

**WHITE PLAINS PUBLIC SCHOOLS**

**NYS EDUCATION LAW 2-dDATA SECURITY AND PRIVACY AGREEMENT  
WITH PARENTS' BILL OF RIGHTS**

Any vendor (aka: Third Party Contractor) that is handling personally identifiable information (PII) on students or confidential personally identifiable evaluation data (APPR) of classroom teachers or principals in either electronic or paper format, must sign off on the attached forms.

Vendor form

Name of Vendor/Contractor/Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Name of person completing this form: \_\_\_\_\_

Title of person completing this form: \_\_\_\_\_

Signature of person completing this form: \_\_\_\_\_

Date: \_\_\_\_\_

Name of software title: \_\_\_\_\_

Vendor URL of software title: \_\_\_\_\_

Vendor URL of software use Terms and Conditions: \_\_\_\_\_

Vendor URL of software Data Privacy Terms and Conditions: \_\_\_\_\_



publication and/or communication of such Confidential Information shall be considered a breach of this Addendum and the Agreement. Third-party Contractor agrees that if **he/she/it** receives a request for disclosure of confidential information obtained from the School District, including but not limited to student data or teacher or principal data as defined by New York Education Law Section 2-d, pursuant to a statute, subpoena or court order, **he/she/it** shall notify the School District prior to disclosing the School District's confidential information, unless providing notice of the disclosure is expressly prohibited by the statute, subpoena or court order.

3. Third-party Contractor shall use the School District's personally identifiable student, teacher or principal data or information solely as needed for Third-party Contractor to make the following products and/or services available for use by the School District and/or its students: **\_\_\_\_\_** from **July 1, 20XX** to **June 30, 20XX**, which time period may be extended by the mutual agreement of the parties. Third-party Contractor shall not use the School District's personally identifiable student, teacher or principal data or information for any other purpose.

4. Without limiting any of the foregoing statements, Third-party Contractor further agrees:

- a. To execute, comply with and incorporate as Exhibit "1" to this Agreement, as required by New York State Education Law Section 2-d and its implementing regulations, the Parents' Bill of Rights for Data Privacy and Security developed by the School District;
- b. To adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework;
- c. To comply with the data security and privacy policy of the School District, New York Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education as well as any changes to the policy, law and regulations that may be enacted, adopted and/or become effective during the term of this Agreement;

- d. Not to sell, use or disclose personally identifiable student, teacher or principal data or information for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so;
- e. Not to use the education records of the School District or any personally identifiable student, teacher and/or principal information or data of the School District, as those terms are defined in Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education, for any purpose other than those explicitly authorized in this Agreement;
- f. To use and maintain reasonable administrative, technical and physical safeguards and practices that align with the NIST Cybersecurity Framework and are otherwise consistent with industry standards and best practices, including but not limited to encryption technology, firewalls and password protection, to protect the security, confidentiality and integrity of personally identifiable student, teacher and/or principal information or data of the School District while in motion or in the custody of Third-party Contractor from unauthorized disclosure as prescribed by state and federal law, regulations, and this Agreement and the Third-party Contractor represents and warrants that it has the following safeguards and practices in place to protect personally identifiable information of the School District that it receives, maintains, stores, transmits or generates in connection with the products and services Third-party Contractor provides to the School District:
  - i. [insert list or description of safeguards and practices of the Third-party Contractor];
- g. To limit internal access within Third-party Contractor to personally identifiable student, teacher and principal information and data of the School District to only those officers, directors, employees, or authorized sub-contractors or assignees of the Third-party Contractor that are determined to need access to such records or data to perform the services or provide the products the Third-party Contractor provides to the School District as set forth in this Agreement;
- h. To use encryption **using at a minimum Advanced Encryption Standard (AES) 128 bit** to protect personally identifiable student, teacher and or principal information or data of the School District in Third-party Contractor's custody while in motion or at rest from unauthorized disclosure;
- i. Not to disclose any personally identifiable student, teacher or principal information or data of the School District, as those terms are defined in Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education , directly or indirectly, to any other party who is not an officer, director, employee or authorized subcontractor or assignee of the Third-party Contractor using the data or information to carry out Third-party Contractor's obligations

under this Agreement in compliance with New York State and federal law, regulations, and this Agreement, unless

