

# Agreement between Flipgrid and Winfield School District

This Student Data Privacy Agreement ("DPA") is entered into on the date of full execution (the "and is entered into by and between: [ Winfield 34 ], located at [ 05150 Winfield Rd, Winfield, IL, 60190 ] (the "Local Education Agency" or "LEA") and [ Flipgrid ], located at [ ] (the "Provider").

26<sup>th</sup> of April 2021 ")

WHEREAS, the Provider is providing educational or digital services to LEA.

WHEREAS, the Provider and LEA recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. § 1232g (34 CFR Part 99); the Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. § 6501-6506 (16 CFR Part 312), applicable state privacy laws and regulations and

WHEREAS, the Provider and LEA desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

NOW THEREFORE, for good and valuable consideration, LEA and Provider agree as follows:

- 1. A description of the Services to be provided, the categories of Student Data that may be provided by LEA to Provider, and other information specific to this DPA are contained in the Standard Clauses hereto.

2. Special Provisions. Check if Required

If checked, the Supplemental State Terms and attached hereto as Exhibit "G" are hereby incorporated by reference into this DPA in their entirety.

If Checked, the Provider, has signed Exhibit "H" (Optional)

X If Checked, the Provider, has signed Exhibit "E" to the Standard Clauses, otherwise known as General Offer of Privacy Terms

- 3. In the event of a conflict between the SDPC Standard Clauses, the State or Special Provisions will control. In the event there is a conflict between the terms of the DPA and any other writing, including, but not limited to the Service Agreement and Provider Terms of Service or Privacy Policy the terms of this DPA shall control.

- 1. This DPA shall stay in effect for three years. Exhibit E will expire 3 years from the date the original DPA was signed.

- 4. The services to be provided by Provider to LEA pursuant to this DPA are detailed in Exhibit "A" (the "Services").

- 5. Notices. All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or first-class mail, sent to the designated representatives below.

The designated representative for the LEA for this DPA is:

Name: Matt Rich Title: Superintendent  
Address: 05150 Winfield Road, Winfield, IL, 60190 Phone: 630-909-4900  
Email: mrich@winfield34.org

The designated representative for the Provider for this DPA is:

Name: Deb McFadden

Title: Head of Trusty & Safety, Flipgrid

Address: 1 Redmond Way, Redmond WA 98052

Phone: (425) 705-4806 Email: deb.mcfadden@microsoft.com

**IN WITNESS WHEREOF**, LEA and Provider execute this DPA as of the Effective Date.

**LEA:**

By:  Date: 04-30-21

Printed Name: Matthew E. Rich Title/Position: Superintendent

**Provider:**

By:  Date: April 27, 2021

Printed Name: Deb McFadden Title/Position: Head of Trust & Safety **STANDARD**

**CLAUSES**

Version 1.0

**ARTICLE I: PURPOSE AND SCOPE**

- 1. Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time. In performing these services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA, with respect to its use of Student Data. LEA shall exercise its control and supervision of Provider via instructions provided from the LEA Admin Account or an LEA Educator, as each is defined in Exhibit C. Instructions provided from an LEA Educator will apply to Student Data associated with that LEA Educator account only. The LEA agrees that the LEA Admin Account and LEA Educators are authorized agents of the LEA.
- 2. Student Data to Be Provided.** In order to perform the Services described above, LEA shall provide Student Data as identified in the Schedule of Data, attached hereto as **Exhibit "B"**.
- 3. DPA Definitions.** The definition of terms used in this DPA is found in **Exhibit "C"**. In the event of a conflict, definitions used in this DPA shall prevail over terms used in any other writing, including, but not limited to the Service Agreement, Terms of Service, Privacy Policies etc.

## ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of LEA.** All Student Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the LEA. The Provider further acknowledges and agrees that all copies of such Student Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data contemplated per the Service Agreement, shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEA as it pertains to the use of Student Data, notwithstanding the above.
2. **Parent Access.** To the extent required by law the LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Student Data correct erroneous information, and procedures for the transfer of student-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than forty five (45) days from the date of the request or pursuant to the time frame required under state law for an LEA to respond to a parent or student, whichever is sooner) to the LEA's request for Student Data in a student's records held by the Provider to view or correct as necessary. In the event that a parent of a student or other individual contacts the Provider to review any of the Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.
3. **Separate Account.** If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the LEA, transfer, or provide a mechanism for the LEA to transfer, Student Generated Content associated with a LEA Issued Student Email Address to a separate account created by the student.
4. **Law Enforcement Requests.** Should law enforcement or other government entities ("Requesting Party(ies)") contact Provider with a request for Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the LEA of the request.
5. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner no less stringent than the terms of this DPA.

