

1 **SCHOOL SERVICE PROVIDERS' USE OF STUDENT PERSONAL INFORMATION**

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3 **Definitions**

4 For the purposes of this policy:

5 "Elementary and secondary school purposes" means purposes that (i) customarily take place at
6 the direction of an elementary or secondary school, elementary or secondary school teacher, or
7 school division; (ii) aid in the administration of school activities, including instruction in the
8 classroom or at home; administrative activities; and collaboration between students, school
9 personnel or parents; or (iii) are otherwise for the use and benefit of an elementary or secondary
10 school.

11 "Personal profile" does not include account information that is collected and retained by a school
12 service provider and remains under control of a student, parent or elementary or secondary
13 school.

14 "School-affiliated entity" means any private entity that provides support to the school division or
15 a public elementary or secondary school. "School-affiliated entity" includes alumni associations,
16 booster clubs, parent-teacher associations, parent-teacher-student associations, parent-teacher
17 organizations, public education foundations, public education funds and scholarship
18 organizations.

19 "School service" means a website, mobile application or online service that (i) is designed and
20 marketed solely for use in elementary or secondary schools; (ii) is used (a) at the direction of
21 teachers or other employees at elementary or secondary schools or (b) by any school-affiliated
22 entity; and (iii) collects and maintains, uses or shares student personal information. "School
23 service" does not include a website, mobile application or online service that is (a) used for the
24 purposes of college and career readiness assessment or (b) designed and marketed for use by
25 individuals or entities generally, even if it is also marketed for use in elementary or secondary
26 schools.

27 "School service provider" means an entity that operates a school service pursuant to a contract
28 with the school division.

29 "Student personal information" means information collected through a school service that
30 identifies a currently or formerly enrolled individual student or is linked to information that
31 identifies a currently or formerly enrolled individual student.

32 "Targeted advertising" means advertising that is presented to a student and selected on the basis
33 of information obtained or inferred over time from such student's online behavior, use of
34 applications, or sharing of student personal information. "Targeted advertising" does not include
35 advertising (i) that is presented to a student at an online location (a) on the basis of such student's
36 online behavior, use of applications or sharing of student personal information during his current
37 visit to that online location or (b) in response to that student's request for information or feedback

38 and (ii) for which a student's online activities or requests are not retained over time for the
39 purpose of subsequent advertising.

40 **Required Contract Terms**

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42 The contract between a school service provider and the School Board shall require the
43 school service provider:

- 44 • To provide clear and easy-to-understand information about the types of student personal
45 information it collects through any school service and how it maintains, uses or shares
46 such student personal information;
- 47 • To maintain a policy for the privacy of student personal information for each school
48 service and provide prominent notice before making material changes to its policy for the
49 privacy of student personal information for the relevant school service;
- 50 • To maintain a comprehensive information security program that is reasonably designed to
51 protect the security, privacy, confidentiality and integrity of student personal information
52 and makes use of appropriate administrative, technological and physical safeguards;
- 53 • To facilitate access to and correction of student personal information by each student
54 whose student personal information has been collected, maintained, used or shared by the
55 school service provider, or by such student's parent, either directly or through the
56 student's school or teacher;
- 57 • To collect, maintain, use and share student personal information only with the consent of
58 the student or, if the student is less than 18 years of age, his parent or for the purposes
59 authorized in the contract between the School Board and the school service provider;
- 60 • When it collects student personal information directly from the student, to obtain the
61 consent of the student or, if the student is less than 18 years of age, his parent before
62 using student personal information in a manner that is inconsistent with its policy for the
63 privacy of student personal information for the relevant school service, and when it
64 collects student personal information from an individual or entity other than the student,
65 to obtain the consent of the school division before using student personal information in a
66 manner that is inconsistent with its policy for the privacy of student personal information
67 for the relevant school service;
- 68 • To require any successor entity or third party with whom it contracts to abide by its
69 policy for the privacy of student personal information and comprehensive information
70 security program before accessing student personal information; and
- 71 • To require that, upon the request of the school or School Board, the school service
72 provider will delete student personal information within a reasonable period of time after
73 such request unless the student or, if the student is less than 18 years of age, his parent
74 consents to the maintenance of the student personal information by the school service
75 provider.

76 The contract will also prohibit the school service provider from knowingly:

- 77 • Using or sharing any student personal information for the purpose of targeted advertising
78 to students;

- 79 • Using or sharing any student personal information to create a personal profile of a student
80 other than for elementary and secondary school purposes authorized by the school
81 division, with the consent of the student or, if the student is less than 18 years of age, his
82 parent, or as otherwise authorized in the contract between the school division and the
83 school service provider; or
- 84 • Selling student personal information except to the extent that such student personal
85 information is sold to or acquired by a successor entity that purchases, merges with or
86 otherwise acquires the school service provider.

87 Nothing in this policy shall be construed to prohibit school service providers from:

- 88 • Using student personal information for purposes of adaptive learning, personalized
89 learning or customized education;
- 90 • Using student personal information for maintaining, developing, supporting, improving
91 or diagnosing the school service;
- 92 • Providing recommendations for employment, school, educational or other learning
93 purposes within a school service when such recommendation is not determined in whole
94 or in part by payment or other consideration from a third party;
- 95 • Disclosing student personal information to (i) ensure legal or regulatory compliance, (ii)
96 protect against liability or (iii) protect the security or integrity of its school service; or
- 97 • Disclosing student personal information pursuant to a contract with a service provider,
98 provided that the school service provider (i) contractually prohibits the service provider
99 from using any student personal information for any purpose other than providing the
100 contracted service to or on behalf of the school service provider, (ii) contractually
101 prohibits the service provider from disclosing any student personal information provided
102 by the school service provider to any third party unless such disclosure is permitted by
103 Va. Code § 22.1-289.01(B)(7) and (iii) requires the service provider to comply with the
104 requirements set forth Va. Code § 22.1-289.01(B) and the prohibitions set forth in Va.
105 Code § 22.1-289.01(C).

106 Nothing in this policy shall be construed to:

- 107 • Impose a duty upon a provider of an electronic store, gateway, marketplace, forum or
108 means for purchasing or downloading software or applications to review or enforce
109 compliance with this policy with regard to any school service provider whose school
110 service is available for purchase or download on such electronic store, gateway,
111 marketplace, forum or means;
- 112 • Impose liability on an interactive computer service, as that term is defined in 47 U.S.C. §
113 230(f), for content provided by another individual; or
- 114 • Prohibit any student from downloading, exporting, transferring, saving or maintaining his
115 personal information, data or documents.

116 Adopted: June 22, 2017

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118 Legal Refs.: Code of Virginia, 1950, as amended, § 22.1-289.01.

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120	Cross Refs.:	ET	Educational Technology Foundation and Public
121			School Foundations
122		JO	Student Records
123		KMA	Relations with Parent Organizations