



National Court Reporters Association
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August 8, 2023

Zoom Video Communications, Inc.
55 Almaden Boulevard
6th Floor
San Jose, CA, 95113

Re: NCRA Statement Addressing the Privacy Concerns Associated with Zoom’s Updated Terms of Service, Effective August 7, 2023.

Dear Zoom Video Communications, Inc.:

As President of the National Court Reporters Association (NCRA), representing more than 12,000 members, I am writing to express our members’ data and privacy concerns regarding Zoom’s recent updated Terms of Service, which pursuant to section 10.2, establishes Zoom's rights to modify, distribute, process, share, maintain, and store such data "for any purpose, to the extent and in the manner permitted under applicable law." We are particularly concerned with section 10.4, which provides “Zoom a perpetual, worldwide, non-exclusive, royalty-free, sublicensable, and transferable license” for various purposes, including “machine learning, artificial intelligence, training, testing, improvement of the Services, Software, or Zoom’s other products, services, and software, or any combination thereof.”

NCRA is recognized as the preeminent authority on capturing, storing, and preserving the spoken word in stenographic form to produce a timely, skillful, accurate, verbatim transcript or accessible captions. Our association’s purpose is to apply more than 100 years of institutional knowledge and the experience of rigorously trained and tested stenographic reporters to best serve our fact-based system of justice. Our members utilize the latest technology and maintain human control and accountability to produce the most accurate record possible of testimony in legal proceedings and captioning for individuals in need of equal access to information. In addition to accuracy, one of our primary concerns and most important areas of focus is to work in cooperation with the bench and the bar to protect the confidentiality of information encompassed in the official court record and other legal proceedings. Similarly, as our members began to use their skills to provide captions for people who are Deaf or hard-of-hearing, they found that some situations, such as meetings in medical or educational settings, involved the exchange of information that needed to be kept private, which reminds us that the collection of private data is not simply a matter of the type of event, but could happen in nearly any situation.

Permitting Zoom to share and store data as it pertains to legal proceedings, depositions, and captioning being conducted on its platform — even if the platform vows to comply with current law — presents a privacy risk that could allow for the improper and illegal disclosure of private information. Specifically, the potential release of litigants’ Personally Identifiable Information (PII), including Social Security numbers, banking information, confidential information concerning minors



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and protected witness, private medical records, and other sensitive information would pose a substantial risk of unnecessary harm to the litigants and witnesses involved.

Furthermore, through Zoom's updated terms of service, there is a substantial risk that Zoom may intentionally or unintentionally allow for the unauthorized distribution of sensitive content that has neither been redacted nor protected. Additionally, these changes could permit the unauthorized uploading of the proceeding, court record, or private captions to the cloud, thereby granting the public access without oversight or a respect for the chain of custody. Please take note that a recorded face, voice, or PII in the wrong hands could wreak havoc on the lives of all individuals participating in court and other legal proceedings.

It is vital to emphasize that average Zoom consumers cannot reasonably navigate the platform's updated terms of service to ensure that generative AI features and the separate sharing of customer content with Zoom is not enabled. It is essential that Zoom enhances its platform to protect confidential information during Zoom court proceedings and depositions and prevent the sharing of the court record and other private information. Without these robust protections, the evolving judicial system will face fundamental and unprecedented challenges as it relates to protection of the court record and the confidential information of litigants and witnesses, as well as the confidential information relayed through Zoom in other meetings.

Lastly, it is important to note that Zoom's updated terms of service may run afoul of numerous state laws and statutes as it concerns the official court record and the outside captioning services that provide individuals with equal access to information. We must protect both the privacy and integrity of the official court record, the litigants and witnesses involved, and the individuals seeking accessibility and understanding through captions.

NCRA respectfully requests that Zoom reconsider and modify its recent enactment of its updated terms of service to ensure that the privacy of the court record and confidentiality of individuals during Zoom depositions or court proceedings is maintained. I and the staff of NCRA stand ready to be of assistance. If you have questions, concerns, or a need for clarification, please contact me at president@ncra.org.

Thank you.

Very Respectfully,

A handwritten signature in cursive script that reads "Kristin M. Anderson".

Kristin M. Anderson, RPR
2023-2024 NCRA President