

TalEval Web Site Terms & Conditions Agreement and Privacy Statement

This Agreement is a legal document that governs the terms and conditions of your subscription to TalEval.com. **Please read this Agreement carefully.** By logging into your account, you acknowledge your agreement with these terms and conditions. You are also agreeing to accept a non-exclusive, non-assignable right and license to use TalEval.com. America's Software Corporation reserves the right to change these terms and conditions at any time.

Security & Privacy

AMERICA'S SOFTWARE CORPORATION will not license, disclose, sell or otherwise share information gathered on or through TalEval.com. AMERICA'S SOFTWARE CORPORATION takes many precautions to protect our Clients' information. When Clients submit sensitive information to our web site, we protect it using encryption and user name and password authentication. All Users are entirely liable for all activities conducted through their account, and are responsible for ensuring that any other person who uses the account is aware of, and complies with, the terms of this Agreement. Each person who uses the account agrees to be bound by the terms of this Agreement, whether or not such person is a Member. You will notify us of any known or suspected unauthorized use(s) of your account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your User Name and password. We will have no liability for any circumstances arising from the unauthorized use of a User Name, Member's password or your account. You acknowledge that, although AMERICA'S SOFTWARE CORPORATION agrees to use its best efforts to comply with and to ensure that its users, content providers, distributors and licensees comply with our Privacy Policy, AMERICA'S SOFTWARE CORPORATION cannot be held responsible for the actions of third parties who violate our Privacy Policy.

If you have reason to believe that your Account is no longer secure (for example, in the event of a loss, theft, or unauthorized disclosure or use of your User Name, password), you must promptly change your password and notify us of the problem by sending an email to admin@americassoftware.com or by telephoning us at 1-800-467-1170.

Hipaa – See page 5 for Hipaa statement

Legal Requirements

Use and disclosure of student and patient records ("personal information") is subject to United States Federal and state regulation. Each Client and each User agree to comply at all times with their respective obligations and regulations. While AMERICA'S SOFTWARE CORPORATION provides an infrastructure for storage, retrieval and distribution of Client information, making determinations on disclosure, sharing and distribution of information is solely the responsibility of Clients and Users of TalEval.

Software Access

You agree not to alter or modify the Software. You further agree not to reverse engineer, decompile or otherwise attempt to uncover the source code. America's Software Corporation reserves all rights to the Software. The source code and its organization are the exclusive property of America's Software Corporation and the Software is protected by copyright, including United States Copyright Law. Except as expressly provided for in this section, this Agreement does not grant you any rights in the Software and all rights are reserved by America's Software Corporation. America's Software Corporation provides this Software "as is" without warranty of any kind either express or implied, including but not limited to the implied warranties or conditions of merchantability or fitness for a particular purpose.

Records Access

Access to student information and records will be strictly controlled by user names and passwords issued to individual Users. You are responsible for maintaining the confidentiality of your user name and password, and you will be responsible for all uses of your User Name and password, whether or not authorized by you. Clients and User shall indemnify AMERICA'S SOFTWARE CORPORATION from and against all liability, loss or damage arising from unauthorized use of Users' password and/or authentication device, unless such unauthorized use is solely attributable to the gross negligence or willful misconduct of AMERICA'S SOFTWARE CORPORATION. America's Software Corporation may

Browsers, Equipment and Accessibility

Clients and Users are solely responsible for obtaining and maintaining equipment and software, including without limitation operating system and browser software, that conforms to America's Software Corporation's specifications in effect, as revised from time to time, in order to connect to, communicate with and use the TalEval.com website.

Force Majeure

AMERICA'S SOFTWARE CORPORATION will make every effort to keep its Web site (taleval.com) and Services operational and your data safe from loss. However, certain technical difficulties and other factors outside of its control may, from time to time, result in temporary service interruptions and/or data loss. You agree not to hold AMERICA'S SOFTWARE CORPORATION liable for any of the consequences of such interruptions or loss.

Cookies

We use a feature on your Internet browser called a cookie. Cookies are small files that your Web browser places on your computer's hard drive. We use cookies to let us identify you. The cookie will not allow access to any secured areas of our site; these will always require a password.

