

Merlyn Mind – Merlyn Mind Classroom Solution Privacy Policy

Last updated: August 8, 2024

At Merlyn Mind, Inc. ("**Merlyn Mind**", "**we**", "**us**" or "**our**"), we take your privacy seriously. Please read this Privacy Policy to learn how we process your Personal Information (regardless of where you are located) when you use the Merlyn Mind Classroom Solution.

By using or accessing a Merlyn Mind Classroom Solution in any manner, you acknowledge that you have read and understood the practices and policies outlined below with respect to the collection, use and sharing of your Personal Information, as described in this Privacy Policy.

Remember that your use of Merlyn Mind Classroom Solutions is at all times subject to the Merlyn Mind Classroom Solution Customer Terms of Use and Merlyn Mind Classroom Solution Instructor Terms of Use applicable to the solution that you are using (together, the "**Agreement**"). Any terms we use in this Privacy Policy without defining them have the definitions given to them in the Agreement. If you are unclear which terms apply to you, please contact us at privacy@merlyn.org. This Privacy Policy does not apply to your use of any Merlyn Mind website, including but not limited to, www.merlyn.org, which is governed by the [Website Terms of Use](#) and [Website Privacy Policy](#).

We may need to change this Privacy Policy from time to time. We will alert you to material changes by placing a notice on the Merlyn Mind website, by sending you an email, and/or by some other means.

1. What this Privacy Policy Covers

This Privacy Policy covers how we process Personal Information that we gather when you access or use a Merlyn Mind Classroom Solution. "**Personal Information**" means any information that relates to an identified or identifiable particular living individual and also includes information referred to as "personally identifiable information" or "personal data" under applicable data privacy laws, rules, or regulations. This Privacy Policy does not cover the practices of companies we don't own or control, or people we don't manage.

If you use a Merlyn Mind Classroom Solution and are based in the European Economic Area ("**EEA**") or United Kingdom ("**UK**"), this Privacy Policy sets out how we process your Personal Information as a controller under the UK General Data Protection Regulation and EU General Data Protection Regulation (the "**GDPR**" as applicable or otherwise specified). Information specific to data subjects based in the EEA or UK can be found below at **section 12 (EEA and UK based users of Merlyn Mind Classroom Solutions)**.

Merlyn Mind also processes Personal Information as a processor for its customers (each, a "**Customer**") and where this is the case, we process your Personal Information in accordance with our Customer's lawful instructions and the terms of our agreement with the Customer. You should contact the Customer directly for information regarding how your data is collected and processed in these circumstances. If you are not sure who the relevant Customer is, please contact us at privacy@merlyn.org.

2. What Personal Information do we collect?

We collect the categories of Personal Information set out in the table below.

Category of Personal Information	Personal Information We Collect
Profile or Contact Data	First and last name Email address
Participation Data	Audio transcripts Prompts (e.g., questions) – audio data Prompts (e.g., questions) – text data Outputs or generated data (i.e., search results or other output generated by the solution)
Technical, Analytics and Usage Data	Unique device or user identifiers, such as IP/ MAC address OS browser type Web page interactions Cookie data Device actions Access tokens for user's Google Drive
Communications Data	Identifying information in emails, letters, texts, surveys, or other communication between you and us

When Merlyn Mind Classroom Solutions are used in accordance with the Agreement, we do not collect any **Special Categories of Personal Data** about you. This includes details about your race or ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health, and genetic and biometric data. Nor do we collect any information about criminal convictions and offenses.

If you fail to provide personal data

Where we need to collect personal data by law, or under the terms of the Agreement, and you fail to provide that data when requested, we may not be able to perform the contract we have or are trying to enter into in order to provide the Merlyn Mind Classroom Solution. In this case, we may have to amend the contract (or delay or cancel provision of the affected product or service), but we will notify you if this is the case at the time.

3. Sources of Personal Information

We collect Personal Information about you from the following sources:

- **Information collected from you**
 - When you provide such information directly to us:

- when you create an account or use a Merlyn Mind Classroom Solution
- when you send us an email or otherwise contact us
- **Information collected by automated technologies or interactions**
 - When you use a Merlyn Mind Classroom Solution and information is collected automatically:
 - through our use of Cookies (please see our [Cookie Policy](#) for more information)
 - if you use a location-enabled browser, we may receive information about your location.
 - if you download, install, or run certain applications and software necessary to use the Merlyn Mind Classroom Solution, we may receive and collect information transmitted from your computing device for the purpose of providing you with Merlyn Mind Classroom Solution, such as information regarding when you are logged on and available to receive updates or alert notices.
- **Third Parties**
 - Vendors
 - We may use analytics providers to analyze how you interact and engage with Merlyn Mind Classroom Solutions, or third parties may help us provide you with customer support.

