

WCEPS Terms of Service

Last Updated July 20, 2021.

Welcome to the website, provided and maintained by the Wisconsin Center for Education Products and Services ("WCEPS"). WCEPS markets and distributes access to a variety of products and services through its website ("WCEPS Website"). Some of the products and services WCEPS offers on its website ("UW Products") are provided and maintained by the Board of Regents of the University of Wisconsin on behalf of the Wisconsin Center for Education Research and its technology provider, MetriTech, Inc. (collectively the "Providers"). WCEPS also provides its own products and services on the WCEPS website, including registration for in-person training sessions ("WCEPS Products"). Any purchase from the WCEPS Website requires you and the school or district you represent (collectively "District") to agree and comply with these Terms of Service together with our WCEPS Privacy Policy. These Terms of Service together with our Privacy Policy constitute the agreement between District and WCEPS regarding the purchase of products or services ("**Agreement**").

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING OR PURCHASING ANYTHING FROM THE WCEPS WEBSITE. BY COMPLETING YOUR PURCHASE, YOU AGREE ON BEHALF OF DISTRICT TO BE BOUND BY ALL OF THE TERMS BELOW. PLEASE PRINT A COPY OF THIS AGREEMENT FOR YOUR REFERENCE. IF THE TERMS BELOW ARE NOT ACCEPTABLE, PLEASE DO NOT COMPLETE YOUR PURCHASE.

Privacy Policy

Your acceptance of this Agreement for any purpose, including any purchase from the WCEPS Website, constitutes your consent to data monitoring and data collection as set forth in our Privacy Policy available at the following URL: <https://www.wceps.org/Store/PrivacyPolicy>.

Electronic Communications

When District places its order from the WCEPS website, District understands that District is engaging in electronic commerce. District consents to receive electronic communications from WCEPS with respect to its order. District agrees that all agreements, terms, notices, disclosures and other communications provided to it electronically satisfy any legal requirement that such communication be in writing.

Product Descriptions

WCEPS provides product descriptions for UW Products based upon the descriptions provided to WCEPS by the Providers. WCEPS attempts to be as accurate as possible in such descriptions, but it does not warrant or represent that the product descriptions are accurate, current, complete, reliable, or error-free. WCEPS has no responsibility for the UW Products, their content, or their availability, which are solely the responsibility of the Providers. WCEPS also provides product descriptions for WCEPS Products, for which WCEPS is responsible for their content and availability.

Use of the UW Products may require use of specific browsers and operating systems supported by Providers. This information will be made available to you as part of the product description. WCEPS cannot control any changes in the supported browsers and operating systems that may be made by Providers.

ONLINE Terms of Use

USE OF THE UW PRODUCTS IS SUBJECT TO THE PROVIDERS' ADDITIONAL TERMS OF SERVICE AND PRIVACY

POLICIES. USE OF WCEPS PRODUCTS IS ALSO SUBJECT TO ADDITIONAL TERMS OF SERVICE, PRIVACY POLICIES, AND DATA USE AGREEMENTS. WCEPS ENCOURAGES YOU TO REVIEW THOSE ADDITIONAL TERMS OF SERVICE, PRIVACY POLICIES, AND DATA USE AGREEMENTS PRIOR TO PURCHASING FROM WCEPS WEBSITE. WCEPS IS NOT RESPONSIBLE FOR ANY ACT OR OMISSION OF THE PROVIDERS OR FOR THE CONTENT OF SUCH TERMS AND POLICIES. ALL TRANSACTIONS REGARDING USE OF THE UW PRODUCTS ARE SOLELY BETWEEN YOU AND PROVIDERS.

WCEPS DOES NOT CONTROL PROVIDERS' TERMS AND POLICIES AND IS NOT LIABLE OR RESPONSIBLE FOR ANY TRANSACTION BETWEEN DISTRICT AND PROVIDERS. IF THE PROVIDERS' TERMS AND POLICIES ARE NOT ACCEPTABLE, DO NOT COMPLETE YOUR PURCHASE.

