

## CK-12 DATA PROTECTION AGREEMENT

This Data Protection Agreement (this "**DPA**"), effective as of 11/21/2023 (the "**Effective Date**"), by and between East Helena Public Schools ("**School District**") and CK-12 Foundation ("**CK-12**") is entered into to assist School District in protecting the personal information in its student educational records as required by applicable law. School District and CK-12 are each referred to as a "**Party**" and together, the "**Parties.**"

In this DPA, the following definitions apply:

"**CK-12 Platform**" means the CK-12 website located at [www.ck12.org](http://www.ck12.org) and related products and services (including CK-12's mobile applications).

"**CK-12 Privacy Policy**" means CK-12's Privacy Policy located at <https://www.ck12info.org/privacy-policy/> (as may be amended from time to time by CK-12).

"**CK-12 Terms of Use**" means CK-12's Terms of Use located at <https://www.ck12info.org/terms-of-use/> (as may be amended from time to time by CK-12), which govern the use of the CK-12 Platform.

"**Services**" means the educational content services provided by CK-12 through the CK-12 Platform to School District students and School District personnel for educational uses under the direction of School District.

"**Student Accounts**" means user accounts created for the CK-12 Platform by School District students or by School District or School District personnel on behalf of students, in each case, using a School District email address with the following domain(s): ehps.k12.mt.us.

"**Student Records**" means personally identifiable information about a School District student that is (i) provided to CK-12 by School District or School District personnel or (ii) collected by CK-12 in the course of providing Services to the School District pursuant to the CK-12 Terms of Use and this DPA (including such information collected from Student Accounts). However, it is expressly understood and agreed by the Parties that, for the purposes of this DPA, Student Records does not include User Content (as defined in the CK-12 Terms of Use) or any information a student or other individual or entity may provide to CK-12 outside of the Services (for example, user accounts created on the CK-12 Platform by students using their personal email addresses shall be deemed excluded from this definition).

The Parties agree as follows:

1. Conflict. In the event there is a conflict between the provision of this DPA and the provisions of the CK-12 Terms of Use, the provisions of this DPA shall control to the extent the conflict is directly related to the protection of Student Records. This DPA supersedes and replaces any existing or previous data protection agreement between the parties.
2. Ownership and Designation of Student Records. In the course of providing the Services, CK-12 may collect or have access to Student Records. As between the Parties, School District owns and controls all right, title and interest to Student Records. It is expressly

understood and agreed by the Parties that accounts created with a personal email address will not be Student Records, but will remain subject to the privacy protections set out in CK-12's Privacy Policy. Nothing in this DPA shall prohibit a student's ability to save or maintain control over information associated with that student's account by establishing or converting the Student Account to a personal account, or by transferring, sharing, or linking such information to a personal account.

3. Use and Disclosure of Student Records. CK-12 will use and disclose Student Records solely for educational purposes, which includes: (i) providing and supporting the Services; (ii) adaptive and/or customized student learning; (iii) maintaining, developing, improving, supporting, and troubleshooting the Services; (iv) as otherwise contemplated by this DPA, the Privacy Policy or the CK-12 Terms of Use; and (v) as permitted with the consent of School District, the student's parent or guardian, or the student (as permitted by law). Should a third party, including law enforcement or government entities, contact CK-12 with a request for Student Records, CK-12 will direct the third party to School District.
4. Visibility of Certain Information. School District acknowledges and agrees that certain aspects of Student Records, such as a user name and profile information, may be visible to other users, School District personnel, or the public. For example, if a student creates a FlexBook®, the student's user name, profile information and content may be visible to others. Such content is made visible in accordance with the CK-12 Terms of Use and Privacy Policy.
5. Prohibitions. Except as otherwise permitted by this DPA or the CK-12 Terms of Use, CK-12 will not:
  - a. Use Student Records for any purpose other than as specified in this DPA or the CK-12 Terms of Use, as directed by School District, or as otherwise legally required;
  - b. Sell, rent, transfer, disclose, or otherwise share Student Records with any third party who is not a subcontractor without the consent of School District, a student's parent or guardian, or student (as permitted by law);
  - c. Use or disclose Student Records to serve cross-context behavioral advertisements to students; or
  - d. Use Student Records to amass a profile of a student other than to support educational purposes or as authorized by School District or a student's parent or guardian.
6. De-Identified and Aggregate Data. Notwithstanding anything to the contrary herein, nothing in this DPA prohibits CK-12 to collect, create, analyze, and use aggregated or de-identified data derived from Student Records or students' access and use of the Services for CK-12's own purposes.
7. Security. CK-12 will implement reasonable administrative, technical, and physical safeguards designed to prevent unauthorized access to or use of Student Records. In the event of an unauthorized access to or disclosure of Student Records, CK-12 will take steps to investigate the incident and promptly notify School District unless prohibited by law. School District will take reasonable precautions to secure usernames, passwords,

and any other means of gaining access to the Services and Student Records and will promptly notify CK-12 of any known or suspected unauthorized access.

- 8. Subcontractors. To the extent CK-12 uses subcontractors to provide the Services, CK-12 will ensure that all subcontractors with access to Student Records agree to protect Student Records in a manner consistent with the terms of this DPA.
- 9. Review and Deletion of Student Records. CK-12 will establish reasonable procedures by which a parent, legal guardian, or student may review Student Records and correct erroneous information. CK-12 may not be able to respond to requests to revise or delete information in all circumstances and may direct certain requests to School District as needed.
- 10. Student Records upon Termination. Within 60 days upon termination of the Services, unless School District requests deletion in writing within 15 days of termination, CK-12 shall de-identify Student Records such that no personally identifiable information is maintained. After such termination, CK-12 may continue to maintain and use all aggregated or de-identified data derived from Student Records.
- 11. Compliance with Laws. The Parties agree to comply with the privacy and data protection laws that apply to Student Records, including, as applicable, the Family Education Rights and Privacy Act and any state or local laws that govern the privacy of Student Records.
- 12. Notices. All notices or communications required hereunder must be in writing and delivered to the designated contact information set forth below each Party's signature.
- 13. Severability. If any provision of this DPA or the application of this DPA is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this DPA which can be given effect without the invalid provision or application.

This DPA will remain in effect unless and until a Party provides 30 days' written notice of termination to the other Party.

**SCHOOL DISTRICT**

Name: Brandon Hansen

Title: Director, Information Systems

Signature: *Brandon Hansen*

Date: 11/21/2023

Designated Contact Information:

406-227-7700

226 E Clinton St East Helena, MT 59635

**CK-12 FOUNDATION**

Name: Miral Shah

Title: CTO and CPO

Signature: *Miral Shah*  
DocuSigned by:  
R1C4BE5FA8444CF

Date: 11/29/2023

Designated Contact Information:

dpo@ck12.org