4. How We Use Your Personal Information

We will only use your Personal Information when the law allows us to. Most commonly, we will use your Personal Information in the following circumstances:

- Where we need to perform the contract we have entered into or are about to enter into for the provision of a Merlyn Mind Classroom Solution.
- Where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests.
- Where we need to comply with a legal obligation.

Generally, we do not rely on consent as a legal basis for processing your Personal Information although we will get your consent before sending third party direct marketing communications to you via email or text message. You have the right to withdraw consent to marketing at any time by contacting us at privacy@merlyn.org.

Purposes for which we will use your Personal Information

We have set out below, in a table format, a description of all the ways we plan to use your Personal Information, and which of the legal bases we rely on to do so. We have also identified what our legitimate interests are where appropriate.

Note that we may process your Personal Information for more than one lawful ground depending on the specific purpose for which we are using your data. Please contact us at privacy@merlyn.org if you need details about the specific legal ground we are relying on to process your Personal Information where more than one ground has been set out in the table below.

Purpose of processing	Personal Information processed	GDPR lawful basis (for EEA and UK based users only)
To register you as a user of and provide you access to a Merlyn Mind Classroom Solution	Profile or Contact Data	Necessary for the performance of the Agreement or for Merlyn Mind's legitimate interests in performing its agreement with its Customer
To manage our relationship with you or the Customer to which you are affiliated, including to notify you about changes to our Agreement or Privacy Policy or asking you to take a survey or provide feedback	Profile or Contact Data Communications Data	Necessary for the performance of the Agreement or for Merlyn Mind's legitimate interests in performing its agreement with its Customer
To administer and protect our business and Merlyn Mind Classroom Solutions, including troubleshooting, data analysis, testing, system maintenance, support, reporting, and hosting of data	Profile or Contact Data Generated Data Communications Data Technical, Analytics, and Usage Data	Necessary for Merlyn Mind's legitimate interests to run and administer its business, to prevent fraud, and in the context of a business reorganization or group restructuring
To use data analytics to improve Merlyn Mind Classroom Solutions and Customer and user experiences	Technical, Analytics, and Usage Data	Necessary for Merlyn Mind's legitimate interests to keep the Merlyn Mind Classroom Solution up to date and relevant and to develop Merlyn Mind's business and inform its marketing strategy
To make suggestions and recommendations to you about Merlyn Mind Classroom Solutions and features of Merlyn Mind Classroom Solutions and notify you of Merlyn Mind events that may be of interest to you	Profile or Contact Data Generated Data Communications Data Technical, Analytics and Usage Data	Necessary for Merlyn Mind's legitimate interest in developing and growing its business

5. How We Disclose Your Personal Information

We disclose your Personal Information to the categories of service providers and other parties listed in this section when we are legally permitted to do so. Depending on U.S. state laws that may be applicable to you, some of these disclosures may constitute a “sale” of your Personal Information. For more information, please refer to the state-specific sections below.

- **Service Providers.** These parties help us provide the Merlyn Mind Classroom Solution or perform business functions on our behalf. They include:
 - Audio transcription providers and processors
 - Hosting, technology, and communication providers
 - Security and fraud prevention consultants
 - Support and customer service vendors
 - Providers of Third Party Solutions and other third party IT and communication services
 - Product fulfillment and delivery providers, including resellers and distributors
- **Analytics Partners.** These parties provide analytics on web traffic or usage of Merlyn Mind Classroom Solutions.
- **Authorities and Regulators.** We may share Personal Information with law enforcement or other government and regulatory agencies and bodies to ensure compliance with Merlyn Mind's legal obligations and to enforce any contractual terms between Merlyn Mind and its contracting third parties, including for:
 - Fulfilling our legal obligations under applicable law, regulation, court order or other legal process, such as preventing, detecting, investigating, and reporting security incidents and potential illegal or prohibited activities
 - Protecting the rights, property or safety of you, Merlyn Mind, or another party
 - Enforcing any agreements with third parties
 - Responding to claims that any posting or other content violates third-party rights
 - Resolving disputes
- **Professional Advisors.** For example, lawyers, bankers, auditors, and insurers to advise and assist Merlyn Mind in relation to the lawful and effective management of our organization and in relation to any disputes we may become involved in.
- **Other Third Parties.** All of your Personal Information that we collect may be transferred to a third party if we undergo a merger, acquisition, bankruptcy, or other transaction in which that third party assumes control of our business (in whole or in part). Should one of these events occur, we will make reasonable efforts to notify you before your information becomes subject to different privacy and security policies and practices.