Support and Availability

Support for use of The UW Products is made available by the Providers. The Providers also provide and maintain the UW Products, so WCEPS cannot make any assurance or guarantee that the UW Products are or will be available to District at any time. If you have a support or availability question, you may contact WCEPS at store@wceps.org or call 1-877-272-5593 and WCEPS will forward your support or availability question to Providers. WCEPS also provides support for WCEPS Products.

Registration and Processing Your Order

Once an order is received and payment successfully processed, the District contact specified in the order will receive an email with a link, if applicable, to complete its registration and activate its account. WCEPS does not control such terms and conditions associated with UW Products and is not liable or responsible for any transaction between you and either Provider. If the Providers' terms and conditions are not acceptable, you may cancel your order and request a refund as set forth below.

To process District's order, WCEPS may need to share information about your order with the Providers including your name, your contact information, and the name of the District; you hereby agree and permit WCEPS to share such information with the Providers.

In the event that WCEPS is unable to process District's order, WCEPS will contact District using information provided in its order. If there is a problem with District's order and we are not able to contact District, we will cancel its order.

Student Privacy and FERPA Compliance

WCEPS does not collect or retain any private information regarding students in connection with the UW Products or WCEPS Products.

Price and Taxes

Prices remain valid while they are listed and offered on the WCEPS Website. WCEPS and Providers reserve the right, without liability or prior notice, to revise or cease to make the UW Products or the WCEPS Products available. The price of the items ordered will be the price posted on the Order Page as of the date of the order. District is responsible for any and all sales, use, excise, and other taxes, import duties and charges levied as a result of its order.

Order Payments

All orders must be paid for with either a credit or debit card, a purchase order, or a wire transfer. Please see the WCEPS payment FAQ for additional information.

All credit card purchases are processed by WCEPS' third-party payment processor, Authorize.net.

If the credit card information that you submit is incorrect or invalid, District's order may not be processed. Payment is subject to the approval of the financial institution issuing the card. WCEPS assumes no responsibility or liability if the financial institution refuses to accept or honor District's card for any reason.

Refunds and Cancellations

District may cancel an order any time before completing registration with Providers by contacting us at: store@wceps.org or call 1-877-272-5593. WCEPS will confirm with the Providers that District has not completed registration and WCEPS will issue a complete refund.

If District does not complete the Provider registration for products with the Providers within three (3) months of purchase, WCEPS will cancel District's order and provide a full refund. WCEPS will attempt to contact District prior to cancelling its order.

After completing registration, District may request a full refund for any reason for up to 30 days from registration. After 30 days from registration, no refund will be available.

Copyright and Trademark Ownership

Any unauthorized use of the marks or of WCEPS copyrighted material or trade dress or any other intellectual property of WCEPS is strictly prohibited and may be prosecuted to the fullest extent that the law provides.

Warranty Disclaimer

WCEPS does not make any warranty with respect to the UW Products or WCEPS Products, the WCEPS Website or any other the content or digital materials available for purchase or download via the WCEPS Website, all of which are made available "AS IS" and "WITH ALL FAULTS." To the extent the UW Products have warranties from the Providers, WCEPS will use commercially reasonable efforts to assist District in receiving such warranty from the Providers. District's sole and exclusive remedy in the event it is dissatisfied with any purchase from the is to cease use of the product and request a refund as set forth above.

THE FOREGOING WARRANTY IS THE ENTIRE AND EXCLUSIVE WARRANTY PROVIDED BY WCEPS REGARDING ANY CONTENT OR MATERIALS AVAILABLE VIA THE WCEPS WEBSITE AND THE AGREEMENT AND IS IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES WHATSOEVER. WCEPS MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE UW PRODUCTS OR THE WCEPS PRODUCTS OR THIS AGREEMENT, AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED (INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE), TITLE AND NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE IN TRADE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY WCEPS, ITS AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY, AND NO SUCH PERSONS HAVE AUTHORITY TO MODIFY ANY ASPECT OF ANY WARRANTY OR CREATE ANY OTHER WARRANTIES.