- i. the other party has the prior written consent of the applicable student's parent/guardian or of the eligible student; or
  - ii. the other party has the prior written consent of the applicable teacher or principal; or
  - iii. the disclosure to the other party is required by statute, subpoena or court order and the Third-party Contractor provides a notice of disclosure to the New York State Education Department or the School District no later than the time the information is disclosed, unless providing notice of disclosure is expressly prohibited by the statute, subpoena or court order;
- j. To impose on any sub-contractor engaged by Contractor, with the consent of the School District, to perform any of its obligations under this Agreement the requirement to comply with all the confidentiality and data privacy and security obligations imposed on Contractor in this Agreement and by state and federal law and regulations, including but not limited to Section 2-d of New York State Education Law and Part 121 of the Regulations of the New York State Commissioner of Education;
- k. In the event that a student's parent or guardian or an eligible student seeks to challenge the accuracy of student data pertaining to the particular student, which data may include records maintained, stored, transmitted or generated by the Third-party Contractor pursuant to this Agreement, the challenge will be directed in writing to Dr. Joseph Ricca, Superintendent of Schools, 5 Homeside Lane, White Plains, NY 10605, 914 422-2033, [josephricca@wpcsd.k12.ny.us](mailto:josephricca@wpcsd.k12.ny.us) and processed in accordance with the School District's procedures;
- l. In the event that a teacher or principal seeks to challenge the accuracy of teacher or principal data pertaining to the particular teacher or principal, which data may include records maintained, stored, transmitted or generated by the Third-party Contractor pursuant to this Agreement, the challenge will be directed in writing to Dr. Joseph Ricca, Superintendent of Schools, 5 Homeside Lane, White Plains, NY 10605, 914 422-2033, [josephricca@wpcsd.k12.ny.us](mailto:josephricca@wpcsd.k12.ny.us) and processed in accordance with the procedures the School District has established for challenging annual professional performance review ("APPR") data;
- m. To immediately notify the School District's Superintendent of Schools in the most expedient way possible and without unreasonable delay and in no event more than seven (7) calendar days after discovering that any personally identifiable information of the School District, its employees, students, teachers, principals or administrators is breached and/or released without authorization;
- n. To take immediate steps to limit and mitigate to the greatest extent practicable the damages arising from any breach or unauthorized release of any personally

identifiable information of the School District, its employees, students, teachers, principals or administrators;

- o. In the event of a breach or unauthorized release of any personally identifiable information of the School District, its employees, students, teachers or administrators by or attributable to Third-party Contractor, Third-party Contractor must pay for or promptly reimburse the School District for the full cost of any notifications the School District makes as a result of the breach or unauthorized release;
- p. To cooperate with the School District and other parties to protect the integrity of investigations into the breach or unauthorized release of personally identifiable information.
- q. Parents and/or guardians of students attending the School District’s schools have the right to inspect and review the complete contents of their child's education record, which may include records maintained, stored, transmitted, and/or generated by Third-party Contractor; and
- r. In the event Third-party Contractor breaches any of the privacy and confidentiality provisions of this Agreement, the School District, at its sole discretion, may immediately terminate this Agreement and the use of the Third-party Contractor’s products and services and no payment for such products and services shall be due for any period following the termination date.

