



FEDERAL TRADE COMMISSION

[File No. 222 3105]

Illuminate Education, Inc.; Analysis of Proposed Consent Order to Aid Public

Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Please write “Illuminate; File No. 222 3105” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to: Federal Trade Commission, Office of the Secretary, 600

Pennsylvania Ave. NW, Mail Stop H-144 (Annex E), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Bhavna Changrani (202-326-2363), Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 400 7th St. SW, Washington, DC 20024.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 2.34, 16 CFR § 2.34, notice is hereby

given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Illuminate; File No. 222 3105” on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. If you prefer to file your comment on paper, write “Illuminate; File No. 222 3105” on your comment and on the envelope, and send it via overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex E), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your

comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC Website at <https://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Illuminate Education, Inc. (“Respondent”). The proposed consent order (“proposed order”) has been placed on the public record for 30 days for receipt of public comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement, along with the comments received, and will decide whether it should make final the proposed order or withdraw from the agreement and take appropriate action.

Respondent is a California corporation with its principal place of business in Wisconsin Rapids, WI. Respondent offers schools and districts a suite of software products and solutions, such as the IO Suite,¹ to help manage student information, assess literacy, track grades, communicate with parents, and determine students’ academic and social-emotional behavior learning needs. In the course of providing its products and services, Respondent stores personal information of millions of students. The personal information includes students’ name and address, parent contact information, grades, whether the student has specialized learning plans in place (such as Individualized Education Plans (IEP) or 504 Plans which can reveal special needs or disabilities), or whether the student receives free or reduced lunch.

The proposed complaint alleges that despite representing to school districts, students and their parents that it would keep their student personal information safe, Respondent failed to utilize reasonable information security measures to do so. The proposed complaint alleges that as a result of Respondent’s unreasonable information security practices, a threat actor infiltrated Respondent’s network, had unfettered access

¹ The IO suite of programs includes IO Admin, IO Assessment, IO Auth, IO Classroom, IO Compass, IO Insights, IO Messenger, and Data Driven Classroom.

to students' personal information for 13 days, and exfiltrated millions of students' personal information.

The Commission's proposed three-count complaint alleges that Respondent violated Section 5(a) of the FTC Act by 1) unfairly failing to employ reasonable information security practices to protect students' personal information, 2) misrepresenting to school districts, students and their parents that it took reasonable steps to protect student personal information, and 3) misrepresenting to school districts that it would provide timely notifications regarding breach or unauthorized disclosure. With respect to the first count, the proposed complaint alleges that Respondent:

- a) stored, until at least January 2022, students' personal information in Illuminate's network in S3 buckets in plaintext, rather than encrypting the information;
- b) failed to implement reasonable access controls to safeguard students' personal information stored in AWS services;
- c) failed to employ effective threat detection and response on its network and databases;
- d) failed to employ effective vulnerability monitoring and patch management practices;
- e) improperly configured, or failed to implement, logging and monitoring tools to appropriately capture and alert on suspicious data security events;
- f) failed, until at least November 2022, to establish a comprehensive incident management or incident response plan; and
- g) failed, until at least March 2022, to have a policy, process, or procedure for inventorying and deleting students' personal information stored on Illuminate's network after that information is no longer necessary.

The proposed complaint alleges that Respondent could have addressed each of these failures by implementing readily available and relatively low-cost security measures. It also alleges that Respondent's failures caused, or are likely to cause, substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers themselves. Such practices constitute unfair acts or practices under Section 5 of the FTC Act.

With respect to the second count, the proposed complaint alleges that, at various times, Respondent represented to school districts, students and their parents that it used reasonable measures to protect student personal information. The proposed complaint alleges that, in reality, and as noted above, Respondent failed to implement reasonable measures to protect students' personal information. Such representations were, therefore, deceptive under Section 5 of the FTC Act.

Finally, the third count of the proposed complaint alleges that at various times Respondent represented that it would provide timely notifications to school districts whose data has been exposed as a result of a breach or unintended disclosure. The proposed complaint alleges that Respondent failed to timely notify school districts whose data had been exposed due to a breach or unintended disclosure. Such representations were, therefore, deceptive under Section 5 of the FTC Act.

Summary of Proposed Order with Respondent

The proposed order contains injunctive relief designed to prevent Respondent from engaging in the same or similar acts or practices in the future.

Part I prohibits Respondent from misrepresenting 1) the extent to which it protects the privacy, security, availability, confidentiality, or integrity of any covered information; and 2) the time period in which Respondent will notify school districts and students of a breach or unintended disclosure of any covered information as defined in the proposed order.

Part II requires that Respondent delete or destroy covered information that is not being retained in connection with providing products or services under Respondent's contracts with its customers or as requested by Respondent's customers.

Part III requires that Respondent document and adhere to a retention schedule for the covered information it collects from consumers, including the purposes for which it collects such information and the timeframe for its deletion.

Part IV requires Respondent to establish and implement, and thereafter maintain, a comprehensive information security program that protects the security, availability, confidentiality, and integrity of covered information.

Part V requires Respondent to obtain initial and biennial information security assessments by an independent, third-party professional for 10 years. Part VI requires Respondent to disclose all material facts to the assessor required by Part V and prohibits Respondent from misrepresenting any fact material to the assessments required by Part V.

Part VII requires Respondent to submit an annual certification from the Chief Information Security Officer responsible for its information security program that the company has implemented the requirements of the Order and is not aware of any material noncompliance that has not been corrected or disclosed to the Commission. Part VIII requires Respondent to notify the Commission any time it notifies a federal, state, or local government that information of or about a consumer was, or is reasonably believed to have been, accessed, acquired, or publicly exposed without authorization.

Parts IX - XII are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance.

Part XIII states that the proposed order will remain in effect for 10 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

April J. Tabor,

Secretary.

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