## ARTICLE III: DUTIES OF LEA

1. **Provide Data in Compliance with Applicable Laws.** LEA shall provide Student Data for the purposes of obtaining the Services in compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time.
2. **Annual Notification of Rights.** If the LEA has a policy of disclosing Education Records and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA shall include a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest in its annual notification of rights.
3. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Student Data.
4. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known unauthorized

access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

#### ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to Student Data privacy and security, all as may be amended from time to time.
2. **Authorized Use.** The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in Exhibit A or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA.
3. **Provider Employee Obligation.** Provider shall require all of Provider's employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the Student Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.
4. **No Disclosure.** Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non-public information and/or personally identifiable information contained in the Student Data other than as directed or permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.
5. **De-Identified Data:** Provider agrees not to attempt to re-identify de-identified Student Data. De-Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: (1) assisting the LEA or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by LEA to return or destroy Student Data. Except for Subprocessors, Provider agrees not to transfer deidentified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the LEA. Prior to publishing any document that names the LEA explicitly or indirectly, the Provider shall obtain the LEA's written approval of the manner in which de-identified data is presented.
6. **Disposition of Data.** Upon written request from the LEA, Provider shall dispose of Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. For requests coming for LEA Educators, disposal will apply to Student Data collected in connection with that LEA Educator's account. For requests coming from the LEA Admin Account, disposal will apply to any Student Data associated with a LEA Issued Student Email Address. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3.
7. **Advertising Limitations.** Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA. This section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating

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personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits

## ARTICLE V: DATA PROVISIONS

1. **Data Storage.** Where required by applicable law, Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored.
2. **Audits.** No more than once a year, or following unauthorized access, upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality agreement, the Provider agrees to conduct risk assessments and remediate in a timely manner any security and privacy vulnerabilities identified as critical by Provider or third party led assessment as it pertains to the delivery of Services to the LEA. The Provider will reasonably cooperate with the LEA and any local, state, or federal agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA,.
3. **Data Security.** The Provider agrees to utilize administrative, physical, and technical safeguards designed to protect Student Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security. The provider shall implement an adequate Cybersecurity Framework based on one of the nationally recognized standards set forth set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework must be detailed in an attachment to **Exhibit "H"**. Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in **Exhibit "F"**. Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.
4. **Data Breach.** In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA via the email associated with their Flipgrid account or via another method as required by applicable law within seventy-two (72) hours of confirmation of the incident, unless notification within this time limit would disrupt investigation of the incident by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:
  - (1) The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
    - i. The name and contact information of the reporting LEA subject to this section.
    - ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
    - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.
    - iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and
    - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

- (2) Provider agrees to adhere to all applicable federal and state requirements with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
- (3) Provider 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 Student Data or any portion thereof, including personally identifiable information and agrees to provide LEA, upon request, with a summary of said written incident response plan.
- (4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.
- (5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

#### ARTICLE VI: GENERAL OFFER OF TERMS

Provider may, by signing the attached form of "General Offer of Privacy Terms" (General Offer, attached hereto as **Exhibit "E"**), be bound by the terms of **Exhibit "E"** to any other LEA who fills out, signs and returns the acceptance on said Exhibit to Provider at [FGExSub@microsoft.com](mailto:FGExSub@microsoft.com). The form is limited by the terms and conditions described therein.

#### ARTICLE VII: MISCELLANEOUS

1. **Termination.** In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent. Either party may terminate this DPA and any service agreement or contract if the other party breaches any terms of this DPA.
2. **Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall destroy all of LEA's Student Data pursuant to Article IV, section 6.
3. **Priority of Agreements.** This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. In the event of a conflict between Exhibit H, the SDPC Standard Clauses, and/or the Supplemental State Terms, Exhibit H will control, followed by the Supplemental State Terms. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.
4. **Entire Agreement.** This DPA and the Service Agreement constitute the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the Parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both Parties. Neither failure nor delay on the part of any Party in exercising any right, power, or privilege hereunder shall operate as a

waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.