5. Outline/describe how the Third-party Contractor will implement all state, federal and local data security and privacy requirements over the term of this Agreement in a manner that is consistent with the data security and privacy policy of the School District:

6. Confidentiality Training. Third-party Contractor acknowledges that federal and state laws protect the confidentiality of personally identifiable information of the School District’s

students as well as its teachers and principals. Prior to obtaining access or any further access to personally identifiable information of the School District's students, teachers and principals, Third-party Contractor represents and warrants that any officers, employees, subcontractors or agents of Third-party Contractor, who will have access to student, teacher and/or principal data of the School District, have received or will receive training on the federal and state laws governing confidentiality of such data from/by [insert how the training was or will be done]

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7. The Third-party Contractor represents and warrants that the information contained in the Supplemental Information portion of the Parents' Bill of Rights for Data Privacy and Security of the School District with respect to this Agreement, as stated in Exhibit 1 to this Agreement, is accurate.

8. Will the Third-party Contractor utilize sub-contractors in the performance of this Agreement? (check one)

- Yes
- No

If Yes, how will the Third-party Contractor manage the sub-contractors to ensure personally identifiable data and information is protected?

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9. Describe how the Third-party Contractor will manage data privacy and security incidents that involve personally identifiable data or information, including but not limited to (a) what actions are taken to check for and identify data breaches and unauthorized disclosures of personally identifiable information or data and (b) how the School District will be notified promptly of any data breaches and unauthorized disclosures of personally identifiable data or information? \_\_\_\_\_

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10. Upon the expiration or non-renewal or termination of this Agreement, if requested by the School District, the Third-party Contractor will assist the School District in exporting in a form acceptable to the School District all student, teacher or principal data previously received by the Third-party Contractor or generated by the Third-party Contractor pursuant to the Agreement. In addition, after exporting such data if requested, within ninety (90) days of the expiration or non-renewal or termination of this Agreement, all information and data of the School District remaining in the possession of the Third-party Contractor will be deleted in accordance with the National Institute of Standards and Technology (NIST) standard 800-88.

11. It is understood that further revisions to this Agreement may be necessary to ensure compliance with New York State Education Law Section 2-d if School District policies are adopted or revised or if New York Education Law Section 2-d or Part 121 of the Regulations of the Commissioner of Education are amended. Third-party Contractor and the School District



agree to take such additional steps as may be necessary at that time to facilitate compliance with New York Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education.

12. The parties further agree that the terms and conditions set forth in this Agreement shall survive the expiration and/or termination of the School District's use of Third-party Contractor's products and/or services and the expiration and/or termination of this Agreement.

13. The undersigned representative of Third-party Contractor hereby represents and warrants that the undersigned is the owner or an officer, director, or agent of Third-party Contractor with full legal rights, power and authority to enter into this Agreement on behalf of Third-party Contractor and to bind Third-party Contractor with respect to the obligations enforceable against Third-party Contractor in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement on:

WHITE PLAINS CITY  
SCHOOL DISTRICT

By: \_\_\_\_\_

Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Third Party Contractor

By: \_\_\_\_\_

Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 1**

**Parents' Bill of Rights Pursuant to Education Law §2-d**

In accordance with Section 2-d of the New York State Education Law, the White Plains City School District hereby sets forth the following Parents' Bill of Rights for Data Privacy and Security, which is applicable to all students and their parents and legal guardians.

- (1) Section 2-d of the New York State Education Law ("Section 2-d") and the Family Educational Rights and Privacy Act ("FERPA") protect the confidentiality of personally identifiable information. Section 2-d and FERPA assures the confidentiality of records with respect to "third parties," and provides parents with the right to consent to disclosures of personally identifiable information contained in the students' education records. Exceptions to this include school employees, officials and certain State and Federal officials who have a legitimate educational need to access such records. In addition, the District will, upon request of parents, or adult students, or if otherwise required by law, disclose student records to officials of another school district in which a student seeks to enroll.
- (2) A student's personally identifiable information cannot be sold or released for any marketing or commercial purposes. The District will not sell student personally identifiable information and will not release it for marketing or commercial purposes, other than directory information released by the District in accordance with District policy.
- (3) Personally identifiable information of students will be collected and disclosed only as necessary to achieve educational purposes in accordance with State and Federal Law.
- (4) Personally identifiable information includes, but is not limited to:
  - i. The student's name;
  - ii. The name of the student's parent or other family members;
  - iii. The address of the student or student's family;
  - iv. A personal identifier, such as the student's social security number, student number, or biometric record;
  - v. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
  - vi. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does

