

Terms of Use

Updated FY 2011

Bryte IDEA Workflow ("we" or "Bryte IDEA Workflow") is owned and operated by Bryte IDEA Database Designs LLC. We provide and maintain an Internet Web site (the "Site") for the benefit of users of our services ("you" or "User"). On our Site we provide hosted tools and processes to allow you to create individualized special student services paperwork and have a percentage of those reports reviewed for compliance (collectively and as applicable, "Services"). The Services and use of the Site are provided to you subject to the terms and conditions set forth in these Terms of Use ("Terms of Use" or "Agreement") and our Privacy Policy, and any other rules and policies set forth on this Site. The terms and conditions below and any other rules or policies set forth on this Site comprise the entire agreement between you and Bryte IDEA Workflow and supersede all prior agreements between us.

1. ACKNOWLEDGMENT AND ACCEPTANCE

PLEASE READ THE FOLLOWING TERMS OF THIS AGREEMENT CAREFULLY. BY SIGNING INTO THE SITE, YOU ACCEPT AND AGREE TO ALL OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND IN OUR PRIVACY POLICY. YOU HEREBY ACKNOWLEDGE THAT YOU ARE EMPLOYED BY A SCHOOL DISTRICT THAT HAS PURCHASED ACCESS TO THESE SERVICES ON AN ONGOING BASIS.

2. USER RESPONSIBILITIES.

These Terms of Use give you important obligations. You agree to the following responsibilities:

- Compliance with our Anti-Spam policy. Please see Section 7 below.
- Lawful use of the Services only. Please see Section 8 below.
- Creation and maintenance of all content in the account including but not limited to student content, user information contact information.
- Payment of all agreed subscription fees through the district/school purchase agreement.
- Full responsibility for all activity associated with your use of our Site and Services.
- Compliance with all other obligations set forth in these Terms of Use.
- Compliance with all IDEA regulations
- Compliance with all FERPA Regulations
- Strict individual protection of username and password (you may not share username or password with anyone else)

We reserve the right to deactivate your account(s) as we deem appropriate or necessary, without notice. You enter and use the Site and the Services at your own risk. Bryte IDEA Workflow is not responsible for your activities, content, results or questions from respondents, other data, or any other matter concerning your use of the Site or the Services. We recommend that you keep track of your student information and other data in your own personal records, as we reserve the right to discontinue your account(s) or terminate the Services at any time. We are not responsible for the deletion of any data that is in or has been added to your account(s).

3. MODIFICATION TO SERVICES PROVIDED; TERMS OF USE.

You acknowledge and agree that we may, with or without notice, modify or terminate the Services and/or the Site. Further, we may modify these Terms of Use from time to time, including the fees we charge for Services. Modifications of the Service may include, without limitation, changes in the maximum allowable memory space, number of entries allowed in the student records, IEP, MET, 504, SST, PWN, Meeting Notice, MIPS data (collectively, "Thresholds").

We will notify you of changes we make by posting a notice on our Site, or, if we choose, by sending you an email. If you do not accept the changes, you must terminate your subscription or other use at that time. Your use of the Site or the Services after the notice is posted (or we send you the email) shall be deemed to be acceptance of the modification or termination of the Services or these Terms of Use.

4. PAYMENT TERMS; AUTOMATIC RENEWAL; CANCELLATION; MONEY-BACK GUARANTEE.

The school district/charter school agrees to pay on an annual basis to maintain access to this software. All account fees, including any usage that exceeds the Thresholds at the rates posted, and including any applicable taxes, at the rates in effect when the fees are incurred. We may change the fees then in effect, or add new fees, by giving Users advance notice. You must provide us with valid purchase order information. The 100% money back guarantee is only valid for 30 days from your purchase order date or check date.

The renewal charge will be equal to the original subscription price, unless we notify you otherwise in advance. Upon receipt of your cancel determination, we will promptly terminate your access to the Services. No refunds of subscription fees will be given. We reserve the right to terminate your subscription and/or discontinue Services at any time for any reason.

5. REGISTRATION & PASSWORD.

You will provide current, complete, accurate information to Bryte IDEA Workflow through a text document or xcel spreadsheet with the information requested in the document. You will further update and notify Bryte IDEA and keep that information current as needed. An initial login password will be provided to you. Each enduser will change their password on their first login to the system. Email login must be a valid email address maintained by you. You are solely responsible for maintaining the confidentiality of your password and account information. You will immediately notify us of any unauthorized account activity, or any unauthorized use of your email list(s) or any other breach of security you become aware of.

