

**NEW HAMPSHIRE STUDENT DATA PRIVACY AGREEMENT  
VERSION (2019)**

White Mountains School Administrative Unit 35

**and**

Naviance, Inc.

February 6, 2020

This New Hampshire Student Data Privacy Agreement (“DPA”) is entered into by and between the school district, White Mountains School Administrative Unit 35 (hereinafter referred to as “LEA”) and Naviance, Inc. (hereinafter referred to as “Provider”) on February 6, 2020. The Parties agree to the terms as stated herein.

## RECITALS

**WHEREAS**, the Provider has agreed or will agree to provide the Local Education Agency (“LEA”) with certain digital educational services (“Services”) as described in the applicable service agreement between LEA and the Provider and Exhibit “A”; and

**WHEREAS**, in order to provide the Services described in the applicable service agreement between LEA and the Provider and Exhibit “A”; the Provider may receive or create and the LEA may provide documents or data that are covered by several federal statutes, among them, the Family Educational Rights and Privacy Act (“FERPA”) at 20 U.S.C. 1232g and 34 CFR Part 99, Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. 6501-6506; Protection of Pupil Rights Amendment (“PPRA”) 20 U.S.C. 1232h; the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400 *et seq.*, 34 C.F.R. Part 300; and

**WHEREAS**, the documents and data transferred from New Hampshire LEAs and created by the Provider’s Services are also subject to several New Hampshire student privacy laws, including RSA 189:1-e and 189:65-69; RSA 186; NH Admin. Code Ed. 300 and NH Admin. Code Ed. 1100; and

**WHEREAS**, the Parties wish to enter into this DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties.

**NOW THEREFORE**, for good and valuable consideration, the parties agree as follows:

## 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 (as defined in Exhibit “C”) transmitted to Provider from the LEA pursuant to Exhibit “A”, including compliance with all applicable state privacy statutes, including the FERPA, PPRA, COPPA, IDEA, RSA 189:1-e and 189:65 through 69; RSA 186-C; NH Admin. Code Ed. 300; NH Admin. Code Ed. 1100; and other applicable New Hampshire state laws, all as may be amended from time to time. In performing these services, to the extent Personally Identifiable Information (as defined in Exhibit “C”) from Pupil Records (as defined in Exhibit “C”) are transmitted to Provider from LEA, 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 use and maintenance of the Personally Identifiable Information from Pupil Records it receives from the LEA or otherwise in the course of providing the services. Control duties are set forth below.
  
- 2 Nature of Services Provided.** The Provider has agreed to provide the following digital educational services described in Exhibit “A”.

- 3 **Student Data to Be Provided.** In order to perform the Services described in this Article and Exhibit “A”, LEA shall provide the categories of data described in the Schedule of Data, attached hereto as Exhibit “B”.
- 4 **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 all other writings, including, but not limited to, a service agreement, privacy policies or any terms of service.

## **ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS**

1. **Student Data Property of LEA.** All Student Data or any other Pupil Records transmitted to the Provider pursuant to this 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 or any other Pupil Records transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are also subject to the provisions of this Agreement in the same manner as the original Student Data or Pupil Records. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data or any other Pupil Records contemplated per this Agreement shall remain the exclusive property of the LEA. For the purposes of FERPA and state law, the Provider shall be considered a School Official, under the control and direction of the LEAs as it pertains to the use of student data notwithstanding the above. The Provider will cooperate and provide Student Data within ten (10) days at the LEA’s written request. Provider may transfer pupil-generated content to a separate account, provided that Provider offers such accounts, according to the procedures set forth below.
2. **Parent Access.** LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Personally Identifiable Information from the Pupil Records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. LEA may use existing functionality in Provider services to access, amend and correct those records. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Pupil Records 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 as part of the Services described in Exhibit “A”, Provider shall, at the request of the LEA, transfer said Student Generated Content to a separate student account upon termination of the Service Agreement if Provider offers such accounts.
4. **Third Party Request.** Should a Third Party, including, but not limited to law enforcement, former employees of the LEA, current employees of the LEA, and government entities, contact Provider with a request for data held by the Provider pursuant to the Services, unless legally prohibited from doing so, the Provider shall redirect the Third Party to request the data directly from the LEA and shall cooperate with the LEA to collect the required information to the extent that the requested information is maintained by the Provider. Provider shall notify the LEA as