WHILE WCEPS TAKES COMMERCIALY REASONABLE EFFORTS TO PROTECT THE PRIVACY AND CONFIDENTIALITY OF DISTRICT'S INFORMATION AND TRANSACTIONS, WCEPS CANNOT ENSURE ANY INTERNET TRANSACTION IS

COMPLETELY SECURE. WCEPS AND ITS VENDORS USE INDUSTRY STANDARD TECHNOLOGY TO HELP PROTECT AGAINST THE LOSS, MISUSE AND ALTERATION OF THE INFORMATION UNDER WCEPS' CONTROL; HOWEVER, WCEPS DOES NOT GUARANTEE THAT SUCH LOSS, MISUSE OR ALTERATION WILL NOT OCCUR.

Applicable law may not allow the exclusion of implied warranties, so the above exclusion may not apply to District.

Limitation of Liability

THE STATE OF WISCONSIN IS SELF-FUNDED FOR STATE LIABILITY PURPOSES. THE STATE'S SELF-FUNDED LIABILITY PROGRAM PROVIDES COVERAGE AGAINST CLAIMS MADE AS THE RESULT OF THE NEGLIGENT ACTS OF UNIVERSITY OFFICERS, EMPLOYEES AND AGENTS. THE STATE'S LIABILITY PROTECTION IS AFFORDED UNDER WISCONSIN STATUTE § 895.46 (1) AND EXTENDS TO ALL EMPLOYEES IN THE COURSE AND SCOPE OF THEIR DUTIES.

IN NO EVENT WILL WCEPS OR ANY OF ITS RESPECTIVE VENDORS, AFFILIATES, OFFICERS, MEMBERS, REPRESENTATIVES, SUPPLIERS, DIRECTORS, EMPLOYEES, CONSULTANTS, OWNERS, OR AGENTS BE LIABLE FOR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY DAMAGES FOR LOSS OF USE, DATA, INFORMATION, PROFITS, BUSINESS, REVENUE, EXPECTED SAVINGS OR BUSINESS INTERRUPTION, OR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING FROM OR OTHERWISE RELATED TO THIS AGREEMENT, THE DISTRICT'S USE OF THE UW PRODUCTS OR WCEPS PRODUCTS, OR USE OF THE WCEPS WEBSITE, WHETHER SUCH DAMAGES ARE BASED IN TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE OTHERWISE FORESEEABLE. DISTRICT'S SOLE AND EXCLUSIVE REMEDY AGAINST WCEPS IN THE EVENT OF SUCH DAMAGE IS TO DISCONTINUE DISTRICT'S USE OF THE UW PRODUCTS OR WCEPS PRODUCTS. NOTWITHSTANDING THE FOREGOING, IN ANY EVENT, THE AGGREGATE LIABILITY OF WCEPS FOR ANY REASON SHALL NOT EXCEED \$100.00 US, EVEN IF SUCH REMEDY SHOULD FAIL OF ITS ESSENTIAL PURPOSE. ADDITIONAL REMEDIES AGAINST PROVIDERS MAY BE AVAILABLE UNDER PROVIDERS' TERMS OF SERVICE.

Indemnification

DISTRICT AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS WCEPS AND ITS OFFICERS, DIRECTORS, REPRESENTATIVES, EMPLOYEES, CONSULTANTS, AND AGENTS FROM AND AGAINST ANY CLAIMS, ALLEGATIONS, DAMAGES, LOSSES, LIABILITIES OR EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES) THAT EACH OR ANY OF THEM MAY SUFFER OR INCUR AS A RESULT OF (I) DISTRICT'S INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR OTHER RIGHT OF WCEPS, OR ANY OTHER PERSON OR ENTITY, (II) DISTRICT'S VIOLATION OF ANY APPLICABLE LAW, INCLUDING WITHOUT LIMITATION ANY PRIVACY OR DATA SECURITY LAW OR REGULATION OR (III) DISTRICT'S VIOLATION OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, WCEPS RESERVES THE RIGHT TO PARTICIPATE IN THE DEFENSE OF ANY SUCH CLAIM, SUBJECT TO DISTRICT'S INDEMNIFICATION OBLIGATION.

