

Fairport Central School District

Data Privacy Agreement for Providers / Contractors / Service Provider

This Agreement supplements the underlying Contract to which it is attached to ensure that the underlying Contract conforms to the requirements of New York State Education Law Section §2-d and related Regulations of the Commissioner of Education. To the extent that any term of the Contract conflicts with the terms of this Agreement, the terms of this Agreement shall apply and be given effect.

As used in this Agreement, protected Data includes all Personally Identifiable Information (PII) as defined in New York Education Law Section §2-d, and other non-public data, including, but not limited to, staff data, student data, metadata, and user content. Examples of protected Data include, but are not limited to, names, e-mail addresses, ID numbers, date of birth, and demographic information.

1. Data Privacy

Service Provider agrees that the security, confidentiality, and integrity of protected Data shall be maintained in accordance with state and federal laws that protect the confidentiality of personally identifiable information, and also in accordance with the District's Parents Bill of Rights for Data Security and Privacy, provided below.

2. Data De-Identification

Service Provider may use de-identified Data for product development, research, or similar purposes. De-identified Data must have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, and location information. Furthermore, Service Provider agrees not to attempt to re-identify any de-identified Data, and not to transfer de-identified Data to any party unless that party agrees not to attempt re-identification.

3. Marketing and Advertising

Service Provider will not use any Data to advertise or market to students, their parents, faculty or staff. The exclusive purpose for which Service Provider is being provided access to protected Data is for providing FCSD with the functionality of the Products or Services accessed by the school district. Protected Data received by Service Provider, or by any assignee of Service Provider, from FCSD shall not be sold or used for marketing purposes.

4. Data Sharing

Service Provider agrees that it will disclose protected Data received from FCSD only to those officers, employees, and agents who need access to provide the contracted services. Service Provider further agrees to ensure that subcontractors or other entities to whom the Service Provider discloses protected Data will abide by all applicable Data protection and security requirements, including, but not limited to, those outlined in applicable state and federal laws and regulations.

5. Data Privacy Training

Service Provider ensures that any of its officers or employees, and any officers or employees of any assignee or subcontractor who have access to personally identifiable information, will receive training on the federal and state laws governing confidentiality of such Data prior to receiving access to that Data.

6. Access and Correction

Service Provider agrees to support access to and correction of Data by the District or, when applicable, by the student or their authorized parent when the Data is collected directly from the student with student/parent consent, consistent with the Family Educational Rights and Privacy Act (FERPA).

7. Data Use and Collection

Service Provider will only collect and use Data necessary to provide FCSD with the functionality of the Products or Services accessed by the school district. Service Provider will disclose, in a manner easy for parents to understand, what types of student personal information is collected and for what purpose.

8. Rights and Licenses to Data

Service Provider has a limited, non-exclusive license solely for the purpose of performing its obligations as outlined in the Terms of Agreement. This Agreement does not give Service Provider any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement. This includes the right to sell or trade Data.

9. Data Transfer or Destruction

Service Provider will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the Service Provider may have transferred Data, are destroyed or transferred to the District upon expiration of this Agreement without a successor contract in place, or upon request from the District.

10. Data Protection

- a. Service Provider will take measures aligned with industry best practices, state and federal regulations such as Ed Law Section 2-d and related Commissioner's Regulations, and the principles of the NIST Cybersecurity Framework and reasonably designed to protect the privacy and security of protected data while it is stored and in transit. Such measures include, but are not necessarily limited to, encryption technology, firewalls, and password protection.
- b. Service Provider will maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of protected data in its custody.
- c. Service Provider will conduct periodic risk assessments, remediating any identified security vulnerabilities in a timely manner.
- d. Service Provider will maintain a written incident response plan, to include prompt notification of the District in the event of a security or privacy incident, as well as best practices for responding to a breach of protected data.
- e. Service Provider agrees to share its incident response plan upon request.
- f. In the event of a breach or unauthorized release of protected data by the Service Provider or subcontractor, the Service Provider will notify the District of the breach in the most expedient way possible and without unreasonable delay, but not more than 7 calendar days from awareness of the incident. The Service Provider and the third party contractor may be subject to penalties as outlined in Education Law §2-d.
- g. Service Provider will ensure by contractual agreements or other legally binding measures that any subcontractor, assignee, or agent (including any Hosting Service Provider) to whom Service Provider discloses protected data will comply with substantially similar restrictions as the data security and privacy standards required of Service Provider under this agreement and applicable state and federal laws.

Fairport School District

Data Privacy Supplemental Information

Service Provider: ExploreLearning, LLC Date: 8/10/2023

What protected data is stored?

Only a minimum amount of personally identifiable student data required for the setup of the system is requested. We require student first name, student last name, and student identification number. Additional data, not specific to the student, is also required to complete system setup, including the teacher first and last name, class name, grade level, and school name. Student demographic data, for the purposes of optional disaggregated reporting, is requested separately from the initial setup data and is only entered and viewed by site administrators.

For what purpose(s) will this data be used?

Only a minimum amount of personally identifiable student data required for the setup of the system is requested. We require student first name, student last name, and student identification number. Additional data, not specific to the student, is also required to complete system setup, including the teacher first and last name, class name, grade level, and school name. Student demographic data, for the purposes of optional disaggregated reporting, is requested separately from the initial setup data and is only entered and viewed by site administrators.

What will happen to the data at the expiration of the contract/agreement?

School data is deleted either within a reasonable time frame after contract expiration or on request from a customer.

How may the accuracy of data be challenged?

