



September 28, 2022
The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Daycare App Security & Privacy Practices

Dear Chair Khan,

The Electronic Frontier Foundation (EFF) urges the Federal Trade Commission to review the lack of privacy and security protections among daycare and early education apps. A recent investigation¹ conducted by EFF substantiated research² presented in March at the Privacy Enhancing Technologies (PET) Symposium, finding daycare apps dangerously negligent when it comes to the privacy and security of young children’s data.

EFF found that early education and daycare apps have several troubling security risks: some allow public access to children’s photos via insecure cloud storage; many have dangerously weak password policies; at least one application (Tadpoles for Parents) sends “event” data including when the app is activated and deactivated to Facebook; and several applications enable cleartext traffic that can be exploited by network eavesdroppers.³ Of 42 daycare apps researched, 13 companies did not specify the data they collect in their privacy policies. In policies of those that do describe data collection processes, the apps admitted to sharing sensitive information (such as the average number of diaper changes per day) with third parties. Only 10 of the 42 apps stated in their privacy policy that they did not share data with third parties. But 7 of those 10 were sharing data with third parties anyway, contrary to their policy.⁴

Due to current gaps in the law, children are not protected from having their data collected via daycare apps. The Children’s Online Privacy Protection Act (COPPA) only applies to operators of online services “directed to” children under 13.⁵ Early education and daycare

¹ Alexis Hancock, *Daycare Apps Are Dangerously Insecure*, EFF (Jun. 2022)

<https://www.eff.org/deeplinks/2022/06/daycare-apps-are-dangerously-insecure>

² Moritz Gruber, Christian Höfig, Maximilian Golla, Tobias Urban, and Matteo Große-Kampmann, “*We may share the number of diaper changes*”: *A Privacy and Security Analysis of Mobile Child Care Applications* (Mar. 2022) <https://www.researchgate.net/publication/358904572>

³ Hancock, *Daycare Apps*.

⁴ Gruber et al., “*We may share*”

⁵ See 16 C.F.R. § 312.2 (definition of “Web site or online service directed to children,” paragraph (1) and (2)).

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apps, however, are used solely by adults like teachers. COPPA can protect children from websites or apps that target and appeal to them, but it does not protect children's information that adults enter into apps.

The Family Educational Rights and Privacy Act (FERPA) also falls short. FERPA protects the privacy of student "education records" by restricting schools from disclosing them to certain third parties without parental consent. Though FERPA regulates schools' responsibilities when handling and disclosing certain student data, it does not regulate the actions of third parties who may receive that data, such as daycare apps. At most, FERPA only applies to certain childcare programs⁶ and preschools⁷ that receive funds under an applicable program of the U.S. Department of Education.⁸ This leaves out private daycares, and it also does not solve the larger security risks present in daycare apps.

Parents who wish to enroll their children in daycare often have little ability to delete the sensitive data collected by these apps. Researchers have found that email correspondence is slow and unreliable for removing data, and the majority of apps studied did not provide any information at all on subject access requests. Parents find themselves in a bind: either enroll children at a daycare and be forced to share sensitive information with these apps, or don't enroll them at all. Paths for parents to opt a child out of data sharing are, with rare exception, completely absent. Since parents do not have the tools or proper information to currently assess the privacy and security of their children's data in daycare and early education apps, the Federal Trade Commission should review the current gaps in the law and assess potential paths to strengthen protections for young children's data, or investigate other means to improve protections for children's data in this context.

Best Regards,
Electronic Frontier Foundation

⁶ U.S. DEPARTMENT OF EDUCATION, *Childcare Access Means Parents in School Program* (Last modified May 20, 2022), <https://www2.ed.gov/programs/campisp/index.html>.

⁷ U.S. DEPARTMENT OF EDUCATION, *Preschool Development Grants* (Last modified Jan 21, 2020), <https://www2.ed.gov/programs/preschooldevelopmentgrants/index.html>.

⁸ See 34 C.F.R. § 99.1(a).