6. Data that is Not Personal Information

We may create aggregated, de-identified, or anonymized data from the Personal Information we collect, including by removing information that makes the data personally identifiable to a particular individual. We may use such aggregated, de-identified, or anonymized data and share it with third parties for our lawful business purposes, including to analyze, build and improve the Merlyn Mind Classroom Solutions and to promote our business, provided that we will not share such data in a manner that could identify you or any participant, instructor, or IT administrator.

7. Data Security

We seek to protect your Personal Information from unauthorized access, use and disclosure using

appropriate physical, technical, organizational, and administrative security measures based on the type of Personal Information and how we are processing that data. As detailed more fully in the applicable Merlyn Mind Classroom Solutions Customer Terms of Use, Merlyn Mind employs a variety of methods in order to ensure the security of Personal Information, including access controls; encryption; de-identification; secure storage; ensuring third party providers are subject to appropriate contractual terms governing security, confidentiality and privacy; and system risk management.

You should also help to protect your data (including Personal Information) by appropriately selecting and protecting your password and/or other sign-on mechanism, limiting access to your computer or device and browser, and signing off after you have finished accessing your account. Although we work to protect the security of your account and other data that we hold in our records, please be aware that no method of transmitting data over the internet or storing data is completely secure.

8. Data Retention

We retain your Personal Information for as long as necessary to deliver the Merlyn Mind Classroom Solution or to perform our associated legal, administrative, or commercial purposes. When establishing a retention period for specific categories of Personal Information, we consider who we collected the data from, our need for the Personal Information, why we collected the Personal Information, and the sensitivity of the Personal Information. In some cases, we retain Personal Information for longer, if doing so is necessary to comply with our legal obligations, resolve disputes or collect fees owed, or if such retention is otherwise permitted or required by applicable law, rule, or regulation. We may further retain information in an anonymous or aggregated form where that information would not identify you personally.

Details of retention periods for different aspects of your personal data are available in our retention policy, which you can request from us by contacting us at privacy@merlyn.org.

9. United States based users of Merlyn Mind Classroom Solutions - Family Educational Rights and Privacy Act ("FERPA")

Certain Personal Information of participants may be subject to FERPA, 34 C.F.R. §99 et. seq. We remain under the "direct control" of the educational institutions we provide Merlyn Mind Classroom Solution to with respect to the use and handling of any FERPA-protected "education records."

10. United States Users of Merlyn Mind Classroom Solutions - Personal Information of Children

We use participant Personal Information only to support the legitimate educational interests of the educational institution as governed by the Agreement, and we require educational institution Parties to obtain any necessary consents to use and deploy Merlyn Mind Classroom Solution, including those under the Children's Online Privacy Protection Act ("**COPPA**").

If you use Merlyn Mind Classroom Solution in environments with participants under age 13, you agree that you will not collect or solicit personally identifiable information from or about any person, including a participant under the age of 13, without obtaining verifiable consent from that child's parent or guardian ("**Parental Consent**"), except for the limited amount of personally identifiable information you need to collect in order to obtain Parental Consent ("**Required Information**"). Until you have received Parental Consent, please do not attempt to send any Personal Information about any participant under the age of 13. If you believe that a participant under 13 years of age has provided Merlyn Mind with Personal Information (beyond the Required Information) without your having obtaining Parental

Consent, please contact us at privacy@merlyn.org. We do not condition use of Merlyn Mind Classroom Solution on disclosure of more Personal Information from any person under 13 years of age than is reasonably necessary for that participation, and we do not retain Personal Information from children under 13 years of age longer than is reasonably necessary in order to fulfill the purpose for which it was disclosed.

If you are a parent or guardian of a participant in Merlyn Mind Classroom Solution who is under 13 years of age, please contact the relevant educational institution to address your rights with respect to such data in the first instance. By contacting us at privacy@merlyn.org, you may request that (a) we stop collecting Personal Information from the participant, (b) we delete any Personal Information already collected from the Participant (although note that we may further retain information in an anonymous or aggregated form where that information would not identify such user personally), or (c) we stop disclosing Personal Information collected from the participant to third parties, but continue to allow for collection and use of Personal Information collected from such user in connection with Merlyn Mind Classroom Solution.

