

STUDENT DATA PRIVACY AGREEMENT

This Student Data Privacy Agreement dated February ____, 2021 (hereinafter "Agreement") is by and between the City of Cambridge, a municipal corporation with a principal place of business at City Hall, 795 Massachusetts Avenue, Cambridge, Massachusetts ("City"), by and through its School Department, also known as the Cambridge Public Schools ("CPS"), with a principal place of business at 135 Berkshire Street, Cambridge, Massachusetts, and Joanna Christodoulou, Ed.D., an individual with a principal place of residence at 165 Pleasant Street, Cambridge, Massachusetts ("Contractor"), a contractor performing institutional services and functions that will require student data to perform those services and functions.

1. The Contractor and CPS have contracted for the Contractor to provide analysis of student data in connection with the implementation of dyslexia screening in CPS schools ("the Services"), which are institutional services and functions, for CPS. In the course of performing the Services, the Contractor will obtain access to the following data for all CPS students to whom dyslexia screenings are administered from confidential student records and/or confidential student record information that contain personally identifiable student records, data and/or other non-public information:

Demographic: (i) DOB; (ii) race/ethnicity, (iii) socio-economic status; (iv) English language learner status; (v) IEP/504 indicator; and (v) gender;

Other Student Data Fields: (i) school information (school, homeroom, teachers), (ii) Student Identification Number, (iii) RAN score and notes; (iv) MCAS scores; and (v) other screening/progress monitoring/testing data; and

Contact information: (i) student identification number.

These portions of confidential student records and/or confidential student record information that contain personally identifiable student records, data and/or information shall hereinafter be referred to as Data Files ("Data Files"). CPS and the Contractor acknowledge and agree that this Agreement is for the purpose of sharing Data Files between the parties in a manner consistent with all applicable federal and state statutes and regulations promulgated thereto, including but not limited to, the Family Education Records Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g and 34 CFR Part 99, and Massachusetts student record regulations, 603 C.M.R. 23.00 ("State Regulations"). The Data Files will be used by the Contractor's employees to populate student data for the purpose of delivering the Services. The Contractor further acknowledges and agrees that all copies of such Data Files, including any modifications or additions to data from any source that contains personally identifiable information regarding individual CPS students, are subject to the provisions of this Agreement in the same manner as the original Data Files. The ability to access or maintain Data Files and/or any personally identifiable student data contained therein under this Agreement shall not under any circumstances transfer from the Contractor to any other party.

2. The Contractor acknowledges and agrees that she is providing institutional services or functions for CPS and that she is under direct control of CPS with respect to the use and maintenance of Data Files in connection with the Services. The Contractor additionally acknowledges and agrees that at no point in time is the Contractor the owner of the Data Files. Ownership rights are maintained by CPS and CPS reserves the right to request the prompt return of any portion of the Data Files and/or all Data Files at any time for any reason whatsoever. The Contractor further acknowledges and agrees that she shall adhere to the requirements set forth in both applicable federal and state law regarding the use and re-disclosure of the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained within the Data Files. The Contractor also acknowledges and agrees that she shall not make any re-disclosure of any Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files without the express written consent of CPS. Additionally, the Contractor agrees that only authorized employees of the Contractor directly involved in delivering the Services shall have access to the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files, and that she and her employees shall protect the confidentiality of the Data Files or any portion thereof, including without limitation, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Data Files, in such a way that parties other than officials of CPS and their authorized agents cannot identify any students.

3. The Contractor also acknowledges and agrees to:

- (i) use the Data Files shared under this Agreement for no purpose other than in connection with and through the provision of the Services.
- (ii) use reasonable methods, including but not limited to, appropriate technical, physical and administrative safeguards, that reflects technology best practices and is consistent with industry standards, to protect the Data Files and/or any portion thereof from re-disclosure that is created, sent, received, stored, processed or transmitted in connection with the Services under this Agreement while the Data Files and/or any portion thereof contained therein is both at rest and in transit. The Contractor further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.
- (iii) not share the Data Files and/or any portion thereof received under this Agreement with any other entity without prior written approval from CPS and the prior written approval of the parent/guardian of the student or "eligible student" (as defined in 603 C.M.R. 23.00).
- (iv) not copy, reproduce or transmit the Data Files and/or any portion thereof, except as necessary to fulfill the Services.