soon as practicable in advance of a compelled disclosure to a Third Party, unless legally prohibited. The Provider will not use, disclose, compile, or transfer Student Data 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 Student Data and/or any portion thereof, except to Subprocessors as necessary in performance of the Services, without the express written consent of the LEA or without a court order or lawfully issued subpoena. Provider shall not and shall not permit any third party with which it shares Student Data to sell the Student Data. 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.

5. **No Unauthorized Use.** Provider shall not use Student Data or information in a Pupil Record for any purpose other than as explicitly specified in this DPA.
6. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to the service agreement, whereby the Subprocessors agree to protect Student Data in manner consistent with the terms of this DPA.

### ARTICLE III: DUTIES OF LEA

1. **Provide Data In Compliance With Laws.** LEA shall provide data for the purposes of the service agreement in compliance with the FERPA, PPRA, IDEA, RSA 189:1-e and 189:65 through 69; RSA 186-C; NH Admin. Code Ed. 300; NH Admin. Code Ed. 1100 and the other privacy statutes quoted in this DPA. LEA shall ensure that its annual notice under FERPA includes vendors, such as the Provider, as "School Officials."
2. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted data.
3. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known or suspected 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 New Hampshire and federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, RSA 189:1-e and 189:65 through 69; RSA 186-C; NH Admin. Code Ed. 300; NH Admin. Code Ed. 1100 and all other applicable New Hampshire privacy statutes and regulations.
2. **Authorized Use.** Student Data shared pursuant to the service agreement, including persistent unique identifiers, shall be used for no purpose other than the Services stated in the service agreement and as authorized under the statutes referred to in subsection (1), above. Provider

also acknowledges and agrees that it shall not make any re-disclosure of any Student Data 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 Student Data, without the express written consent of the LEA, unless it fits into the de-identified information exception in Article IV, Section 4, or there is a court order or lawfully issued subpoena for the information.

3. **Employee Obligation.** Provider shall require all employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the 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 DPA.
4. **No Disclosure.** De-identified information, as defined in Exhibit “C”, may be used by the Provider for the purposes of development, research, and improvement of educational sites, services, or applications, as any other member of the public or party would be able to use de-identified data pursuant to 34 CFR 99.31(b). Provider agrees not to attempt to re-identify de-identified Student Data and not to transfer de-identified 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 who has provided prior written consent for such transfer. The prior sentence does not apply to Subprocessors whom the Provider uses to assist in providing the services outlined in this DPA or whom the Provider uses to assist for the purposes of development, research, and improvement of educational sites, services, or applications. Provider shall not copy, reproduce or transmit any data obtained under the service agreement and/or any portion thereof, except as necessary to fulfill the service agreement. 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
5. **Disposition of Data.** Upon the LEA’s 30-days’ written request or 6 months after termination of the services, Provider shall dispose or delete all personally identifiable data obtained under the DPA. Nothing in the DPA authorizes Provider to maintain personally identifiable data obtained under any other writing beyond the time period reasonably needed to complete the disposition. Disposition shall include (1) the shredding of any hard copies of any Pupil Records; (2) Erasing; or (3) Otherwise modifying the personal information in those records to make it unreadable or indecipherable. Upon LEA’s written request, Provider shall provide written notification to LEA when the Personally Identifiable Information in Student Data has been disposed. The duty to dispose of Personally Identifiable Information shall not extend to data that has been de-identified or placed in a separate Student account, pursuant to the other terms of the DPA or service agreement. Upon receipt of a request from the LEA, the Provider will immediately provide the LEA with any specified portion of the Student Data within ten (10) calendar days of receipt of said request.
6. **Advertising Prohibition.** Provider is prohibited from leasing, renting, using or selling Student Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising or other commercial efforts by a Provider; (c) develop a profile of a

student, family member/guardian or group, for any commercial purpose other than providing the Service to LEA; or (d) use the Student Data for the development of commercial products or services, other than as necessary to provide the Service to the LEA. This section does not prohibit Provider from using Student Data for adaptive learning or customized student learning purposes.

