

# **Terms of Use**

**Last Updated: September 19, 2018**

These Terms of Use (“**Terms**”) govern your access to and use of this website (“**Site**”), made available to you by Foster Care Counts (“**Foster Care Counts**,” “**we**,” “**us**,” or “**our**”).

**By accessing or using the Site, you agree on behalf of yourself and any organization or company that you represent (together, “you”) that you have read and understand these Terms and our Privacy Policy. If you do not agree with these Terms or our Privacy Policy, do not access or use the Site.**

**We reserve the right to modify these Terms at any time. All changes will be effective immediately upon posting to the Site and, by accessing or using the Site after changes are posted, you agree to those changes. Material changes will be conspicuously posted on the Site or otherwise communicated to you.**

- 1. Privacy Policy.** We may collect certain information about you and from your access to and use of the Site as described in our Privacy Policy, which is incorporated into these Terms and describes our information collection, use, and sharing practices.
- 2. Intellectual Property Rights.** The Site, including its text, audio, video, graphics, charts, photographs, interfaces, icons, software, computer code, data, trademarks, logos, slogans, names of products and services, documentation, other components and content, and the design, selection, and arrangement of content is exclusively the property of Foster Care Counts or, as applicable, its suppliers and licensors, and are protected by copyright, trademark, and other intellectual property laws. Any unauthorized use of any trademarks, trade dress, copyrighted materials, or any other intellectual property belonging to Foster Care Counts or any third party is strictly prohibited and may be prosecuted to the fullest extent of the law. The Site may contain references to third-party marks and copies of third-party copyrighted materials, which are the property of their respective owners.

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- 3. Compliance with Laws.** In connection with your access to and use of the Site, you are responsible for complying with all applicable laws, regulations, and policies of all relevant jurisdictions, including all applicable rules regarding online conduct.
- 4. Restrictions on Your Use of the Site.**
  - You may download and print one copy of the Site’s visible content for your own personal noncommercial use as long as you do not modify or delete any copyright, trademark, or other proprietary notices.
  - You will not otherwise copy, reproduce, display, duplicate, sell, publish, post, license, rent, distribute, modify, translate, adapt, reverse-engineer, or create derivative works of the Site or any part of the Site without our prior written consent.
  - You will not use the Site for unlawful purposes.
  - You warrant that all information you provide to us in connection with your access to and use of the Site is true, accurate, and complete to the best of your knowledge and belief.