5. **Severability**. Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the Parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.
6. **Governing Law; Venue and Jurisdiction**. THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF THE LEA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR THE COUNTY OF THE LEA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
7. **Successors Bound**: This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business. In the event that the Provider sells, merges, or otherwise disposes of its business to a successor during the term of this DPA, the Provider shall provide written notice to the LEA no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the DPA and any obligations with respect to Student Data within the Service Agreement. The LEA has the authority to terminate the DPA if it disapproves of the successor to whom the Provider is selling, merging, or otherwise disposing of its business.
8. **Authority**. Each party represents that it is authorized to bind to the terms of this DPA, including confidentiality and destruction of Student Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof.
9. **Waiver**. No delay or omission by either party to exercise any right hereunder shall be construed as a waiver of any such right and both parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.



**EXHIBIT "A"**  
**DESCRIPTION OF SERVICES**

Flipgrid is the leading video-discussion platform used by K12-PhD educators all over the world. Through Flipgrid's platform on the Flipgrid.com website, the Flipgrid mobile app, and any associated services (collectively, the "Services"), students are invited to contribute video and comments to a "Group" created and managed by educators for their classroom community. Groups operate by having educators create discussion "Topics" on their Group anytime they want to start a conversation and inviting students to respond by recording short videos. Group participants generally have access permissions to view and comment on videos submitted to a Group and certain Group content may be shared outside the Group by the educator.

**EXHIBIT "B"**  
**SCHEDULE OF DATA**

Category of Data	Elements	Check if Used by Your System	
Application Technology Meta Data	IP Addresses of users, Use of cookies, etc.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Other application technology meta data-Please specify:	<input type="checkbox"/>	<input type="checkbox"/>
Application Use Statistics	Meta data on user interaction with application	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Assessment	Standardized test scores	<input type="checkbox"/>	<input type="checkbox"/>
	Observation data	<input type="checkbox"/>	<input type="checkbox"/>
	Other assessment data-Please specify:	<input type="checkbox"/>	<input type="checkbox"/>
Attendance	Student school (daily) attendance data	<input type="checkbox"/>	<input type="checkbox"/>
	Student class attendance data	<input type="checkbox"/>	<input type="checkbox"/>
Communications	Online communications captured (emails, blog entries)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Conduct	Conduct or behavioral data	<input type="checkbox"/>	<input type="checkbox"/>
Demographics	Date of Birth	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Place of Birth	<input type="checkbox"/>	<input type="checkbox"/>
	Gender	<input type="checkbox"/>	<input type="checkbox"/>
	Ethnicity or race	<input type="checkbox"/>	<input type="checkbox"/>
	Language information (native, or primary language spoken by student)	<input type="checkbox"/>	<input type="checkbox"/>
	Other demographic information-Please specify:	<input type="checkbox"/>	<input type="checkbox"/>
Enrollment	Student school enrollment	<input type="checkbox"/>	<input type="checkbox"/>
	Student grade level	<input type="checkbox"/>	<input type="checkbox"/>
	Homeroom	<input type="checkbox"/>	<input type="checkbox"/>
	Guidance counselor	<input type="checkbox"/>	<input type="checkbox"/>
	Specific curriculum programs	<input type="checkbox"/>	<input type="checkbox"/>

	Year of graduation		
	Other enrollment information-Please specify:		
Parent/Guardian Contact Information	Address		
	Email		
Category of Data	Elements	Check if Used by Your System	
	Phone		
Parent/Guardian ID	Parent ID number (created to link parents to students)		
Parent/Guardian Name	First and/or Last		
Schedule	Student scheduled courses		
	Teacher names		
Special Indicator	English language learner information		
	Low income status		
	Medical alerts/ health data		
	Student disability information		
	Specialized education services (IEP or 504)	<input type="checkbox"/>	
	Living situations (homeless/foster care)		
	Other indicator information-Please specify:		
Student Contact Information	Address		
	Email		X
	Phone		
Student Identifiers	Local (School district) ID number		
	State ID number		
	Provider/App assigned student ID number		
	Student app username		X
	Student app passwords		
Student Name	First and/or Last		X

Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures, etc.	
	Other student work data -Please specify: student videos, text comments	
Transcript	Student course grades	
	Student course data	
	Student course grades/ performance scores	

Category of Data	Elements	Check if Used by Your System
	Other transcript data - Please specify:	<input type="checkbox"/>
Transportation	Student bus assignment	<input type="checkbox"/>
	Student pick up and/or drop off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>
	Other transportation data – Please specify:	<input type="checkbox"/>
Other	Please list each additional data element used, stored, or collected by your application:	<input type="checkbox"/>
None	No Student Data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.	<input type="checkbox"/>

## EXHIBIT "C" DEFINITIONS

**De-Identified Data and De-Identification:** Records and information are considered to be De-Identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, including, but not limited to, any information that, alone or in combination is linkable to a specific student and provided that the educational agency, or other party, has made a reasonable determination that a student's identity is not personally identifiable, taking into account reasonable available information.

**Educational Records:** Educational Records are records, files, documents, and other materials directly related to a student and maintained by the school or local education agency, or by a person acting for such school or local education agency, including but not limited to, records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

**LEA Admin Account:** The following email address and any Flipgrid account created with the same: [winfield34manager@winfield34.org].

**LEA Educator:** LEA Educators are individual educators who have signed up for the service pursuant to the LEA's policies and processes using an LEA Issued Educator Email Address.

**LEA Issued Educator Email Address:** Any email address at the following domain and using the following naming conventions, as applicable: [ @winfield34.org ]

**LEA Issued Student Email Address:** Any email address at the following domain and using the following naming conventions, as applicable: [ @students.winfield34.org ]

**Metadata:** means information that provides meaning and context to other data being collected; including, but not limited to: date and time records and purpose of creation Metadata that have been stripped of all direct and indirect identifiers are not considered Personally Identifiable Information.

**Operator:** means the operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K-12 school purposes. Any entity that operates an internet website, online service, online application, or mobile application that has entered into a signed, written agreement with an LEA to provide a service to that LEA shall be considered an "operator" for the purposes of this section.

**Originating LEA:** An LEA who originally executes the DPA in its entirety with the Provider.

**Provider:** For purposes of the DPA, the term "Provider" means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Student Data. Within the DPA the term "Provider" includes the term "Operator" as used in applicable state statutes.

**Student Generated Content:** The term "student-generated content" means materials or content created by a student in the services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of student content.

**School Official:** For the purposes of this DPA and pursuant to 34 CFR § 99.31(b), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use

employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of Student Data including Education Records; and (3) Is subject to 34 CFR § 99.33(a) governing the use and redisclosure of Personally Identifiable Information from Education Records.

**Service Agreement:** Refers to the Flipgrid Terms of Use available at [Flipgrid - Terms of Use](#).

**Student Data:** Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Student Data includes Meta Data. Student Data further includes "personally identifiable information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

**Subprocessor:** For the purposes of this DPA, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its service, and who has access to Student Data.

**Subscribing LEA:** An LEA that was not party to the original Service Agreement and who accepts the Provider's General Offer of Privacy Terms.

**Targeted Advertising:** means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the operator's Internet web site, online service or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted Advertising" does not include any advertising to a student on an Internet web site based on the content of the web page or in response to a student's response or request for information or feedback.

**Third Party:** The term "Third Party" means a provider, other than Provider, of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Education Records and/or Student Data, as that term is used in some state statutes.

## **EXHIBIT "E"**

### **GENERAL OFFER OF PRIVACY TERMS**

#### **1. Offer of Terms**

Provider offers the same privacy protections found in this DPA between it and [Winfield School District 34], ("Originating LEA") which is dated [April 20,2021], to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("General Offer") by providing the requested information below, signing below and emailing a signed copy of this Exhibit E to Flipgrid at [FGExSub@microsoft.com](mailto:FGExSub@microsoft.com).

The LEA Issued Educator Email Address for Subscribing LEA will be any email address using the following

domain(s) and naming conventions, as applicable: [winfield34.org].