Bryte IDEA Workflow is a single user service. Multiple logins and passwords to the same account are not available or permitted. You may not share logins and passwords with others. Sharing login information is in violation of this Agreement and may result in immediate account termination.

6a. PRIVACY.

We are committed to protecting the privacy and confidential information of Users. You agree to maintain and comply with a privacy policy that is consistent with the Bryte IDEA Workflow Privacy Policy. You are responsible for all decisions with respect to the personally identifiable information of student information.

6b. CONFIDENTIALITY.

We agree not to use any of your Confidential Information (defined below) for any purpose

except to operate the Site and Services in accordance with this Agreement or to market our products and services to you. We agree not to disclose any of your Confidential Information to any third party other than to our employees and consultants who are bound by confidentiality obligations and are required to have access to the Confidential Information in order to operate the Site and Services or to market our products and services to you. Nothing in this Agreement limits our right to independently develop, acquire or market products, ideas, or businesses, without use of your Confidential Information. "Confidential Information" may include, solely to the extent entered into the Services or Site by you, (a) technical information, know-how and other intellectual property, to the fullest extent that such information is maintained as a trade secret by you; (b) confidential student information; (c) confidential personal information about the user or the school; (d) confidential financial information (including pricing); and (e) other confidential business information. Confidential Information will not include any information that (i) was publicly known and generally available in the public domain prior to the time of disclosure by you; (ii) becomes publicly known and generally available after disclosure by you through no action or inaction of ours; (iii) is already in our possession at the time of disclosure by you; (iv) is obtained by us from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by us without use of or reference to your Confidential Information; or (vi) is required by law to be disclosed by us, provided that we give you prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

7. ANTI-SPAM POLICY.

Bryte IDEA Workflow, a leading Web-based application for special services paperwork, is committed to being a trusted member of the Internet community. As such, we have adopted a firm anti-spam stance. Spam can deluge a recipient's email box and waste the recipient's time and money. Spam often causes recipients to complain to their Internet Service Providers who in turn may block or restrict access from legitimate services like Bryte IDEA Workflow, and Users, like you.

To help recipients be free from spam, and to maximize the availability of our Services to our community of Users, we have taken a "zero tolerance" stand against spam. You acknowledge, warrant and agree that:

- You will not engage in any spamming activities in your use of the Services.
- You warrant that you either have an contract with the school organization the you are logging in under.
- Your use of the Site and Services will not violate any U.S. or foreign spamming, junk mail or other related laws or regulations prohibiting or discouraging unsolicited mail.
- If you engage in any unlawful spamming activity, Bryte IDEA Workflow will report such conduct to the appropriate authorities and turn over any and all information, including personally identifiable information, to appropriate law enforcement persons or entities.

8. OTHER PROHIBITED USES.

You acknowledge, warrant and agree that:

- You will not transmit through the Service or the Site any pornographic, obscene, offensive, threatening, harassing, libelous, hate-oriented, harmful, defamatory, racist, illegal or otherwise objectionable material or content.
- You will not send any transmission that attempts to hide your identity or represents you

as someone else.

- Any attempt by you to transmit, publish or distribute material or content that promotes, provides or relates to instructional information about illegal activities or promotes physical harm or injury against any individual or group is strictly prohibited.
- You will not upload or distribute in any way any files that contain viruses, corrupted files or any similar software or programs that may damage the operation of anyone else's computer, the Service or the Site.
- You will not interfere or disrupt networks connected to the Service and the Site.
- Any attempt by you to gain unauthorized access to any computer system, including accounts, lockers or databases maintained by and for Bryte IDEA Workflow, is strictly prohibited.
- You will comply with all laws, rules and regulations regarding transmission of technical data exported from the United States.

If you engage in any activity set forth in this paragraph or violate any terms or conditions of these Terms of Use, your account will be terminated and use of the Service and Site prohibited. We will report any unlawful conduct to the appropriate authorities and turn over any and all information regarding such activity to appropriate persons or entities.