Log Files

We use IP addresses to analyze trends, administer the site, track user movement, and log information for security purposes. IP addresses are not linked to personally identifiable information. All such collected information will be available for review by Client, to enable Client to track usage by the various Users.

Misuse and Termination

Misuse of AMERICA'S SOFTWARE CORPORATION'S TalEval hosted services such as by hacking, spamming, solicitations whether commercial or non-commercial, or transmission of information that is harmful, obscene, harassing, libelous or illegal is strictly forbidden. Any such activity, and any other violation of these Terms and Conditions and Privacy Statement by a Client or User may, in AMERICA'S SOFTWARE CORPORATION'S discretion, result in termination of TalEval hosted services by AMERICA'S SOFTWARE CORPORATION to the Client or User without notice. Finally, failure of a Client to pay any sum due and owing to AMERICA'S SOFTWARE CORPORATION shall constitute grounds for termination of the TalEval hosted Services.

Indemnification

You agree to defend, indemnify and hold harmless AMERICA'S SOFTWARE CORPORATION, its subsidiaries, affiliates, licensors, employees, agents, third party information providers and independent contractors against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or related to any user content that you post, store or otherwise transmit on or through the TalEval Site, your conduct, your use or inability to use the Site, your breach or alleged breach of the Site Terms or of any representation or warranty contained herein, your unauthorized use of the website Content, or your violation of any rights of another.

Account Changes or Modifications

AMERICA'S SOFTWARE CORPORATION may change, modify, suspend, or discontinue any aspect of the Website at any time, including, without limitation, access policies, the availability of any Website feature, hours of availability, content, data, or software or equipment needed to access the Website. We may also impose limits on certain features or restrict your access to parts or all of the Website without notice or liability. We reserve the right to change prospectively the amount of, or basis for determining, any fees or charges for the Website, and to institute new fees or charges for access to portions of the Website effective upon prior notice to Users by posting such changes on its web site, by pop-up screen or by sending e-mails to Users.

DISCLAIMERS

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LIMITATION OF LIABILITY

Under no circumstances, including but not limited to negligence, shall AMERICA'S SOFTWARE CORPORATION be liable for any special, direct, indirect, or consequential damages that result from the use of, or the inability to use, the materials on AMERICA'S SOFTWARE CORPORATION, even if AMERICA'S SOFTWARE CORPORATION or its authorized representatives has been advised of the possibility of such damages. Applicable law may not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you. In no event shall AMERICA'S SOFTWARE CORPORATION's total liability to you for all damages, losses, and causes of action, whether in contract, negligence, tort or otherwise exceed the amount paid by you, if any, for accessing TalEval.com website services.

LINKS TO THIRD PARTY SITES

AMERICA'S SOFTWARE CORPORATION may contain links to other websites operated by parties that are not affiliated with it. These links will let you leave AMERICA'S SOFTWARE CORPORATION to visit websites not under AMERICA'S SOFTWARE CORPORATION's control. AMERICA'S SOFTWARE CORPORATION is not responsible for the contents of any linked website or any link contained in a linked website. We provide these links to you only as a convenience, and the inclusion of any link does not imply endorsement of the linked site by AMERICA'S SOFTWARE CORPORATION.

JURISDICTIONAL ISSUES

AMERICA'S SOFTWARE CORPORATION makes no representation that materials on taleval.com are appropriate or available for use in all locations. Those who choose to access taleval.com do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable. Software from AMERICA'S SOFTWARE CORPORATION is further subject to United States export controls.

REMEDIES FOR BREACH

In the event that AMERICA'S SOFTWARE CORPORATION determines, in its sole discretion, that a User has breached any portion of these terms and conditions, or has otherwise demonstrated inappropriate conduct, we reserve the right to (i) warn the User via e-mail that she or he has violated this Agreement; (ii) delete any content provided by the User (or anyone accessing User's account); (iii) discontinue the User's account and/or any other AMERICA'S SOFTWARE CORPORATION service; (iv) notify and/or send content to and/or fully cooperate with the proper law enforcement authorities for further action; and/or (vi) take any other action that AMERICA'S SOFTWARE CORPORATION deems appropriate.