Disputes and Interpretation

This Agreement is governed by and interpreted under the laws of the State of Wisconsin and the federal laws of the United States, without regard to conflicts of laws principles. This Agreement and access to the UW Products or WCEPS Products will be deemed to have been performed and occurred in the State of Wisconsin and the courts of that State will have exclusive jurisdiction to entertain any action arising under this Agreement. District hereby irrevocably submits to the exclusive jurisdiction and venue of the

courts of the State of Wisconsin, the County of Dane and the Western District of Wisconsin, as applicable, and waives any objections as to personal jurisdiction, venue and forum nonconveniens.

In the event of any dispute, the prevailing party shall be entitled to recovery of its reasonable attorneys' fees and costs. Any cause of action or claim with respect to this Agreement, the WCEPS Website or use of the UW Products or WCEPS Products must be commenced within one (1) year after the action or claim arises. Certain provisions, by their nature or as explicitly stated, will survive any termination or expiration of this Agreement. If any of these conditions shall be deemed invalid, void, or for any reason unenforceable, that condition will be severable and shall not affect the validity and enforceability of any remaining condition.

This Agreement, along with the WCEPS Privacy Policy are the sole terms governing District's right to the UW Products or WCEPS Products. Any waiver of any portion of this Agreement will be effective only if in writing and signed by WCEPS. Use of and access to the UW Products or WCEPS Products is subject to additional terms and conditions from the Providers.

International Data Transfer

"District Personal Data" shall mean all personal data (as defined in the Data Protection Legislation) controlled by the District which is processed by WCEPS in order to process the District's order;

"District Provided Materials" means all materials, data and content owned and/or licensed by the District which are made available to WCEPS in order to process the District's order;

"Data Protection Legislation" means (i) any legislation in force related to the European Community's Directive 95/46/EC and Directive 2002/58/EC, including but not limited to the Data Protection Act of 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003; (ii) from 25 May 2018 only, Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (the "GDPR"); and (iii) any other legislation in force from time to time in the United Kingdom relating to privacy and/or the processing of Personal Data

The terms "process", "data controller", "data processor" and "data subject" shall have the meanings set out in the Data Protection Legislation.

The District shall comply with the Data Protection Legislation as regards the District Personal Data. The parties agree that the District shall be the data controller and WCEPS shall be a data processor of any District Personal Data. The District warrants that its instructions to WCEPS in respect of the District Personal Data are lawful.

1. WCEPS shall to the extent it is acting as a data processor under the Agreement:
 - 1.1. comply with the requirements of the Data Protection Legislation when processing the District Personal Data;
 - 1.2. only process District Personal Data to the extent necessary to provide the services under this Agreement and to do so in accordance with the District's documented instructions, including with regard to transfers, unless required to do otherwise by applicable law. In which event, WCEPS shall inform the District of the legal requirement before processing the District Personal Data other than in accordance with the District's instructions, unless legally prohibited from doing so;
 - 1.3. ensure that its personnel are subject to appropriate obligations of confidentiality;

1.4. taking into account the nature of the order, provide reasonable assistance to the District, insofar as this is possible and at the District's cost, for the fulfilment of the District's obligations under the Data Protection Legislation in respect of data security; data breach notification; data protection impact assessments; prior consultation with supervisory authorities; and the fulfilment of data subject's rights;

1.5. taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, have in place appropriate technical and organizational measures to ensure a level of security appropriate to the risk, and otherwise take all measures required under Article 32 of the GDPR;

1.6. promptly notify the District of any communication received relation to the parties' obligations under the Data Protection Legislation with respect to Personal Data, including any communication from a data subject or supervisory authority; and

1.7. upon termination of all services purchased from WCEPS, upon the District's request, return or delete the District Personal Data, and delete any existing copies in its possession unless required to retain such District Personal Data under applicable law.