9. DISCLAIMER OF WARRANTIES.

- YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SERVICE AND THE SITE IS AT YOUR SOLE RISK. THE SERVICE AND THE SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.
- TO THE FULLEST EXTENT ALLOWED BY LAW, Bryte IDEA Workflow EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THE CONTENTS OF THE SERVICES OR THE SITE MAY CONTAIN BUGS, ERRORS, PROBLEMS OR OTHER LIMITATIONS.
- Bryte IDEA Workflow ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS IN CONTENT.
- Bryte IDEA Workflow IS NOT RESPONSIBLE FOR THE CONTENTS OF ANY SPECIAL SERVICES INFORMATION OR RESULTS CREATED ON OR THROUGH THE SERVICE NOR IS IT RESPONSIBLE FOR THE RESPONSES SUBMITTED TO ARIZONA DEPARTMENT OF EDUCATION, GUARDIANS OF STUDENTS, OR ANY OTHER ENTITY TO WHOM PAPERWORK MAY BE PROVIDED. Bryte IDEA Workflow DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE RELIABILITY OR ACCURACY OF THE REGISTRATION INFORMATION SUPPLIED TO Bryte IDEA Workflow.
- Bryte IDEA Workflow DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE CONSEQUENCES OF THE USE OF ANY SURVEY, SURVEY RESPONSES OR SURVEY RESULTS NOR DOES Bryte IDEA Workflow WARRANT THE CORRECTNESS, USEFULNESS, RELIABILITY, ACCURACY OR OTHERWISE OF ANY PAPERWORK COMPLETED.
- Bryte IDEA Workflow IS NOT RESPONSIBLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTION OR

OTHER LOSS RESULTING FROM USE OF OR RELIANCE IN ANY WAY ON ANY PAPERWORK, CREATED ON OR THROUGH THE SERVICE OR THE SITE.

- IT IS SOLELY YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, RELIABILITY, COMPLETENESS AND USEFULNESS OF ANY PAPERWORK OR OTHER INFORMATION RECEIVED WHILE USING THE SERVICE OR SITE.
- Bryte IDEA Workflow MAKES NO WARRANTY THAT THE SERVICE OR SITE WILL MEET YOUR REQUIREMENTS OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, VIRUS-FREE, ERROR-FREE, ACCURATE OR RELIABLE; NOR DOES Bryte IDEA Workflow MAKE ANY WARRANTY AS TO ANY INFORMATION THAT MAY BE OBTAINED THROUGH THE SERVICE OR SITE OR THAT DEFECTS IN THE SOFTWARE FOR THE SERVICE WILL BE CORRECTED OR THAT THE SITE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.
- YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH USE OF THE SERVICE OR SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL OR DATA.
- Bryte IDEA Workflow MAKES NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH THE SERVICE OR SITE OR ANY TRANSACTIONS ENTERED INTO THROUGH OR BASED UPON THE SERVICE OR THE SITE.
- NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR SITE OR THROUGH THE SERVICE OR SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

10. LIMITATION OF LIABILITY.

TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, NEITHER Bryte IDEA Workflow NOR ANY PARENT ENTITIES, SUBSIDIARIES, AFFILIATES, OFFICERS OR EMPLOYEES SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF YOUR ACCESS TO, USE OF, INABILITY TO USE, OR RELIANCE ON THE SERVICE OR ANY PAPERWORK COMPLETED HEREIN, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF YOU ARE DISSATISFIED WITH THE SERVICE, THE MATERIALS AVAILABLE ON OR THROUGH THE SERVICE OR THE SITE, OR WITH ANY OF THE TERMS OF THIS AGREEMENT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICE AND LEAVE THE SITE IMMEDIATELY.

11a. PROPRIETARY RIGHTS.

Bryte IDEA Workflow owns the content including the graphics, names, text, software, music, videos, sound, pictures, compilations, survey templates, surveys, page layout, design, processes, procedures, magnetic translation, digital conversion or other material contained in the Service and the Site to the extent such content is provided and/or designed by Bryte IDEA Workflow. It is all protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws. Bryte IDEA Workflow® is a registered trademark of Bryte IDEA Database Designs LLC. All other trademarks are the property of their respective

owners. No one may copy, reproduce, distribute in any way, or decompile, reverse engineer or disassemble the content. You are permitted the limited license to use the content of the Service and the Site as authorized herein to create special services paperwork and workflow and view/print the content for your personal/business use as an end product only, and you must at all times maintain Bryte IDEA Workflow's copyright symbol on the product in any form or medium. While your account is active, you will have the right to access your all forms and data to which you have access, and you assume the entire risk of disclosing such content to third parties. Modification or use of Bryte IDEA Workflow's content/format in any prohibited way is a violation of copyright and other proprietary laws. No one may copy, reproduce, transmit, post, distribute or create derivative works from this Site without prior express authorization.