- (v) not re-disclose, transfer or sell the Data Files and/or any portion thereof.
- (vi) not to use the Data Files and/or any portion thereof to market or otherwise advertise directly to students and/or their parents/guardians.
- (vii) not to use the Data Files and/or any portion thereof to inform, influence or guide marketing or advertising efforts or to develop a profile of a student or group of students for any commercial or other purposes.
- (viii) not to use the Data Files and/or any portion thereof contained therein for the development of commercial products or services.
- (ix) not to mine the Data Files and/or any portion thereof for any purpose other than those agreed to by the parties. The Contactor further acknowledges that data mining or scanning of user content for the purpose of advertising or marketing to students or their parents/guardians is expressly prohibited.
- (x) notify the Chief Information Officer for CPS in writing within three (3) days of her determination that she has experienced a data breach, breach of security or unauthorized acquisition or use of any Data Files and/or any portion thereof. The Contractor agrees that said notification shall include, to the extent feasible, the date or approximate dates of such incident and the nature thereof, the specific scope of said breach (i.e., what data was accessed, used, released or otherwise breached, including the names of individual students that were affected by said breach) and what actions or steps with respect to the incident that the Contractor plans to take or has taken in response to said breach. Additionally, the Contractor agrees to adhere to all requirements in the Massachusetts Data Breach law and in federal law with respect to a data breach related to the Data Files, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach. The Contractor further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of the Data Files or any portion thereof, including personally identifiable information, and agrees to provide CPS, upon request, with a copy of said written incident response plan.
- (xi) not provide any Data Files or any portion thereof to any party ineligible to receive student records and/or student record data and information protected by FERPA and State Regulations or prohibited from receiving the Data Files or any portion thereof from any entity under 34 C.F.R. 99.31(a)(6)(iii).

- (xii) maintain backup copies, backed up at least daily, of Data Files in case of Contractor system failure or any other unforeseen event resulting in loss of the Data Files or any portion thereof.
- (xiii) upon receipt of a request from CPS, immediately provide CPS with any specified portion of the Data Files within three (3) days of receipt of said request.
- (xiv) upon receipt of a request from CPS, immediately begin the process of returning all Data Files over to CPS and subsequently erasing and/or otherwise destroying any Data Files, be it digital, archival or physical form, including without limitation any copies of the Data Files or any portions thereof that may reside in system backups, temporary files or other storage media and or are otherwise still in the Contractor's possession and/or in the possession of any subcontractors, or agents to which the Contractor may have transferred Data Files or any portion thereof, in a manner consistent with technology best practices and industry standards for secure data disposal methods, such that the Contractor and/or any of her subcontractors or agents are no longer in possession of any student work belonging to CPS and to ensure that the Data Files cannot be recovered and are securely destroyed and to provide CPS with any and all Data Files in the Contractor's possession, custody or control within seven (7) days of receipt of said request. The Contractor also will provide CPS with written certification, including an inventory of her Data Files destruction, and with written certification, including an inventory of all Data Files returned to CPS, within fifteen (15) days of her receipt of CPS request for destruction of Data Files.
- (xv) in the event of the Contractor's cessation of operations, promptly return all Data Files to CPS in an organized, manageable manner and subsequently erasing and/or otherwise destroying any Data Files, be it digital, archival or physical form, still in the Contractor's possession, and/or in the possession of any subcontractors, or agents to which the Contractor may have transferred the Data Files or any portion thereof, in a manner consistent with technology best practice and industry standards for secure data disposal methods, such that the Contractor and/or any of her subcontractors or agents are no longer in possession of any student work belonging to CPS and to ensure that the Data Files cannot be recovered and are securely destroyed. The Contractor also will provide CPS with written certification, including an inventory of her Data Files destruction and inventory of all Data Files returned to CPS with fifteen (15) days of Contractor's cessation of operations.
- (xvi) not use, disclose, compile, transfer, sell the Data Files and/or any portion thereof to any third party or other entity or allow any other third party or

other entity to use, disclose, compile, transfer or sell the Data Files and/or any portion thereof.