2. The District consents to WCEPS engaging subcontractors to process the District Personal Data on its behalf ("Sub-processors"). WCEPS shall ensure Sub-processors are subject to contractual obligations which are the same as or equivalent to those imposed on WCEPS under this Agreement. WCEPS shall inform the District of any intended changes concerning the addition or replacement of any Sub-processor within a reasonable time and obtain the prior written consent of the District prior to implementation of such change. In the event of the District objecting to such change, WCEPS shall make reasonable efforts to address the District's concerns (including making reasonable efforts to find an alternative Sub-processor). WCEPS shall be responsible for the performance of its Sub-processors.

3. The District acknowledges and agrees that District Personal Data may be processed by Sub-processors outside the European Economic Area or the country where the District is located in order to carry out the Services and WCEPS's other obligations under this Agreement. WCEPS shall implement a data transfer solution to ensure any such transfers are compliant with the Data Protection Legislation.

4. WCEPS shall use appropriate technical and organizational measures to protect District Personal Data stored with WCEPS infrastructure against unauthorized and unlawful processing and against accidental loss, destruction, disclosure, damage or alteration, as described in Schedule X or otherwise notified to the District in writing. The District agrees that the technical and organizational measures detailed in Schedule X are appropriate, taking into account the nature, scope, context and purposes of the processing.

5. Upon written request, WCEPS shall make available to the District such information as is reasonably necessary to demonstrate WCEPS's compliance with its obligations under this clause 16 and under Article 28 of the GDPR. In addition, WCEPS agrees to permit an audit to be conducted of its facilities, by the District or the District's representatives (bound by appropriate obligations of confidentiality), provided such an audit is carried out: (i) during WCEPS's normal business hours; (ii) in manner that causes minimal disruption to WCEPS's business and excludes from its scope any internal pricing information, information relating to other Districts of WCEPS or other WCEPS's own internal reports; and (iii) at the District's own cost.

6. WCEPS shall notify District without undue delay and in any event within one (1) business day of discovery of any accidental, unauthorized, or unlawful destruction, loss, alteration, or disclosure of, or access to, District Personal Data.

The District Personal Data processing activities carried out by WCEPS under this Agreement may be described as follows:

Subject matter: the purchase of Provider services through WCEPS.

Duration: So long as District is an active user of any service purchased from WCEPS.

Nature and purpose: To enable WCEPS to process payment for the purchase of services.

Data categories: general personal information including name, address, district, phone number, email address, credit card or other payment information.

Special categories of Personal Data: None

Data subjects: authorized District purchasing agents and administrators.

Contact Us

Some laws may allow you to request from WCEPS your personal information. If you are in a place that has such a law, you may have one or more of the following rights:

The right to access – The right to request WCEPS for copies of your personal data related to your order. We may charge you a small fee for this service.

The right to rectification – The right to request that WCEPS correct any information you believe is inaccurate about your order. You also have the right to request WCEPS to complete the information you believe is incomplete.

The right to erasure – The right to request that WCEPS erase your personal data related to this order.

The right to restrict processing – The right to request that WCEPS restrict the processing of your personal data related to this order, under certain conditions. Restricting or objecting to the processing of your personal data related to this order may prevent your access to Providers' services.

The right to object to processing – The right to object to WCEPS processing of your personal data related to this order, under certain conditions.

The right to data portability – The right to request that WCEPS transfer the data that we have collected to another organization, or directly to you, under certain conditions.

If you make a request and your request is valid, WCEPS will respond to you within one (1) month. If District has any questions or would like to exercise any rights permitted it by a law of its country regarding the Agreement, the WCEPS Website, and Purchase Terms, please contact us at:

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