Should customer have concerns about the veracity of student information, they should submit an inquiry to ExploreLearning support, who will work with the customer to determine whether corrections are warranted & as appropriate implement the changes. Final determination of the corrections shall be the responsibility of the contractor.

Where is the data stored and how is it protected?

Our servers and all user-specific data are hosted in a secure Tier 4 enterprise data center located in Texas with a failover data center in Michigan. All data is encrypted at both rest and in transit. All web traffic to our products use the HTTPS protocol. Data is encrypted at AES 128 or higher.

How is the data protected using encryption while in motion and at rest?

Our servers and all user-specific data are hosted in a secure Tier 4 enterprise data center located in Texas with a failover data center in Michigan. All data is encrypted at both rest and in transit. All web traffic to our products use the HTTPS protocol. Data is encrypted at AES 128 or higher.

What is the start and end date of the contract for this service?

Please contact your sales rep

The provider will not use student, teacher, or principal data for any of the purpose than those explicitly authorized by the district in its contract.

Yes

No

Why?

The provider will not disclose any PII (Personally Identifiable Information) to any other party... (i) without the prior written consent of the parent or eligible student:

Yes No Why?

The provider will not use any student, teacher, or principal data for any commercial purposes.

Yes No Why?

The provider agrees to immediately notify the district of any breach of data or unauthorized access to its systems.

Yes No Why?

Within a reasonable amount of time, if we learn of a security breach or other unauthorized disclosure of your PII, we will attempt to notify you so that you can take appropriate protective steps by posting a notice on our homepage (www.explorelearning.com) or elsewhere in our Service and we will send email to you at the email address you have provided to us. Additionally, we will notify the primary administrative contact at your school or district by email and telephone and assist with their efforts to ensure your notification.

- Any such notice will include:
- The date of the breach.
- The type of information that was subject to breach.
- General description of what occurred
- Steps we are taking to address the breach.
- The contact person with our Company who you can contact regarding the breach.

Provider Statement: We understand and agree to abide by all the terms above for the length of each established contract moving forward. This agreement will remain in effect until services or use of the product ends.

Name: Julia M Given

Title: V P F i n a n c e

Signature: Julia M. Given

Date: 8/10/23

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

The Fairport School District is committed to protecting the privacy and security of student data and teacher and principal data. In accordance with New York Education Law Section 2-d and its implementing regulations, the District informs the school community of the following:

1. A student's personally identifiable information cannot be sold or released for any commercial purposes.
2. Parents have the right to inspect and review the complete contents of their child's education record.
3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to encryption, firewalls, and password protection, must be in place when data is stored or transferred.
4. A complete list of all student data elements collected by New York State is available for public review at the following website <http://www.nysed.gov/student-dataprivacy/student-data-inventory> or by writing to the Office of Information and Reporting Services, New York State Education Department, Room 865 EBA, 89 Washington Avenue, Albany, New York 12234.
5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed in writing to Privacy Complaint, Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234. Complaints may also be submitted using the form available at the following website <http://www.nysed.gov/student-data-privacy/form/reportimproper-disclosure>. Complaints may also be submitted to the District's Data Protection Officer by writing to: Data Protection Officer, Fairport School District, 140 Hulburt Rd. Fairport ny, 14450.

APPENDIX

Supplemental Information Regarding Third-Party Contractors

In the course of complying with its obligations under the law and providing educational services to District residents, the Fairport Central School District has entered into agreements with certain third-party contractors. Pursuant to these agreements, third-party contractors may have access to "student data" and/or "teacher or principal data," as those terms are defined by law and regulation.

(Asked above) For each contract or other written agreement that the District enters into with a third-party contractor where the third-party contractor receives student data or teacher or principal data from the District, the following supplemental information will be included with this Bill of Rights:

1. The exclusive purposes for which the student data or teacher or principal data will be used by the third-party contractor, as defined in the contract;
2. How the third-party contractor will ensure that the subcontractors, or other authorized persons or entities to whom the third-party contractor will disclose the student data or teacher or principal data, if any, will abide by all applicable data protection and security requirements, including but not limited to those outlined in applicable laws and regulations (e.g., FERPA; Education Law Section 2-d);
3. The duration of the contract, including the contract's expiration date, and a description of what will happen to the student data or teacher or principal data upon expiration of the contract or other written agreement (e.g., whether, when, and in what format it will be returned to the District, and/or whether, when, and how the data will be destroyed);
4. If and how a parent, student, eligible student, teacher, or principal may challenge the accuracy of the student data or teacher or principal data that is collected;
5. Where the student data or teacher or principal data will be stored, described in a manner as to protect data security, and the security protections taken to ensure the data will be protected and data privacy and security risks mitigated; and
6. Address how the data will be protected using encryption while in motion and at rest.

This Bill of Rights is subject to change based on regulations of the Commissioner of Education and the NYSED Chief Privacy Officer. Changes/Additions are also anticipated as NYSED releases further guidance documents.

Supplemental information describing third-party providers engaged in data sharing and confidentiality agreements with Fairport School District can be found at:

<https://dpit.riconedpss.org/billofrights/02d9d2af98c045c40bfd>.

References:

- <https://studentprivacy.ed.gov/audience/education-technology-providers>
- <http://www.nysed.gov/common/nysed/files/programs/student-data-privacy/parents-bill-ofrights.pdf>
- <https://fairport.org/departments/technology-services/ParentRights>
- <https://www.nysenate.gov/legislation/laws/EDN/2-D>
- <http://www.nysed.gov/common/nysed/files/programs/student-data-privacy/proposed-part-121-forp-ii.pdf>