11. Data Subject Rights and Choices

Subject to applicable law in the jurisdiction where you reside, you may have certain rights and choices with respect to your Personal Data, including those set forth below. Merlyn Mind will not discriminate based on your exercise of rights that you may have under applicable law. Please note that these rights are not absolute in all cases. For more information about these rights, or to submit a request exercising these rights, please email us at privacy@merlyn.org.

For more information on how the Personal Information submitted as part of a prompt, question, or request to Merlyn Mind Classroom Solutions is processed in order to produce a response (in which case, Merlyn Mind acts as a processor), please see the privacy policy of the relevant educational institution operating the Merlyn Mind Classroom Solution (the Merlyn Mind Customer).

If you have any questions about this section or whether any of the following applies to you, please contact us at privacy@merlyn.org.

Please note that where requests submitted to Merlyn Mind are manifestly unfounded or excessive, in particular due to their repetitive character, Merlyn Mind reserves the right to (i) charge a reasonable fee, or (ii) refuse to act on the request.

In some cases, we may also need you to provide us with additional information, which may include Personal Data, if necessary to verify your identity and the nature of your request.

- **Right to Know/Access:** You can request information about the Personal Data we hold about you and request a copy of such Personal Data.
- **Rectification:** If you believe that any Personal Data we are holding about you is incorrect or incomplete, you can request that we correct or supplement such data.
- **Erasure:** You can request that we erase some or all of your Personal Data from our systems.
- **Withdrawal of Consent:** If we are processing your Personal Data based on your consent (as indicated at the time of collection of such Personal Data), you have the right to withdraw your consent at any time. If you withdraw your consent, we may not be able to provide certain products or services to you.

- **Portability:** You can ask for a copy of your Personal Data in a machine-readable format. You can also request that we transmit the data to another controller where technically feasible.
- **Objection:** You can contact us to let us know that you object to the further use or disclosure of your Personal Data for certain purposes, such as for direct marketing.
- **Restriction of Processing:** You can ask us to restrict further processing of your Personal Data.
- **Automated Decision-Making:** Merlyn Mind does not engage in decision-making based solely on automated processing or profiling in a manner which impacts your legal rights or that has the potential to significantly affect your rights.
- **Sale and Targeted Marketing of Merlyn Mind Products and Services:** If we share your Personal Data for targeted advertising to promote our products and services in the future, you may opt-out and we will honor global privacy controls.
- **Right to File Complaint:** You have the right to lodge a complaint about Merlyn Mind's practices with respect to your Personal Data with the supervisory authority of your country or EU Member State. A list of EEA supervisory authorities is available here: https://edpb.europa.eu/about-edpb/board/members_en. In the UK, the supervisory authority is the Information Commissioner's Office, who can be reached here: <https://ico.org.uk/make-a-complaint/>.

12. Transfers of Personal Data

Merlyn Mind, Inc. is a company incorporated and operating out of the United States (“**U.S.**”).

By using Merlyn Mind Classroom Solutions, you acknowledge that your Personal Data may be processed by Merlyn Mind in the U.S. Whenever we import Personal Data from the EEA or UK to the U.S., and whenever we onward transfer such Personal Data to our service providers located either in the U.S. or other jurisdictions whose privacy laws have not been recognized as 'adequate' by the UK government or European Commission (as applicable), we will use model clauses approved by the UK government and/or European Commission to ensure that those transfers comply with the GDPR.

Please contact us at privacy@merlyn.org if you require further information on how we import and onward transfer Personal Data in compliance with the GDPR.

13. Contact Information:

If you have any questions or comments about this Privacy Policy, the ways in which we collect and use your Personal Information or your choices and rights regarding such collection and use, please do not hesitate to contact us at:

- **Email:** privacy@merlyn.org
- **Postal Address:** 8 W 40th Street, New York, New York 10018

If you are located in the UK, you may use the following information to contact our UK-Based Representative:

- **UK Representative:**
 - Merlyn Mind UK Limited c/o DP Data Protection Services UK Ltd
 - 3rd Floor, Chancery House, St. Nicholas Way, Sutton, Surrey, United Kingdom SM1 1JB
 - Email us at: merlynmind@gdpr-rep.com

If you are located in the EU, you may use the following information to contact our EU-Based Representative:

- **EU Representative:**
 - DP-Dock GmbH,
 - Merlyn Mind, Inc., Ballindamm 39, 20095 Hamburg, Germany
 - Email us at: merlynmind@gdpr-rep.com