## ARTICLE V: DATA PROVISIONS

- 1. Data Security.** The Provider agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect Student Data from unauthorized disclosure or acquisition by an unauthorized person. The general security duties of Provider are set forth below. These measures shall include, but are not limited to:
  - a. Passwords and Employee Access.** Provider shall secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. Provider shall only provide access to Student Data to employees or contractors that are performing the Services. Employees with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records shall pass criminal background checks.
  - b. Destruction of Data.** Provider shall destroy or delete all Personally Identifiable Data contained in Student Data and obtained under the service agreement in accordance with Article IV, Section 5. above. Nothing in the DPA authorizes Provider to maintain personally identifiable data beyond the time period reasonably needed to complete the disposition.
  - c. Security Protocols.** Both parties agree to maintain security protocols that meet industry standard practices in the transfer or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the service agreement in a secure computer environment and not copy, reproduce, or transmit data obtained pursuant to the service agreement, except as necessary to fulfill the purpose of data requests by LEA. The foregoing does not limit the ability of the Provider to allow any necessary service providers to view or access data as set forth in Article IV, section 4.
  - d. Employee Training.** The Provider shall provide recurring, periodic (no less than annual, with additional sessions as needed throughout the year which may address relevant issues/changes, such as (but not necessarily limited to) new or evolving security threats, changes to security protocols or practices, changes to software and/or hardware, identified vulnerabilities, etc.) security training to those of its employees who operate or have access to the system. Further, Provider shall provide LEA with contact information of an employee who LEA may contact if there are any security concerns or questions.

- e. **Security Technology.** When the service is accessed using a supported web browser, Secure Socket Layer (“SSL”), or equivalent technology shall be employed to protect data from unauthorized access. The service security measures shall include server authentication and data encryption. Provider shall host data pursuant to the service agreement in an environment using a firewall that is periodically updated according to industry standards.
- f. **Security Coordinator.** Provider shall provide the name and contact information of Provider’s Security Coordinator for the Student Data received pursuant to the service agreement.
- g. **Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the terms of this Article V. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance with this Article.
- h. **Periodic Risk Assessment.** Provider further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.
- i. **Backups.** Provider agrees to maintain backup copies, backed up at least daily, of Student Data in case of Provider’s system failure or any other unforeseen event resulting in loss of Student Data or any portion thereof.
- j. **Audits.** Once a year upon the LEA’s written request and execution of a nondisclosure agreement, Provider will give the LEA a copy of the Providers SOC2 report. The Provider will cooperate reasonably with the LEA and any state or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or LEA, and shall provide reasonable access to the Provider’s facilities, staff, agents and LEA’s Student Data and all records pertaining to the Provider, LEA and delivery of Services to the Provider.
- k. **New Hampshire Specific Data Security Requirements.** The Provider agrees to the following privacy and security standards from “the Minimum Standards for Privacy and Security of Student and Employee Data” from the New Hampshire Department of Education. Specifically, the Provider agrees to:
  - (1) Limit system access to the types of transactions and functions that authorized users, such as students, parents, and LEA are permitted to execute;
  - (2) Limit unsuccessful logon attempts;
  - (3) Employ cryptographic mechanisms to protect the confidentiality of remote access sessions;
  - (4) Authorize wireless access prior to allowing such connections;
  - (5) Create and retain system audit logs and records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful or unauthorized system activity;

