees that neither we nor our Publishers shall be liable to you or any third party if any Ordered Service is changed, suspended, or discontinued.

16. LIMITATION OF LIABILITY

16.1. We shall have no liability to the District for any liability arising from the District's actions in assigning resources that collect information in violation of a law that applies, for any failure by the District to provide a student with any required information regarding their rights, or for claims that result from the District's election to process sensitive data of students using the Boom Learning platform as that category of data is defined in the General Privacy Notice.

16.2. We work hard to make sure our system is available. Still, there are a substantial number of factors beyond our control in providing the Ordered Services, including browser updates, filtering software, entity IT settings, and more. As a result, we can't guarantee that any or all Ordered Services will always work or be continuously available to you, your Authorized Users, or your students. You acknowledge and agree that we cannot ensure that either content or data will be protected from theft, misuse, hacking attacks, or tampering. We have no liability arising from a failure of any system or feature that limits the use of content or data.

16.3. We (and our licensors and suppliers) are not liable to you for any errors or inaccuracies you find in or on the Boom App; any service, system, or process delays, latencies, failures, or interruptions; or any actions you take in reliance on us, our licensors, suppliers, or the content. Our liability to you is limited, whether or not the harm to you was foreseeable. We (and our licensors and suppliers) are not liable to you for any special, exemplary, or punitive damages, including loss of data, revenue, and/or profits, costs, or expenses, including legal fees and expenses, regardless of the legal theory upon which you claim liability, even if you have advised us or our supplier of the possibility of those damages. Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to you.

16.4. Our (and our licensors' and suppliers') liability to you for any activities under or related to this agreement is limited to the amount actually paid by you to us, if any, during the twelve months before the event giving rise to the damages, for the product(s) at issue.

16.5. The foregoing limitation of liability shall apply to the fullest extent permitted by law in the applicable jurisdiction.

16.6. Terms in a negotiated student data privacy agreement that conflict with this Limitation of Liability shall prevail only with respect to claims relating to Student Data as defined in such negotiated student data privacy agreement.

17. Miscellaneous Terms

17.1. No Automated Collection for Any Purpose:

17.1.1. District is prohibited from using any automated process to extract data from our site(s), including components of Boom Cards and the Boom Cards themselves, for any reason.

17.1.2. District agrees that it will not, and will not allow its Authorized Users or any vendor employed by District to:

17.1.2.1. ingest, scrape, or crawl any portions of our properties (a) only accessible after authentication or (b) that has a robots.txt file or equivalent instruction that disallows crawling for any reason.

17.1.2.2. facilitate any virus, malware, Trojan horse, worm, ransomware, or other activity that may damage, detrimentally interfere with, surreptitiously intercept, or expropriate any code, data, or information.

17.1.2.3. use a robot, spider or other automated process or a manual process to monitor or copy the Boom App, or any portion thereof, without our prior written consent.

17.1.2.4. use any device, software, routine, or process to bypass any technology protecting access to the Boom App.

17.1.2.5. interfere with or attempt to interfere with technology protecting access to the Boom App.

17.1.2.6. attempt to replicate, copy or reverse engineer the Boom App or Boom Cards or

17.1.2.7. to use Artificial Intelligence to crawl, review, or ingest portions of our site(s) only accessible after authentication or have a robots.txt file or equivalent instruction that disallows crawling for any reason -- District is permitted to ask an Artificial Intelligence to make assessments of the Boom App and Boom Cards using the portions of the site(s) publicly available with permission to be crawled.

17.2. Licensed and Not Sold: All necessary rights, such as display to students, performance of decks with students, etc., to take the actions described that are not stated explicitly are implied. The Subscription Products and Curriculum are licensed, not sold. Ongoing access requires a current account.

17.3. Waiver: Our failure to act if the District fails to comply with a term does not waive our right to act on any subsequent failure to comply. Nor does it waive the term in question.

