

DATA PRIVACY AGREEMENT (DPA)
FOR TEXAS K-12 INSTITUTIONS

Midway ISD

LEA NAME [Box 1]

10-15-19

DATE [Box 2]

and

Elevation INC.

OPERATOR NAME [Box 3]

10/14/19

DATE [Box 4]

Background and Instructions


History of Agreement- This agreement has been drafted by the Texas Student Privacy Alliance (TXSPA). The Alliance is a collaborative group of Texas school districts that share common concerns around student and data privacy. The Texas K-12 CTO Council is the organization that sponsors the TXSPA and the TXSPA is the Texas affiliate of the national Student Data Privacy Consortium (SDPC). The SDPC works with other state alliances by helping establish common data privacy agreements unique to the jurisdiction of each state. This Texas agreement was drafted specifically for K-12 education institutions and included broad stakeholder input from Texas school districts, statewide associations such as TASB, TASA, and TASBO, and the Texas Education Agency. The purpose of this agreement is to set standards of both practice and expectations around data privacy such that all parties involved have a common understanding of expectations. This agreement also provides a mechanism (Exhibit E- General Offer of Terms) that would allow an Operator to extend the ability of other Texas school districts to be covered under the terms of the agreement should an Operator sign Exhibit E. This mechanism is intended to create efficiencies for both Operators and LEAs and generally enhance privacy practices and expectations for K-12 institutions and for companies providing services to K-12 institutions.

Instructions for Operators: This agreement is intended to be provided to an Operator from a LEA. The Operator should fully read the agreement and is requested to complete the below areas of the agreement. Once the Operator accepts the terms of the agreement, the Operator should wet sign the agreement and return it to the LEA. Once the LEA signs the agreement, the LEA should provide a signed copy of the agreement to the Operator.

| Article/Exhibit | Box # | Description |
|------------------------|----------------------|--|
| Cover Page | Box # 3 | Official Name of Operator |
| Cover Page | Box # 4 | Date Signed by Operator |
| Recitals | Box #5 | Contract Title for Service Agreement |
| Recitals | Box #6 | Date of Service Agreement |
| Article 7 | Boxes #7-10 | Operator's designated representative |
| Signature Page | Boxes #15-19 | Authorized Operator's representative signature |
| Exhibit A | Box #25 | Description of services provided |
| Exhibit B | All Applicable Boxes | <ul style="list-style-type: none"> • Operator notates if data is collected to provide the described services. • Defines the schedule of data required for the Operator to provide the services outlined in Exhibit A |
| Exhibit D | All Applicable Boxes | (Optional Exhibit): Defines deletion or return of data expectations by LEA |

IN WITNESS WHEREOF, the parties have executed this DATA PRIVACY AGREEMENT FOR TEXAS K-12 INSTITUTIONS as of the last day noted below.

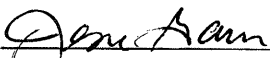
Operator's Representative:

BY:  [Box 15] Date: 10/14/19 [Box 16]

Printed Name: Edward Rice [Box 17] Title/Position: President ^{CO-FOUNDER} [Box 18]

Address for Notice Purposes: 38 CHALMERS ST. FLOOR 9 BOSTON, MA 02111 [Box 19]

LEA's Representative

BY:  [Box 20] Date: 10-15-19 [Box 21]

Printed Name: Jesse Garn [Box 22] Title/Position: Exec. Director
of Technology [Box 23]

Address for Notice Purposes: 800 N. Hewitt Dr., Hewitt, TX 76643 [Box 24]

Note: Electronic signature not permitted.

EXHIBIT "A"

DESCRIPTION OF SERVICES

Description : [Box 25]

Ellevation data management platform for educators
working with ELL'S. Ellevation strategy and collaborate
and instructional tool for classroom teachers.

EXHIBIT "B"

SCHEDULE OF DATA

Instructions: Operator should identify if LEA data is collected to provide the described services. If LEA data is collected to provide the described services, check the boxes indicating the data type collected. If there is data collected that is not listed, use the "Other" category to list the data collected.

- We do not collect LEA Data to provide the described services.
- We do collect LEA Data to provide the described services.

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 checked="" type="checkbox"/> |
| | Other application technology meta data-Please specify: | <input type="checkbox"/> |
| Application Use Statistics | Meta data on user interaction with application- Please specify: | <input checked="" type="checkbox"/> |
| Assessment | Standardized test scores | <input checked="" type="checkbox"/> |
| | Observation data | <input type="checkbox"/> |
| | Other assessment data-Please specify: | <input type="checkbox"/> |
| Attendance | Student school (daily) attendance data | <input checked="" type="checkbox"/> |
| | Student class attendance data | <input type="checkbox"/> |
| Communications | Online communications that are captured (emails, blog entries) | <input type="checkbox"/> |
| Conduct | Conduct or behavioral data | <input type="checkbox"/> |
| | Date of Birth | <input type="checkbox"/> |