MISCELLANEOUS

In the event any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provisions are held invalid by a court with jurisdiction over the parties to this Agreement, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect.

The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this Agreement will not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance, rather, the same will be and remain in full force and effect. AMERICA'S SOFTWARE CORPORATION may assign its rights and obligations under this Agreement and upon such assignment AMERICA'S SOFTWARE CORPORATION may be relieved of any further obligation hereunder. You represent to AMERICA'S SOFTWARE CORPORATION that you have the authority to subscribe to and/or use AMERICA'S SOFTWARE CORPORATION according to the terms and conditions of this Agreement.

ACCEPTANCE

By using and/or subscribing to the Taleval.com service, you hereby acknowledge that you have read and understand the foregoing Agreement, as may be amended or modified from time to time according to its terms, and agree to be bound by all of the terms and conditions hereof.

ENTIRE AGREEMENT

You agree that this Agreement including the policies and agreements it refers to constitute the complete and only Agreement between You and America's Software Corporation.

HIPAA COMPLIANCE

THIS DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. We understand that the information we maintain about you and your health is personal. We are committed to protecting this information.

We are required by law to:

- make sure that clinical information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to clinical information about you; and
- follow the terms of the notice that is currently in effect.

If you should have any questions or require further information, please contact us at 800-467-1170.

How We May Use or Disclose Your Health Information

The following describes the purposes for which we are permitted or required by law to use or disclose your health information without your consent or authorization. Any other uses or disclosures will be made only with your written authorization and you may revoke such authorization in writing at any time.

Treatment: We may use or disclose your health information to provide you with medical treatment or services. For example, information obtained by a provider providing health care services to you will record such information in your record that is related to your treatment. This information is necessary to determine what treatment you should receive. Health care providers will also record actions taken by them in the course of your treatment.

Required by Law: We will disclose medical information about you when required to do so by federal, state or local law.

Public Health: As required by law, we may disclose your health information to public health or legal authorities charged with preventing or controlling disease, injury or disability.

To Avert a Serious Threat to Health or Safety: Consistent with applicable federal and state laws, we may use and disclose health information when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person.

Lawsuits and Disputes: We may disclose health information about you in response to a subpoena, discovery request, or other lawful order from a court.

Your Rights Regarding Your Health Information

The following describes your rights regarding the health information we maintain about you. To exercise your rights, you must submit your request in writing to us at 188 Ponderosa Circle, Mooresville NC 28117.

Right to Request Restrictions. You have the right to request that we restrict uses or disclosures of your health information to carry out treatment, payment, health care operations, or communications with family or friends

Right to Receive Confidential Communications. You have the right to request that we send communications that contain your health information by alternative means or to alternative locations. We must accommodate your request if it is reasonable and you clearly state that the disclosure of all or part of that information could endanger you.

Right to Inspect and Copy. You have the right to inspect and copy health information that we maintain about you in a designated record set.

Right to Amend. You have the right to have us amend your health information for as long as we maintain such information. Your written request must include the reason or reasons that support your request. We may deny your request for an amendment if we determine that the record that is the subject of the request was not created by us, is not available for inspection as specified by law, or is accurate and complete.

Right to Receive an Accounting of Disclosures. You have the right to receive an accounting of disclosures of your health information made by us in the six years prior to the date the accounting is requested (or shorter period as requested). This does not include disclosures made to carry out treatment, payment and health care operations; disclosures made to you; communications with family and friends; for national security or intelligence purposes; to correctional institutions or law enforcement officials; or disclosures made prior to the HIPAA compliance date of April 14, 2003. Your first request for accounting in any 12-month period shall be provided without charge.

Right to Obtain a Paper Copy. You have the right to obtain a paper copy of this Notice of Privacy Practices at any time.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with AMERICAC'S SOFTWARE CORPORATION or with the Secretary of the Department of Health and Human Services. To file a complaint with AMERICA'S SOFTWARE CORPORATION, contact us at 1-800-467-1170 or send your complaint to:

America's Software Corporation

188 Ponderosa Circle, Mooresville, NC 28117

All complaints must be submitted in writing.