17.4. Survival: Any terms that by their nature are intended to apply indefinitely continue to apply, including but not limited to perpetual licenses, ownership provisions, warranties, disclaimers, indemnities, and limitations of liability. Terms that are intended to survive for a period after termination shall also survive for the designated period.

17.5. Assignment

17.5.1. We Can Assign to a Successor: We may assign any rights we have under any agreement, to any successor or purchaser of us or of our assets to the extent permitted by law and provided that such successor or purchaser agrees to be bound by the terms. If District assigns its rights or obligations to another party, it must give us written notice of the assignment no later than ten (10) business days following the assignment. This agreement is binding on and inures to the benefit of any successors and assigns.

17.5.2. Delegation and Virtual Assistants: Some Authorized Users can have "Delegees". District is fully and completely responsible for the actions of any Delegee, whether adult or student. To the extent allowed under applicable law, District will indemnify Boom Learning for any actions taken by its Delegees as if they were the District. Delegees have access to the delegator's assets.

17.6. Severability: If the final judgment of a court or arbitrator declares any term invalid, void, or unenforceable, then the Parties agree to reduce the scope, duration, area, or applicability of the term, to delete specific words or phrases, or to replace any invalid, void, or unenforceable term with a term that is valid and enforceable and that comes closest to expressing the original intention of the invalid or unenforceable term.

17.7. Quebec/French Language Option: We acknowledge the importance of the French language in Quebec public procurement. Accordingly, we are prepared to provide a French version of the agreement for review and negotiation. Upon completion of negotiations, the parties may, by mutual agreement, elect to execute either a French version or an English version of the agreement, as permitted by applicable law. Nous reconnaissons l'importance de la langue française dans le contexte des marchés publics au Québec. À ce titre, nous sommes prêts à fournir une version française de la convention pour fins d'examen et de négociation. Une fois les négociations complétées, les parties pourront, d'un commun accord, convenir de conclure soit la version française, soit la version anglaise de la convention, conformément à la législation applicable.

By signing below, I warrant and represent that I have the authority to sign and bind the District, pursuant to a policy adopted by District's governing board or body, to these District Terms, and to bind the staff, agents, and employees of the District to these District Terms. I understand that I must return this signed document with the completed information fields to the Boom Sales Team.

Signatory Name	
Signatory Title	
District or Organization Name	

DISTRICT IDENTIFYING INFORMATION

References throughout to District **'you'** and **'your'** include the District's successors, assigns, and subsidiaries

DBA Name, if any	
District Address	
City, State/Province, & Postal Code	
District County (if applicable)	
Country (if not USA)	
Mailing Address including City, State/Province, & Postal Code	

RECIPIENTS OF NOTICES FOR THE DISTRICT

Account Administrator Name	
Account Admin Email Address	
Account Admin Phone	
Legal Contact (title and/or name)	
Legal Notice Email, Phone and Notice Address	
Security Contact (title and/or name)	
Security Contact Email Address	
Security Contact Phone	

BOOM LEARNING IDENTIFYING INFORMATION

Boom Learning is the trade name of Omega Labs inc., incorporated in the state of Washington. References to 'we', 'our' and 'us' include Boom Learning and its successors, assigns, and subsidiaries.

Customer Support Email Address	help@boomlearning.com
Sales Email Address	sales@boomlearning.com
Legal and Security Email Address	legal@boomlearning.com
Customer Service Phone	1-833-959-2666
Remittance Address (JP Morgan processing service)	PO Box 736102 Dallas TX 75373-6102
Mailing Address/IRS Reporting Address	9805 NE 116th ST STE 7198 Kirkland WA 98034
Physical Service Address (use only for physical service of process)	10916 101st PL NE Kirkland WA 98033

Archived versions available on request.

Copyright © 2020 Boom

Boom Passport | DMCA | Privacy | Terms & Trust Center

Available On:



Connect With Us:

