



**NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE**
Michelle Morse, MD, MPH
Acting Health Commissioner

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Stefanie Coyle
Deputy Director, Education Policy
Center
New York Civil Liberties Union

Re: DOHMH Teenspace Program

Dear Ms. Coyle, Ms. Edwards, Ms. Haimson and Ms. Haroules:

As we stated in our letter dated September 23, 2024 (September letter), the New York City Department of Health and Mental Hygiene’s (DOHMH) Teenspace program protects the privacy of teen and parent data through our strong contractual protections with Talkspace, as well as through the application of HIPAA, the NYS Mental Hygiene Law, and state and local privacy laws. Notwithstanding these strong protections, we have been making relevant updates to the Teenspace program to further enhance data privacy. Additionally, we note that several issues raised in your letter dated October 16, 2024 (October letter) have been addressed in our September letter.

As we stated previously, in light of increases in depression and anxiety in our teen population, DOHMH has made the Teenspace platform available for New York City (NYC) teens to provide help in tackling these mental health challenges. We continue to be dedicated to supporting the mental health of all NYC teenagers through the Teenspace program. As of December 1, 2024, over 19,000 NYC teens have registered for Teenspace assistance. More than half of these teens reside in priority TRIE (Taskforce on Racial Inclusion & Equity) neighborhoods.

Since your October letter, DOHMH, together with our NYC partners, has engaged with Talkspace to evaluate the Teenspace program’s policies and practices for handling data and adherence to the DOHMH Talkspace Contract terms. As a result, we are finalizing a number of adjustments to the Teenspace privacy policy, the DOHMH Talkspace Contract, the Talkspace Informed Consent, and the Terms of Use. Talkspace has also removed all trackers and cookies from the Teenspace program’s website, except those needed to operate the site. For those trackers and cookies that are required to operate the site, Talkspace is working to minimize the amount and types of data collected, used, or disclosed. We remain committed to protecting teen and parent data.

I. Updates to the Teenspace Program

a. *Teenspace Website*

The NYC Teenspace website will link to and be governed by a revised Teenspace-specific privacy policy. This privacy policy explains the types of information that Talkspace does and does not collect, use and/or disclose. For example, the privacy policy will provide that trackers and cookies are not used on the Teenspace website (except those needed to operate the site) and that data will not be sold or otherwise shared for marketing, commercial, or advertising use. The privacy policy will state explicitly that Talkspace will not ask users for permission to use their data for marketing, commercial, or advertising purposes. Additionally, the Talkspace Informed Consent used for the Teenspace program will link to and be governed by the revised Teenspace privacy policy.

b. *Sign-up Flow*

Further, the Teenspace sign-up flow will now ask NYC teens only for their age and zip code to confirm eligibility for the Teenspace program. Dates of birth, complete addresses, and genders will no longer be required to sign up for the Teenspace program. Thus, the amount of data needed to verify eligibility has been minimized.

c. *Trackers*

Trackers and cookies had been used by Talkspace to understand the effectiveness of its advertising campaigns. To further safeguard data privacy, Talkspace has removed all social media and advertising trackers from the Teenspace website as of December 11, 2024.

d. *Underlying Contract*

The Data Security Rider to the DOHMH Teenspace Contract currently provides that Talkspace cannot use teen and parent data *for any purpose other than providing the services in the contract*. However, for greater clarity, the Data Security Rider will be updated to explicitly prohibit Talkspace from using teen and parent data for marketing, commercial, or advertising purposes. The Data Security Rider also will restrict Talkspace from requesting consent from teens and parents to sell or use the data for these purposes. Additionally, the Data Security Rider will contractually preclude Talkspace from placing social media or advertising trackers or cookies on the Teenspace site. As previously stated, Talkspace may only use trackers or cookies that are necessary to operate the site.

II. Points Raised in October Letter

a. *Sharing of Personal Mental Health Information*

As noted above, the Teenspace program will no longer use trackers or cookies, except those needed to operate the site. Additionally, the Teenspace sign-up flow will now ask NYC teens only for their age and zip code. By contract, neither Talkspace nor any third party is permitted to use teen or parent data for any purpose other than to provide the Teenspace services.

b. *NYS Education Law § 2-d*

As explained in our September letter, the Teenspace program is not subject to New York State (NYS) Education Law § 2-d because neither DOHMH nor Talkspace are educational agencies subject to NYS Education Law. As we also pointed out, DOHMH and Talkspace are not third-party contractors to an educational agency, such as the New York City Department of Education (DOE), because DOE is not providing any student, teacher or principal data to DOHMH or Talkspace. In addition, Talkspace is not providing any data to DOE. The fact that DOE has participated in promoting the Teenspace program as a mental health resource for NYC teens does not subject the program to NYS Education Law § 2-d. And as noted previously, Teenspace is available for all NYC teenagers, not only students in public schools.

c. *The DOHMH Talkspace Contract and the NYC Identifying Information Law*

The DOHMH Talkspace Contract contains a Data Security Rider, which will be amended. The amendment includes specific provisions that prohibit the use of data for marketing, commercial, or advertising purposes, and the use of trackers or cookies, except those needed to operate the site. Additionally, the amended Data Security Rider will also prohibit Talkspace from asking teens and parents for consent to use their information for any marketing, commercial, or advertising purpose.

We appreciate your concern for protecting the privacy of teen data. DOHMH continues to work with Talkspace to enhance data privacy, while supporting the program's work to improve the mental health of all NYC teenagers. We would be happy to meet to discuss any of these issues at a mutually convenient time.

Sincerely,

/s/

Lisa Landau
General Counsel

/s/

Nicholas Elcock
Chief Privacy Officer

cc: Toni Gantz, NYC Department of Education
Dennis Doyle, NYC Department of Education