The LEA Issued Student Email Address for Subscribing LEA will be any email address using the following domain(s) and naming conventions, as applicable: [students.winfield34.org]

The LEA Admin Account for Subscribing LEA will be the following email address and any Flipgrid account created using the same: [winfield34manager@winfield34.org]

This General Offer shall extend only to privacy protections, and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the Subscribing LEA may also agree to change the data provided by Subscribing LEA to the Provider to suit the unique needs of the Subscribing LEA. In addition to any termination provision in the DPA, the Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the Service provided under the Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address: FGExSub@microsoft.com.

PROVIDER: Flipgrid

BY: Deb McFadden Date: April 27, 2021

Printed Name: Deb McFadden Title/Position: Head of Trust & Safety

**2. Subscribing LEA**

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the and the Provider. **\*\*PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. \*\***

Subscribing LEA:

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

Printed Name: \_\_\_\_\_ Title/Position: \_\_\_\_\_

SCHOOL DISTRICT NAME: \_\_\_\_\_

DESIGNATED REPRESENTATIVE OF LEA:

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

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

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

Telephone Number: \_\_\_\_\_

Email: \_\_\_\_\_





**EXHIBIT "F"**  
**DATA SECURITY REQUIREMENTS**

**Adequate Cybersecurity Frameworks**  
**2/24/2020**

The Education Security and Privacy Exchange ("Edspex") works in partnership with the Student Data Privacy Consortium and industry leaders to maintain a list of known and credible cybersecurity frameworks which can protect digital learning ecosystems chosen based on a set of guiding cybersecurity principles\* ("Cybersecurity Frameworks") that may be utilized by Provider.

	MAINTAINING ORGANIZATION/GROUP	FRAMEWORK(S)
<input type="checkbox"/>	National Institute of Standards and Technology	NIST Cybersecurity Framework Version 1.1
<input type="checkbox"/>	National Institute of Standards and Technology	NIST SP 800-53, Cybersecurity Framework for Improving Critical Infrastructure Cybersecurity (CSF), Special Publication 800-171
<input type="checkbox"/>	International Standards Organization	Information technology — Security techniques — Information security management systems (ISO 27000 series)
<input type="checkbox"/>	Secure Controls Framework Council, LLC	Security Controls Framework (SCF)
<input type="checkbox"/>	Center for Internet Security	CIS Critical Security Controls (CSC, CIS Top 20)
<input type="checkbox"/>	Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

Please visit <http://www.edspex.org> for further details about the noted frameworks.

\*Cybersecurity Principles used to choose the Cybersecurity Frameworks are located here

EXHIBIT "G" - Supplemental SDPC (Student Data Privacy Consortium)  
State Terms for Illinois  
Version

IL-NDPA v1.0a  
(Revised March 15,  
2021)

This Exhibit G, Supplemental SDPC State Terms for Illinois ("Supplemental State Terms"), effective simultaneously with the attached Student Data Privacy Agreement ("DPA") by and between

Winfield 34 (the "Local  
Education Agency or "LEA") and Flipgrid (the "Provider"), is  
Inc. Flipgrid incorporated in the attached DPA and amends the DPA (and all supplemental terms and conditions  
and policies applicable to the DPA) as follows:

- 1. Compliance with Illinois Privacy Laws.** In performing its obligations under the Agreement, the Provider shall comply with all applicable Illinois laws and regulations pertaining to student data privacy, confidentiality, and maintenance, including but not limited to the Illinois School Student Records Act ("ISSRA"), 105 ILCS 10/, Mental Health and Developmental Disabilities Confidentiality Act ("MHDDCA"), 740 ILCS 110/, Student Online Personal Protection Act ("SOPPA"), 105 ILCS 85/, Identity Protection Act ("IPA"), 5 ILCS 179/, and Personal Information Protection Act ("PIPA"), 815 ILCS 530/, and Local Records Act ("LRA"), 50 ILCS 205/.
- 2. Definition of "Student Data."** In addition to the definition set forth in Exhibit C, Student Data includes any and all information concerning a student by which a student may be individually identified under applicable Illinois law and regulations, including but not limited to (a) "covered information," as defined in Section 5 of SOPPA (105 ILCS 85/5), (b) "school student records" as that term is defined in Section 2 of ISSRA (105 ILCS 10/2(d))
- 3. School Official Designation.** Pursuant to Article I, Paragraph 1 of the DPA Standard Clauses, and in accordance with FERPA, ISSRA and SOPPA, in performing its obligations under the DPA, the Provider is acting as a school official with legitimate educational interest; is performing an institutional service or function for which the LEA would otherwise use its own employees; is under the direct control of the LEA with respect to the use and maintenance of Student Data, as described in the DPA,; and is using Student Data only for an authorized purpose and in furtherance of such legitimate educational interest.
- 4. Limitations on Re-Disclosure.** The Provider shall not re-disclose Student Data to any other party or affiliate without the express written permission of the LEA or pursuant to court order, unless such disclosure is otherwise permitted under SOPPA, ISSRA, FERPA, and MHDDCA or this DPA. Provider will not sell or rent Student Data. In the event another party, including law enforcement or a government entity, contacts the Provider with a request or subpoena for Student Data in the possession of the Provider, the Provider shall redirect the other party to seek the data directly from the LEA. In the event the Provider is compelled to produce Student Data to another party in compliance with a court order, Provider shall notify the LEA at least five (5) school days in advance of the court ordered disclosure and, upon request, provide the LEA with a copy of the court order requiring such disclosure.
- 5. Notices.** Any notice delivered pursuant to the DPA shall be deemed effective, as applicable, upon receipt as evidenced by the date of transmission indicated on the transmission material, if by e-mail; or four days after mailing, if by first-class mail, postage prepaid.
- 6. Parent Right to Access and Challenge Student Data.** The LEA shall establish reasonable procedures

pursuant to which a parent, as that term is defined in 105 ILCS 10/2(g), may inspect and/or copy Student Data and/or challenge the accuracy, relevance or propriety of Student Data, pursuant to Sections 5 and 7 of ISSRA (105ILCS 10/5;105ILCS10/7) and Section 33 of SOPPA (105ILCS 85/33) . The Provider shall respond to any request by the LEA for Student Data in the possession of the Provider when Provider cooperation is required to afford a parent an opportunity to inspect and/or copy the Student Data, no later than 5 business days from the date of the request. In the event that a parent contacts the Provider directly to inspect and/or copy Student Data, the Provider shall refer the parent to the LEA, which shall follow the necessary and proper procedures regarding the requested Student Data.

7. **Corrections to Factual Inaccuracies.** In the event that the LEA determines that the Provider is maintaining Student Data that contains a factual inaccuracy, and Provider cooperation is required in order to make a correction, the LEA shall notify the Provider of the factual inaccuracy and the correction to be made. No later than 90 calendar days after receiving the notice of the factual inaccuracy, the Provider shall correct the factual inaccuracy and shall provide written confirmation of the correction to the LEA.

8. **Security Standards.** The Provider shall implement and maintain commercially reasonable security procedures and practices that otherwise meet or exceed industry standards designed to protect Student Data from unauthorized access, destruction, use, modification, or disclosure, including but not limited to the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of the Student Data (a "Security Breach"). For purposes of the DPA and this Exhibit G, "Security Breach" does not include the good faith acquisition of Student Data by an employee or agent of the Provider or LEA for a legitimate educational or administrative purpose of the Provider or LEA, so long as the Student Data is used solely for purposes permitted by SOPPA and other applicable law, and so long as the Student Data is restricted from further unauthorized disclosure.

9. **Security Breach Notification.** In addition to the information enumerated in Article V, Section 4(1) of the DPA Standard Clauses, any Security Breach notification provided by the Provider to the LEA shall include:

- a. A list of the students whose Student Data was involved in or is reasonably believed to have been involved in the breach, if known; and
- b. The name and contact information for an employee of the Provider whom parents may contact to inquire about the breach.

10. **Reimbursement of Expenses Associated with Security Breach.** In the event of a Security Breach that is attributable to the Provider, the Provider shall reimburse the LEA for actual costs and expenses up to an aggregate maximum amount of \$500 that the LEA incurs in any legally required measures towards investigating and remediating the Security Breach, including but not limited to costs and expenses associated with:

- a. Providing notification to the parents of those students whose Student Data was compromised and regulatory agencies or other entities as required by law or contract;
- and
- b. Providing any other notifications or fulfilling any other requirements adopted by the Illinois State Board of Education or under other State or federal laws.