- (xvii) in the event that the Contractor and/or any of her subcontractors or agents to which the Contractor may have transferred Data Files or any portion thereof has technology or storage media that has failed and needs to be replaced or serviced, to ensure that all Data Files or any portions thereof that are contained therein are sanitized, erased and/or otherwise destroyed in a manner consistent with technology best practices and industry standards for secure data disposal methods. The Contractor also will provide CPS with written certification, including an inventory of her Data Files destruction within fifteen (15) days of any such occurrence.
- (xviii) delete CPS Data Files in a manner consistent with technology best practices and industry standards for secure data disposal methods that she collects or receives under this Agreement once the Services referenced in this Agreement lapses.
- (xix) upon receipt of a litigation hold request from the City, immediately implement a litigation hold and preserve all documents and data relevant identified by the City and suspend deletion, overwriting, or any other possible destruction of documentation and data identified in, related to, arising out of and/or relevant to the litigation hold.
- (xx) upon receipt of a request from CPS, allow CPS to audit the security and privacy measures that are in place to ensure protection of the Data Files or any portion thereof.
- (xxi) cooperate fully with CPS and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Contractor and/or delivery of the Services to CPS students and/or CPS, and shall provide full access to the Contractor's facilities, staff, agents and CPS Data Files and all records pertaining to the Contractor, CPS Data Files and delivery of Services to CPS. Failure to cooperate shall be deemed a material breach of the Contract.
- (xxii) not assign, subcontract or in any way transfer any interest in this Agreement without the prior written consent of CPS.
- (xxiii) seek prior written consent from CPS before using any de-identified CPS Data Files for internal product development and improvement and/or research. The Contractor acknowledges and agrees that de-identified CPS Data Files is defined as data files that have all direct and indirect personal identifiers removed, including any data that could be analyzed and linked to other data to identify the student or the student's family members, including without limitation parents/guardians. This includes, but is not

limited to, name, ID numbers, date of birth, demographic information, location data, and federal, state and/or local school identification numbers. The Contractor also acknowledges and agrees not to attempt to re-identify de-identified CPS Data Files and not to transfer de-identified CPS Data Files to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to CPS who has provided prior written consent for such transfer.

4. The Contractor certifies under the penalties of perjury that she complies with all federal and state laws, regulations and rules as such laws may apply to the receipt, storing, maintenance or access to personal information, including without limitation, all standards for the protection of personal information of residents of Massachusetts and maintaining safeguards for personal information, to the extent such laws, regulations and rules are specifically applicable to the Contractor. The Contractor hereby further certifies under the penalties of perjury that, if she is receiving "personal information" as defined under 201 C.M.R. 17.00 *et seq.*, that she has a written comprehensive information security program that is in compliance with the provisions of 201 C.M.R. 17.00 *et seq.* Further, the Contractor hereby certifies under the penalties of perjury that she shall fully comply with the provisions of FERPA, 20 U.S.C. §1232g and regulations promulgated thereunder and Massachusetts student records law and regulations, including without limitation, 603 C.M.R. 23.00 *et seq.*, and to fully protect the confidentiality of any student data, meta data, user content or other non-public information and/or personally identifiable information provided to her or her representatives. The Contractor further represents and warrants that she has reviewed and complied with all information security programs, plans, guidelines, standards and policies that apply to the work she will be performing, that she will communicate these provisions to and enforce them against her subcontractors and will implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information and/or student record information from unauthorized access, destruction, use, modification, disclosure or loss. The Contractor also represents and warrants that if personal information and/or student record information is to be stored on a laptop or other mobile electronic device, that such electronic devices are encrypted and that all such devices will be scanned at the completion of any contract or service agreement and/or research study or project to ensure that no personal information and/or student record information is stored on such electronic devices. Furthermore, the Contractor represents and warrants that she has in place a service that will allow her to wipe the hard drive on any stolen laptop or mobile electronic device remotely and have purchased locks for all laptops and mobile electronic devices and have a protocol in place to ensure use by employees.

