

Secretary Miguel Cardona
U.S. Education Department
400 Maryland Avenue S.W.
Washington, D.C. 20202

Chairwoman Lina Khan
Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580

RE: FTC Settlement with EdModo

June 16, 2023

Dear Secretary Cardona and Chairwoman Khan,

On behalf of the undersigned organizations, representing school superintendents, educational service agencies, school boards, school principals, teachers and rural educators, we write today to request a fix to the significant problem raised by the proposed settlement order

be the primary entities responsible for contracting with edtech companies. Similarly, there are two additional levels of educational governance (educational service agencies, or ESAs, and state educational agencies, or SEAs) with long-established federal definitions that frequently contract on behalf of multiple schools and multiple LEAs/districts. The new definitions ignore current practice and terminology, and in doing so exponentially complicate the work of schools and districts to efficiently engage with education technology.

The US public education system is composed of approximately 99,000 schools, 13,000 LEAs, 500 ESAs, and 56 SEAs in the U.S.. Left unchanged, this settlement and its new definitions set up a scenario where edtech companies may have to contract with 99,000 schools—instead of 13,000 districts—for school authorization. The new definitions also mean that LEAs, ESAs, and SEAs can no longer provide School Authorization under the narrow definitions of “School” and “School Representative” in the settlement.

The new terms eliminate the bargaining power of LEAs, ESAs, and SEAs, all of which are higher than that of individual schools. LEAs and SEAs will no longer be able to negotiate privacy and security-protective contractual provisions with edtech providers. Prohibiting LEAs from providing School Authorization to enter contracts with edtech companies disadvantages schools by requiring individual schools to take on the administrative burden of negotiating and contracting with edtech companies on their own, without the additional experience and resources of their LEAs. Excluding LEAs from being entities who can provide School Authorization is not ideal for edtech companies either - it could significantly increase the number of contracts they must negotiate and execute to be able to have their products used in classrooms with children under 13.

We request that the FTC address this issue, perhaps by mutually agreeing with Edmodo to change the proposed settlement order before it is approved or amend the order to expand the definition of “School” to include LEAs and SEAs as defined by the Elementary and Secondary Education Act.

Sincerely,

AASA, The School Superintendents Association
Association of Educational Service Agencies
National Association of Elementary School Principals