- You will not submit inaccurate, incomplete, or out-of-date information via the Site, commit fraud or falsify information in connection with your use of the Site, or act maliciously against the business interests or reputation of Foster Care Counts.
  - You will not engage in data mining or similar data gathering or extraction activities or retrieve data or other content from the Site for purposes of creating or compiling that content for any purpose.
  - You will not access, use, or copy any portion of the Site, including any of its content, through the use of indexing agents, spiders, scrapers, bots, web crawlers, or other automated devices or mechanisms.
  - You will not use the Site to post, transmit, input, upload, or otherwise provide any information or material that contains any viruses, worms, Trojan horses, logic bombs, time bombs, cancelbots, malware, ransomware, adware, or other harmful computer code or programming routines, including those designed to or that reasonably may disable, damage, impair, interfere with, surreptitiously intercept, or expropriate the Site or any computers, hardware, software, system, data, or networks.
  - You will not engage in activities that aim to render the Site or associated services inoperable or to make their use more difficult.
5. **Donations.** Donations made through the Site must be made by credit or debit card, or where the option is available, by PayPal. Information about our collection and use of payment-related information is described in our [Privacy Policy](#). If the credit or debit card information that you submit is incorrect or invalid, your payment will not be processed. We have no responsibility or liability if your credit or debit card is declined by your financial institution. Payments are processed by our PCI-compliant third-party payment processor. Refunds, if available, are the responsibility of Foster Care Counts and are at our sole discretion.
6. **Donation Processing Fees.** The following amounts will be deducted from each donation made through the Site: (a) a donation processing fee equal to 1% of the donation amount, which fee is required by and will be remitted to Classy, Inc. (the provider of our online donation portal), plus (b) a payment processing fee that varies depending on the type of payment card used, which fee is required by and will be remitted to our payment processor. Fees imposed by our payment processor are subject to change from time to time without notice or liability. You may have the option of increasing the amount of your donation to cover the above fees.
7. **Program and Service Availability.** Any programs, materials, or services that may be mentioned on or made available through the Site are subject to availability. Foster Care Counts may change the programs, materials, and services mentioned on the Site at any time without notice.
8. **NO WARRANTY.** THE SITE IS PROVIDED “AS IS,” “AS AVAILABLE,” AND WITHOUT ANY WARRANTY OF ANY KIND. FOSTER CARE COUNTS MAKES COMMERCIALY REASONABLE EFFORTS TO ENSURE THAT MATERIAL, DATA, AND OTHER INFORMATION ON THE SITE IS ACCURATE AND RELIABLE, BUT NEITHER ACCURACY NOR RELIABILITY CAN BE GUARANTEED. FOSTER CARE COUNTS DOES NOT WARRANT OR GUARANTEE THE QUALITY, COMPLETENESS, TIMELINESS, OR AVAILABILITY OF THE SITE. FOSTER CARE COUNTS DOES NOT WARRANT OR GUARANTEE THAT THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ANY DEFECTS IN THE SITE WILL BE CORRECTED, OR THAT THE SITE OR THE SERVERS THAT MAKE THE SITE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL CONDITIONS OR COMPONENTS. FOSTER CARE COUNTS IS NOT RESPONSIBLE FOR ANY TYPOGRAPHICAL ERRORS ON THE SITE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FOSTER CARE COUNTS EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE SITE, INCLUDING WITHOUT LIMITATION THOSE REGARDING AVAILABILITY, QUALITY, ACCURACY, MERCHANTABILITY, FITNESS FOR ANY USE OR PURPOSE, COMPATIBILITY WITH ANY STANDARDS OR USER REQUIREMENTS, TITLE, AND NONINFRINGEMENT, AS WELL AS ANY ARISING FROM A COURSE OF DEALING OR USAGE IN TRADE. FOSTER CARE COUNTS HAS NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MISDELIVERY, OR FAILURE TO STORE ANY USER COMMUNICATION.

WE MAKE NO REPRESENTATION THAT THE SITE IS APPROPRIATE OR AVAILABLE FOR USE IN LOCATIONS OTHER THAN THE UNITED STATES. IF YOU CHOOSE TO ACCESS OR USE THE SITE FROM LOCATIONS OTHER THAN THE UNITED STATES, YOU DO SO AT YOUR OWN RISK AND YOU ARE RESPONSIBLE FOR COMPLYING WITH APPLICABLE LAWS AND REGULATIONS.

YOUR USE OF THE SITE IS AT YOUR OWN RISK AND YOU, ALONE, ARE RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER HARDWARE, SOFTWARE, SYSTEMS, AND NETWORKS, ANY LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY INFORMATION FROM THE SITE, AND ANY OTHER DAMAGE THAT MAY BE INCURRED.

NO ADVICE OR INFORMATION, ORAL OR WRITTEN, OBTAINED BY YOU FROM FOSTER CARE COUNTS OR IN ANY MANNER FROM THE SITE CREATES ANY WARRANTY.

9. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL FOSTER CARE COUNTS, ITS AFFILIATES, OR ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, OWNERS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, CONSULTANTS, AGENTS, SUPPLIERS, OR LICENSORS (TOGETHER, "**FOSTER CARE COUNTS PARTIES**") BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL LOSS OR DAMAGE, OR ANY OTHER LOSS OR DAMAGE OF ANY KIND, ARISING OUT OF OR IN CONNECTION WITH THE SITE OR YOUR ACCESS TO OR USE OF, OR INABILITY TO ACCESS OR USE, THE SITE (INCLUDING WITHOUT LIMITATION THE INPUT OF PERSONAL AND OTHER INFORMATION INTO THE SITE), WHETHER THE CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, WARRANTY, OR OTHERWISE, AND EVEN IF A FOSTER CARE COUNTS PARTY HAS EXPRESS KNOWLEDGE OF THE POSSIBILITY OF THE LOSS OR DAMAGE. YOUR SOLE AND EXCLUSIVE REMEDY IS TO STOP ACCESSING AND USING THE SITE.

WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL FOSTER CARE COUNTS PARTIES' LIABILITY TO YOU EXCEED \$100, EVEN IF THIS REMEDY FAILS OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES, SO SOME OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

10. **Indemnification.** You will indemnify, defend, and hold harmless Foster Care Counts Parties from and against all losses, claims, liabilities, demands, complaints, actions, damages, judgments, settlements, fines, penalties, expenses, and costs (including without limitation reasonable attorneys' fees) that arise out of or in connection with your access to or use of the Site, your misuse of any material, data, or other information downloaded or otherwise obtained from the Site, donations you make using the Site, or your breach of these Terms. We reserve, and you grant to us, the exclusive right to assume the defense and control of any matter subject to indemnification by you.

- 11. Third-Party Websites.** The Site may link to, or be linked to, websites not maintained or controlled by Foster Care Counts. Those links are provided as a convenience and Foster Care Counts is not responsible for examining or evaluating the content or accuracy of, and does not warrant or endorse, any third-party website or any products or services made available through those websites. Please take care when leaving the Site to visit a third-party website. You should read the terms of use and privacy policy for each website that you visit.
- 12. Linking to the Site.** If you operate a website and are interested in linking to the Site: (a) the link must be a text-only link unless you request a graphic badge from Foster Care Counts, in which case you may use any graphic badge provided by Foster Care Counts to link to the Site, and, in any case, the link must be and clearly marked; (b) the link must point to "<https://www.fostercarecounts.org>" and not to any other page; (c) the link and its use must be in connection with a website of appropriate subject matter that furthers the mission of Foster Care Counts; (d) the link and its use must not, nor have the potential to, damage or dilute the goodwill associated with the names and trademarks of Foster Care Counts; (e) the link and its use must not create the false appearance that any program, person, or entity is associated with or sponsored by Foster Care Counts; and (f) the link, when activated by a user, must display the Site full-screen and not within a frame. Foster Care Counts reserves the right to revoke consent to link to the Site at any time in its sole discretion, either by amending these Terms or through other notice.
- 13. Feedback.** Foster Care Counts welcomes comments regarding the Site. If you submit comments or feedback to us regarding the Site, they will not be considered or treated as confidential. We may use any comments and feedback that you send us in our discretion and without attribution or compensation to you.
- 14. Disputes.** These Terms are governed by the laws of the state of California, without regards for its conflict of law principles. Venue is exclusively in the state or federal courts, as applicable, located in Los Angeles County, California, with respect to any dispute arising under these Terms unless otherwise determined by Foster Care Counts in its sole discretion. The parties expressly agree to the exclusive jurisdiction of those courts. If there is a dispute, the prevailing party will be entitled to recovery of its costs and expenses, including reasonable attorneys' fees. Any cause of action or other claim with respect to the Site must be commenced within one year after the cause of action or claim arises.
- 15. Assignment.** We may assign our rights and delegate our duties under these Terms at any time to any party without notice to you. You may not assign your rights or delegate your duties under these Terms without our prior written consent.
- 16. Third-Party Beneficiaries.** These Terms do not confer any rights, remedies, or benefits upon any person other than you and Foster Care Counts, except that our affiliates and Squarespace, Inc., our website hosting services provider, are third-party beneficiaries of these Terms.
- 17. Interpretation.** These Terms, including our [Privacy Policy](#), are the entire agreement between you and Foster Care Counts with respect to your access to and use of the Site. Our failure to enforce any provision of these Terms will not constitute a waiver of that provision or any other provision. Any waiver of any provision of these Terms will be effective only if in writing and signed by Foster Care Counts. If any provision of these Terms is held invalid, void, or unenforceable, that provision will be severed from the remaining provisions and the remaining provisions will remain in full force and effect. The headings in these Terms are for convenience

only and do not affect the interpretation of these Terms. These Terms inure to the benefit of our successors and assigns.

**18. Survival.** Any provisions of these Terms that are intended to survive termination (including any provisions regarding indemnification, limitation of our liability, or dispute resolution) will continue in effect beyond any termination of these Terms or of your access to or use of the Site.

**19. Electronic Communications.** These Terms and any other documentation, agreements, notices, or communications between you and Foster Care Counts may be provided to you electronically to the extent permissible by law. Please print or otherwise save a copy of all documentation, agreements, notices, and other communications for your reference.

**20. Contact Us.** Please direct any questions and concerns regarding these Terms to us at:

Foster Care Counts  
11150 Santa Monica Blvd.  
Suite 1500  
Los Angeles, CA 90025

310-575-9400 ext. 1161

[info@fostercarecounts.org](mailto:info@fostercarecounts.org)