5. The Contractor represents that she is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Data Files and any portion thereof, all related or associated institutions, individuals, employees or contractors who may have access to the Data Files and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Data Files and any portion thereof is stored, maintained or used in any way.

6. The designated representative for the Contractor for this Agreement is:

Joanna Christodoulou
165 Pleasant Street #405
Cambridge, Massachusetts 02139

The designated representative for CPS for this Agreement is:

Steve Smith
Chief Information Officer
Information, Communications & Technology Services
Cambridge Public Schools
459 Broadway
Cambridge, MA 02138

7. All rights, including intellectual property rights to the Data Files, shall remain the exclusive property of CPS and/or the student, as applicable, and the Contractor as a limited, nonexclusive license solely for the purpose of performing her obligations as outlined in this Agreement. This Agreement does not give the Contractor any rights, implied or otherwise, to the Data Files or any portion thereof, content or intellectual property, except as expressly stated in this Agreement. This includes, without limitation, the right to sell or trade the Data Files or any portion thereof.

8. This Agreement is deemed to be made in the Commonwealth of Massachusetts and it and the legal relations between the Parties hereto shall be governed and construed according to the laws of the Commonwealth of Massachusetts.

9. The Contractor shall be liable for any and all damages, costs and attorneys' fees which the City and CPS may incur as a result of any claims, suits and judgments against the City and CPS which arise out of the acts or omissions of the Contractor, her employees, servants, representatives or agents during the term of this Agreement.

10. No delay or omission of CPS to exercise any right hereunder shall be construed as a waiver of any such right and CPS reserves the right to exercise any such right from time to time, as often as may be deemed expedient.

11. Nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture or agency between the City and the Contractor.

12. If any provision of this Agreement shall to any extent be held invalid or unenforceable, then only such provision shall be deemed ineffective and the remainder of this Agreement shall not be affected.

13. This Agreement is the entire agreement between the City and the Contractor concerning the subject matter hereof, and no amendment or modification hereof, or subsequent agreement relative to the subject matter hereof shall be binding on either party unless reduced to writing and

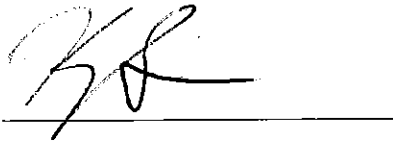
signed by both parties. The Agreement supersedes all prior agreements, discussions and conversations between the parties relating to the subject matter hereof.

14. This Agreement may be signed electronically or by facsimile, and/or in counterparts, each of which shall be considered an original. For the convenience of the Parties, facsimile and PDF signatures shall be accepted as originals.

IN WITNESS WHEREOF, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, and intending to be legally bound, each party has caused this Agreement to be duly executed as a Massachusetts instrument under seal as of the day and year first written above.

JOANNA CHRISTODOULU, Ed.D.

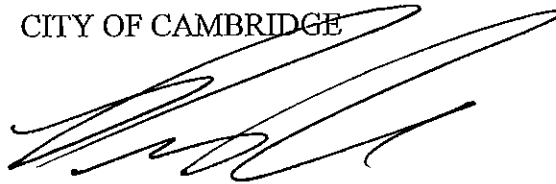
CAMBRIDGE PUBLIC SCHOOLS



Joanna Christodoulou, Ed.D.

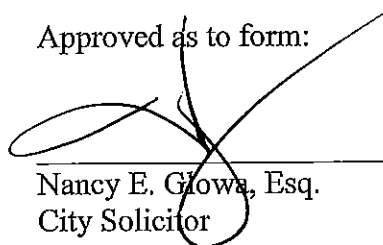
Kenneth Salim, Ed.D.
Superintendent of Schools

CITY OF CAMBRIDGE



Louis A. DePasquale
City Manager
City of Cambridge

Approved as to form:



Nancy E. Glowa, Esq.
City Solicitor