- (6) Ensure that the actions of individual system users can be uniquely traced to those users so they can be held accountable for their actions;
- (7) Establish and maintain baseline configurations and inventories of organizational systems (including hardware, software, firmware, and documentation) throughout the respective system development life cycles;
- (8) Restrict, disable, or prevent the use of nonessential programs, functions, ports, protocols, and services;
- (9) Enforce a minimum password complexity and change of characters when new passwords are created;
- (10) Perform maintenance on organizational systems;
- (11) Provide controls on the tools, techniques, mechanisms, and personnel used to conduct system maintenance;
- (12) Ensure equipment removed for off-site maintenance is sanitized of any Student Data in accordance with NIST SP 800-88 Revision 1;
- (13) Protect (i.e., physically control and securely store) system media containing Student Data, both paper and digital;
- (14) Sanitize or destroy system media containing Student Data in accordance with NIST SP 800-88 Revision 1 before disposal or release for reuse;
- (15) Control access to media containing Student Data and maintain accountability for media during transport outside of controlled areas;
- (16) Periodically assess the security controls in organizational systems to determine if the controls are effective in their application and develop and implement plans of action designed to correct deficiencies and reduce or eliminate vulnerabilities in organizational systems;
- (17) Monitor, control, and protect communications (i.e., information transmitted or received by organizational systems) at the external boundaries and key internal boundaries of organizational systems;
- (18) Deny network communications traffic by default and allow network communications traffic by exception (i.e., deny all, permit by exception);
- (19) Protect the confidentiality of Student Data at rest;
- (20) Identify, report, and correct system flaws in a timely manner;



- (21) Provide protection from malicious code (i.e. Antivirus and Antimalware) at designated locations within organizational systems;
- (22) Monitor system security alerts and advisories and take action in response; and
- (23) Update malicious code protection mechanisms when new releases are available.

2. **Data Breach.** In the event that Personally Identifiable Information from Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to LEA as soon as practicable and no later than within ten (10) days of the incident. Provider shall follow the following process:

- a. The security breach notification shall be written in plain language, shall be titled “Notice of Data Breach,” and shall present the information described herein under the following headings: “What Happened,” “What Information Was Involved,” “When it Occurred,” “What We Are Doing,” “What You Can Do,” and “For More Information.” Additional information may be provided as a supplement to the notice.
- b. The security breach notification described above in section 2(a) shall include, at a minimum, the following information:
  - i. The name and contact information of the reporting Provider 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.
  - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
  - vi. The estimated number of students and teachers affected by the breach, if any.
- c. At LEA’s discretion, the security breach notification may also include any of the following:
  - i. Information about what the Provider has done to protect individuals whose information has been breached.
  - ii. Advice on steps that the person whose information has been breached may take to protect himself or herself.
- d. Provider agrees to adhere to all requirements in the New Hampshire Data Breach law and in federal law 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.
- e. Provider further acknowledges and agrees to have a written incident response plan that

reflects standard 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 written request and a signed non-disclosure agreement, with a copy of said written incident response plan.

- f. At the request and with the reasonable assistance of the Provider, LEA shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed in subsections (b) and (c), above.

#### ARTICLE VI: MISCELLANEOUS

1. **Term**. The Provider shall be bound by this DPA for duration of the service agreement or so long as the Provider maintains any Student Data.
2. **Termination**. In the event that either party seeks to terminate this DPA, they may do so by mutual written consent.

The LEA may terminate this DPA and any service agreement or contract with the Provider if the Provider breaches any terms of this DPA.

3. **Effect of Termination Survival**. If the service agreement is terminated, the Provider shall destroy all of LEA's Personally Identifiable Information from students pursuant to Article IV, section 5.
4. **Priority of Agreements**. This DPA shall govern the treatment of Student Data in order to comply with the applicable privacy protections, including those found in FERPA, IDEA, COPPA, PPRA, RSA 189:1-e and 189:65-69; RSA 186; NH Admin. Code Ed. 300 and NH Admin. Code Ed. 1100. In the event there is conflict between the terms of the DPA and any other writing, such as service agreement or with any other bid/RFP, terms of service, privacy policy, license agreement, or writing, the terms of this DPA shall apply and take precedence. "Writing" as used herein does not include applicable privacy laws, which shall take precedence over this DPA in the event of a conflict. Except as described in this paragraph herein, all other provisions of any other agreement shall remain in effect.
5. **Notice**. All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the designated representatives below.