not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

- vii. Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.
- (5) In accordance with FERPA, Section 2-d and the District's Student Record Policy, parents have the right to inspect and review the complete contents of their child's education record.
  - (6) The District has the following safeguards in place to protect student data, including personally identifiable information stored or transferred by the District: Centralized databases utilizing the Advanced Encryption Standard (AES) with minimums of 128 bit key encryption; computer servers are centralized in the district datacenter, which is locked and alarmed; utilizing a variety of intrusion detection software and policies, including firewall protection services of BOCES, antivirus software, network monitoring via WhatsUpGold software; strong/complex password policy with a change in effect every 90 or 180 days depending on the exact software system; constant training and reminders of users to not share usernames or passwords on any database system; annual audit of the safety systems by District's internal auditor.
  - (7) New York State, through the New York State Education Department, collects a number of student data elements for authorized uses. A complete list of all student data elements collected by the State is available for public review, at <http://www.nysed.gov/common/nysed/files/programs/student-data-privacy/collected-data-elements-1-17-2020.pdf> or may be obtained by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234.
  - (8) Parents have the right to have complaints about possible breaches and unauthorized disclosures of student data addressed. Any such complaint should be submitted, in writing, to: Dr. Joseph Ricca, Superintendent of Schools, 5 Homeside Lane, White Plains, NY 10605, 914 422-2033, [josephricca@wpcsd.k12.ny.us](mailto:josephricca@wpcsd.k12.ny.us). Complaints can also be directed to the New York State Education Department online at <http://nysed.gov.data-privacy-security>, by mail to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234 or by email to [privacy@mail.nysed.gov](mailto:privacy@mail.nysed.gov) or by telephone at 5178-474-0937.

**Supplemental Information for Agreement with** \_\_\_\_\_ (hereinafter “Third-party Contractor”) The Third-party Contractor will provide the following information and White Plains School District (the “School District”) will review and approve or require revision of this Supplemental Information until it is acceptable to the School District.

(1) The personally identifiable student data or teacher or principal data (collectively, “the Data”) received by the Third-party Contractor will be used exclusively for the following purpose(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) This Third-party Contractor is prohibited from further sharing any student data to subcontractors, research institutions, persons or entities that are not directly an employee or department/office within this Third-party Contractor’s organization, unless written consent to such sharing is obtained from the School District. If such consent is requested and obtained, this Third-party Contractor will ensure that all subcontractors and other authorized persons or entities to whom student data or teacher or principal data will be disclosed will abide by all applicable data protection and security requirements, including those mandated by New York State and federal laws and regulations, by the following means: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) Absent renewal, this agreement expires annually on June 30. If the District doesn’t renew the contract past June 30th of the contractual year, within 90 days of the expiration on June 30, all student data shall be deleted in accordance with the National Institute of Standards and Technology (NIST) standard 800-88.

(4) A parent, student, teacher or principal can challenge the accuracy of the Data received by or generated by the Third-party Contractor in writing addressed to, Dr. Joseph Ricca, Superintendent of the White Plains School District at 5 Homeside Lane, White Plains, NY 10605.

(5) Describe where the Data will be stored (in a manner that will protect data security) and the security protections that will be taken by the Third-party Contractor to ensure the Data will be protected (*e.g.*, offsite storage, use of cloud service provider, secure data center using monitoring of the access doors, fire and security monitoring, system health and intrusion monitoring, data backups and retentions):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(6) Third-party Contractor will use Advanced Encryption Standard (AES) with minimums of 128 bit key encryption or better to protect the Data while in motion or at rest in its custody.

WHITE PLAINS CITY  
SCHOOL DISTRICT

\_\_\_\_\_  
THIRD-PARTY CONTRACTOR

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_