11b. NO MISAPPROPRIATION OR MISUSE OF NAMES, MARKS, OTHER PROPRIETARY MATERIAL.

You agree not to use, misuse or misappropriate any brand names, trademarks, service marks, patents, images, text or other proprietary material or content of another on or through the Service or the Site. If you use any such proprietary material or content, by doing so, you warrant that you have the right and authority to do so.

12. LINKS AND ADVERTISERS.

Bryte IDEA Workflow may provide advertising space and/or links and pointers to Internet sites maintained by third parties. Bryte IDEA Workflow has not reviewed all of the third - party sites nor reviewed any products or services they may provide. Bryte IDEA Workflow is not responsible for nor does it endorse the contents or any products or services of such third parties or their sites. Bryte IDEA Workflow DOES NOT CONTROL IN ANY RESPECT ANY INFORMATION, PRODUCTS OR SERVICES OFFERED OR SUGGESTED BY THIRD PARTIES ON THE SITE. Bryte IDEA Workflow DOES NOT ENDORSE OR OTHERWISE WARRANT OR GUARANTEE THE PRODUCTS OR SERVICES THAT ARE EITHER ADVERTISED ON THE SITE OR CONNECTED BY LINK.

13. TERMINATION.

These Terms of Use and the Service may be terminated by Bryte IDEA Workflow at any time. Bryte IDEA Workflow shall not be liable to you or any third party in any manner for termination of the Service. In the event you should become dissatisfied with the Terms of Use or any modifications thereof, or with the Service or the Site, your only recourse is to discontinue use of the Service, terminate your subscription, and give notice to us of these actions. Upon termination, your right to use the Service and the Site cease immediately and Bryte IDEA Workflow shall have no obligation whatsoever to retain, forward or make available to you any forms or content.

14. INDEMNIFICATION.

You agree to defend, indemnify and hold harmless Bryte IDEA Workflow, its parent entities, subsidiaries, affiliates, officers, and employees, from any and all claims and demands, including attorneys' fees, due to or arising from your use of the Site or the Service, surveys, survey responses, survey results and any other conduct related in any way to the Service or the Site, including but not limited to breaching any warranty or provision contained in these Terms of Use.

15. JURISDICTION.

These Terms of Use and the relationship between you and Bryte IDEA Workflow shall be

treated as if entered into and executed in the State of Arizona and shall be governed and construed in accordance with the laws of the State of Arizona, without regard to conflict of law principles, and also excluding the United Nations Convention on Contracts for the International Sale of Goods. You agree to submit to personal and exclusive jurisdiction and venue of the courts in the counties of Pima, Arizona USA. Bryte IDEA Workflow makes no representation that the materials and content on the Site or relating to the Services are appropriate or available for use in other locations, and accessing them from territories where their contents are illegal is strictly forbidden. Those who access the Services or the Site from other locations do so on their own initiative and at their own risk and are responsible for compliance with local laws. Any claim or demand under these Terms of Use must be made within 1 year of the occurrence of the underlying facts.

16. NATURE OF AGREEMENT.

You agree that by logging into the site constitutes agreement to these Terms of Use. Further, these Terms of Use are the entire and only agreement between you and Bryte IDEA Workflow and supersede any prior or other understandings, representations or warranties including, but not limited to, any nondisclosure agreements, purchase orders, license agreements, service agreements, invoices or other terms and conditions that you may provide to us in respect of the Site or Services. You agree that each use of the Services and the Site reaffirms your acknowledgment and agreement to the most current version of these Terms of Use.

17. GENERAL PROVISIONS.

In any dispute arising from the relationship between you and Bryte IDEA Workflow or these Terms of Use, the prevailing party shall be entitled to reasonable attorneys' fees and costs. The failure by Bryte IDEA Workflow to enforce any right or provision under these Terms of Use shall not constitute a waiver of that provision or any other provision of these Terms of Use. If any provision of these Terms of Use shall be determined to be invalid or unenforceable by a court of competent jurisdiction, the other provisions shall remain in full force and effect.