11. **Deletion of Student Data.** The Provider shall review whether the Student Data it has received pursuant to the DPA continues to be needed for the purpose(s) of the Service Agreement and this DPA. If any of the Student Data is no longer needed for purposes of the Service Agreement and this DPA, the Provider will delete Student Data within 30 calendar days

If the LEA receives a request from a parent, as that term is defined in 105 ILCS 10/2(g), that Student Data being held by the Provider be deleted, the LEA shall determine whether the requested deletion would violate State and/or federal records laws. In the event such deletion would not violate State or federal records laws, the LEA shall forward the request for deletion to the Provider. The Provider shall comply with the request and delete the Student Data within a reasonable time period after receiving the request.

Any provision of Student Data to the LEA from the Provider shall be transmitted in a format readable by the LEA.

12. **Public Posting of DPA.** Pursuant to SOPPA, the LEA shall publish on its website a copy of the DPA between the Provider and the LEA, including this Exhibit G.

13. **Subcontractors.** By no later than (5) business days after the date of execution of the DPA, the Provider shall provide the LEA with a list of any subcontractors to whom Student Data may be disclosed or a link to a page on the Provider's website that clearly lists any and all subcontractors to whom Student Data may be disclosed. This list shall, at a minimum, be updated and provided to the LEA by the beginning of each fiscal year (July 1) and at the beginning of each calendar year (January 1).

14. **DPA Term.**

a. **Original DPA.** Paragraph 4 on page 2 of the DPA setting a three-year term for the DPA shall be deleted, and the following shall be inserted in lieu thereof: "This DPA shall be effective upon the date of signature by Provider and LEA, and shall remain in effect as between Provider and LEA 1) for so long as the Services are being provided to the LEA or 2) until the DPA is terminated pursuant to Section 15 of this Exhibit G, whichever comes first. The Exhibit E General Offer will expire three (3) years from the date the original DPA was signed."

b. **General Offer DPA.** The following shall be inserted as a new second sentence in Paragraph 1 of Exhibit E: "The provisions of the original DPA offered by Provider and accepted by Subscribing LEA pursuant to this Exhibit E shall remain in effect as between Provider and Subscribing LEA 1) for so long as the Services are being provided to Subscribing LEA, or 2) until the DPA is terminated pursuant to Section 15 of this Exhibit G, whichever comes first."

15. **Termination.** Paragraph 1 of Article VII shall be deleted, and the following shall be inserted in lieu thereof: "In the event either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or been terminated. One party may terminate this DPA upon a material breach of this DPA by the other party. Upon termination of the DPA, the Service Agreement shall terminate."

16. **Privacy Policy.** The Provider must publicly disclose material information about its collection, use, and disclosure of Student Data, including, but not limited to, publishing a terms of service agreement, privacy policy, or similar document.
17. **Minimum Data Necessary Shared.** The Provider attests that the Student Data request by the Provider from the LEA in order for the LEA to access the Provider's products and/or services is limited to the Student Data that is adequate, relevant, and limited to what is necessary in relation to the K-12 school purposes for which it is processed.
18. **Student and Parent Access.** Access by students or parents/guardians to the Provider's programs or services governed by the DPA or to any Student Data stored by Provider shall not be conditioned upon agreement by the parents/guardians to waive any of the student data confidentiality restrictions or a lessening of any of the confidentiality or privacy requirements contained in this DPA.
19. **Data Storage.** Provider shall store all Student Data shared under the DPA within the United States.
20. **Exhibits A and B.** The Services described in Exhibit A and the Schedule of Data in Exhibit B to the DPA satisfy the requirements in SOPPA to include a statement of the product or service being provided to the school by the Provider and a listing of the categories or types of covered information to be provided to the Provider, respectively.

EXHIBIT H

**Additional Terms or Modifications**

Version \_\_\_\_\_

LEA and Provider agree to the following additional terms and modifications:

This is a free text field that the parties can use to add or modify terms in or to the DPA. If there are no additional or modified terms, this field should read "None."

**None**