The designated representative for the Provider for this Agreement is:

Name	Monica Morrell
Title	General Manager
Address	3033 Wilson Boulevard, Suite 500, Arlington, VA 22201
Telephone Number	703-234-5910
Email	monica.morrell@hobsons.com

The designated representative for the LEA for this Agreement is:

Dan Inghram, Technology Director  
daningham@profile.k12.nh.us 603-823-7411  
SAU 35  
262 Cottage Street, Suite 301 Littleton, NH 03561

6. **Entire Agreement.** This DPA and 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.
  
7. **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.
  
8. **Governing Law: Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW HAMPSHIRE, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS OF GRAFTON COUNTY FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
  
9. **Authority.** Provider represents that it is authorized to bind to the terms of this Agreement, 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, or may own, lease or control equipment or facilities of any kind where the Student Data and portion thereof stored, maintained or used in any way.

- 10. **Waiver**. No delay or omission of the LEA to exercise any right hereunder shall be construed as a waiver of any such right and the LEA reserves the right to exercise any such right from time to time, as often as may be deemed expedient.
  
- 11. **Multiple Counterparts**: This Agreement may be executed in any number of identical counterparts. If so executed, each of such counterparts shall constitute this Agreement. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the parties have executed this New Hampshire Student Data Privacy Agreement as of the last day noted below.

**White Mountains School Administrative Unit 35**

By: *daningram*  
daningram (Feb 17, 2020)

2/17/2020  
Date: \_\_\_\_\_

Printed Name: Dan Inghram

Title/Position: Computer Tech

**Naviance, Inc.**

By: *Monica Morrell*

Date: 2/13/20

Printed Name: Monica Morrell

Title/Position: General Manager

## **EXHIBIT "A"**

### **DESCRIPTION OF SERVICES**

The Service is a web and mobile-based college and career readiness platform that helps students explore goal setting, academic planning, career exploration, and college and related post-secondary education preparation and planning. The Service also helps to identify and facilitate student connection with higher education institutions and scholarship providers that are of interest, while simultaneously operating as the system of records for Customers. Many core features of the Service may be activated solely at the discretion of Customer.

The Service also includes a browser interface and data transmission, access, storage (subject to commercially reasonable limits as may be imposed by Naviance in its sole discretion) and single sign-on capabilities. Customers and Users are responsible for their own Internet connection, communications and computer costs.

**Matching Features.** The college planning function contained in the Service includes certain optional features (collectively, "Matching") that allow students to view information from and interact with Hobsons' higher education Intersect subscribers ("Higher Education Institutions"). Matching is inactive by default, and therefore must be enabled by an authorized representative of Customer who has obtained consent from the student's parent or legal guardian prior to the activation of Matching. Matching may be turned on or off at any time at the sole discretion and control of Customer.

If Customer enables Matching for its students, its students will be able to:

View supplemental material on college profile pages and upcoming informational and other pre-enrollment events, and RSVP to upcoming events hosted by Higher Education Institutions.

In addition, students who meet certain non-personally identifiable criteria will:

Receive additional information about nonprofit Higher Education Institutions, and  
If a student expresses interest in a nonprofit Higher Education Institution, that student will receive an invitation through the Service to connect directly with the Higher Education Institution. The student may then choose either to disregard or to respond to the invitation.

No student or Customer information is shared with any Higher Education Institution unless Customer has enabled Matching and the applicable student has explicitly opted to send his/her information directly to the Higher Education Institution.

**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.	X
	Other application technology meta data-Please specify:	X
Application Use Statistics	Meta data on user interaction with application	X
Assessment	Standardized test scores	X
	Observation data	N/A
	Other assessment data-Please specify:	X
Attendance	Student school (daily) attendance data	N/A
	Student class attendance data	N/A
Communications	Online communications that are captured (emails, blog entries)	Email sent in Naviance
Conduct	Conduct or behavioral data	N/A
Demographics	Date of Birth	X
	Place of Birth	N/A
	Gender	X
	Ethnicity or race	X
	Language information (native, preferred or primary language spoken by student)	X
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	X
	Student grade level	X
	Homeroom	X
	Guidance counselor	X
	Specific curriculum programs	X
	Year of graduation	X
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	X
	Email	X
	Phone	X
Parent/Guardian ID	Parent ID number (created to link parents to students)	X
Parent/Guardian	First and/or Last	X

Category of Data	Elements	Check if used by your system
Name		
Schedule	Student scheduled courses	N/A
	Teacher names	X
Special Indicator	English language learner information	Handled through student groups
	Low income status	Handled through student groups
	Medical alerts	
	Student disability information	Handled through student groups
	Specialized education services (IEP or 504)	Handled through student groups
	Living situations (homeless/foster care)	Handled through student groups
	Other indicator information-Please specify:	
Category of Data	Elements	Check if used by your system
Student Contact Information	Address	X
	Email	X
	Phone	X
Student Identifiers	Local (School district) ID number	X
	State ID number	X
	Vendor/App assigned student ID number	X
	Student app username	X
	Student app passwords	X
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)	N/A
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	X
Student Survey Responses	Student responses to surveys or questionnaires	X
Student work	Student generated content; writing, pictures etc.	X



Category of Data	Elements	Check if used by your system
	Other student work data - Please specify:	X
Transcript	Student course grades	X
	Student course data	X
	Student course grades/performance scores	X
	Other transcript data -Please specify:	

Category of Data	Elements	Check if used by your system
Transportation	Student bus assignment	N/A
	Student pick up and/or drop off location	
	Student bus card ID number	X
	Other transportation data - Please specify:	
Other	Please list each additional data element used, stored or collected by your application	

## **EXHIBIT “C”**

### **DEFINITIONS**

**De-Identifiable Information (DII):** De-Identification refers to the process by which the Vendor removes or obscures any Personally Identifiable Information (“PII”) from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them. The Provider’s specific steps to de-identify the data will depend on the circumstances, but should be appropriate to protect students. Some potential disclosure limitation methods are blurring, masking, and perturbation. De-identification should ensure that any information when put together cannot indirectly identify the student, not only from the viewpoint of the public, but also from the vantage of those who are familiar with the individual.

**NIST 800-63-3:** Draft National Institute of Standards and Technology (“NIST”) Special Publication 800-63-3 Digital Authentication Guideline.

**Personally Identifiable Information (PII):** The terms “Personally Identifiable Information” or “PII” shall include, but are not limited to, student data, metadata, and user or pupil-generated content that identifies an individual and is obtained by reason of the use of Provider’s software, website, service, or app, including mobile apps, whether gathered by Provider or provided by LEA or its users, students, or students’ parents/guardians. PII includes, without limitation, at least the following:

- (a) The student's name.
- (b) The name of the student's parents or other family members.
- (c) The address of the student or student's family.
- (d) Indirect identifiers, including the student's date of birth, place of birth, social security number, email, social media address, or other electronic address, telephone number, credit card account number, insurance account number, and financial services account number.
- (e) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

**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 pupil records.

**Pupil Generated Content:** The term “pupil-generated content” means materials or content created by a pupil during and for the purpose of education 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 pupil content.

**Pupil Records:** Means both of the following: (1) Any information that directly relates to a pupil that is maintained by LEA and (2) any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational LEA employee. Pupil Records 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.

**School Official:** For the purposes of this Agreement 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 education records; and (3) Is subject to 34 CFR 99.33(a)

governing the use and re-disclosure of personally identifiable information from student records. The definition of “school official” encompasses the definition of “authorized school personnel” under 603 CMR 23.02.

**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, home address, telephone number, email address, or other information allowing 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, food purchases, political affiliations, religious information, text messages, documents, the name of the student’s parents or other family members, place of birth, social media address, unique pupil identifier, and credit card account number, insurance account number, and financial services account number, student identifiers, search activity, photos, voice recordings or geolocation information. Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of New Hampshire and Federal 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.

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

**Subprocessor:** For the purposes of this Agreement, 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 software, and who has access to PII.

**Targeted Advertising:** Targeted advertising means presenting an advertisement to a student where the selection of the advertisement is based on student information, student records or student generated content or inferred over time from the usage of the Provider’s website, online service or mobile application by such student or the retention of such student’s online activities or requests over time.

**Third Party:** The term “Third Party” means an entity that is not the provider or LEA.








# Naviance\_SAU35

Final Audit Report

2020-02-17

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