| | | |
|-------------------------------------|--|-------------------------------------|
| Demographics | Place of Birth | <input checked="" type="checkbox"/> |
| | Gender | <input checked="" type="checkbox"/> |
| | Ethnicity or race | <input checked="" type="checkbox"/> |
| | Language information (native, preferred or primary language spoken by student) | <input checked="" type="checkbox"/> |
| | Other demographic information-Please specify: | <input checked="" type="checkbox"/> |
| Enrollment | Student school enrollment | <input checked="" type="checkbox"/> |
| | Student grade level | <input checked="" type="checkbox"/> |
| | Homeroom | <input checked="" type="checkbox"/> |
| | Guidance counselor | <input type="checkbox"/> |
| | Specific curriculum programs | <input checked="" type="checkbox"/> |
| | Year of graduation | <input checked="" type="checkbox"/> |
| | Other enrollment information-Please specify: | <input type="checkbox"/> |
| Parent/Guardian Contact Information | Address | <input checked="" type="checkbox"/> |
| | Email | <input type="checkbox"/> |
| | Phone | <input checked="" type="checkbox"/> |
| Parent/Guardian ID | Parent ID number (created to link parents to students) | <input type="checkbox"/> |
| Parent/Guardian Name | First and/or Last | <input checked="" type="checkbox"/> |
| Schedule | Student scheduled courses | <input checked="" type="checkbox"/> |
| | Teacher names | <input checked="" type="checkbox"/> |
| Special Indicator | English language learner information | <input checked="" type="checkbox"/> |
| | Low income status | <input checked="" type="checkbox"/> |
| | Medical alerts /health data | <input type="checkbox"/> |
| | Student disability information | <input checked="" type="checkbox"/> |
| | Specialized education services (IEP or 504) | <input checked="" type="checkbox"/> |
| | Living situations (homeless/foster care) | <input checked="" type="checkbox"/> |
| | Other indicator information-Please specify: | <input type="checkbox"/> |

| Category of Data | Elements | Check if used by your system |
|-----------------------------|--|-------------------------------------|
| Student Contact Information | Address | <input checked="" type="checkbox"/> |
| | Email | <input checked="" type="checkbox"/> |
| | Phone | <input checked="" type="checkbox"/> |
| Student Identifiers | Local (School district) ID number | <input checked="" type="checkbox"/> |
| | State ID number | <input checked="" type="checkbox"/> |
| | Vendor/App assigned student ID number | <input type="checkbox"/> |
| | Student app username | <input type="checkbox"/> |
| | Student app passwords | <input type="checkbox"/> |
| Student Name | First and/or Last | <input checked="" type="checkbox"/> |
| Student In App Performance | Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level) | <input type="checkbox"/> |
| Student Program Membership | Academic or extracurricular activities a student may belong to or participate in | <input type="checkbox"/> |
| Student Survey Responses | Student responses to surveys or questionnaires | <input type="checkbox"/> |
| Student work | Student generated content; writing, pictures etc. | <input checked="" type="checkbox"/> |
| | Other student work data -Please specify: | <input type="checkbox"/> |
| Transcript | Student course grades | <input checked="" type="checkbox"/> |
| | Student course data | <input checked="" type="checkbox"/> |
| | Student course grades/performance scores | <input checked="" type="checkbox"/> |
| | Other transcript data -Please specify: | <input type="checkbox"/> |
| | Student bus assignment | <input type="checkbox"/> |
| | Student pick up and/or drop off location | <input type="checkbox"/> |

| | | |
|----------------|---|-------------------------------------|
| Transportation | 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 through the services defined in Exhibit A see attachment "APPENDIX A" | <input checked="" type="checkbox"/> |

EXHIBIT “C”

DEFINITIONS

HB 2087: The statutory designation for what is now Texas Education Code Chapter 32 relating to pupil records.

Data: Data shall include, but is not limited to, the following: student data, educational records, employee data, metadata, user content, course content, materials, and any and all data and information that the District (or any authorized end user(s)) uploads or enters through their use of the product. Data also specifically includes all personally identifiable information in education records, directory data, and other non-public information for the purposes of Texas and Federal laws and regulations. Data as specified in Exhibit B is confirmed to be collected or processed by the Operator pursuant to the Services. Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student’s use of Operator’s services.

De-Identified Information (DII): De-Identified Information is Data subjected to a process by which any Personally Identifiable Information (“PII”) is removed or obscured in a way that eliminates the risk of disclosure of the identity of the individual or information about them, and cannot be reasonably re-identified.

Data Destruction: Provider shall certify to the District in writing that all copies of the Data stored in any manner by Provider have been returned to the District and permanently erased or destroyed using industry best practices to assure complete and permanent erasure or destruction. These industry best practices include, but are not limited to, ensuring that all files are completely overwritten and are unrecoverable. Industry best practices do not include simple file deletions or media high level formatting operations.

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, Data, metadata, and user or pupil-generated content obtained by reason of the use of Operator’s software, website, service, or app, including mobile apps, whether gathered by Operator or provided by LEA or its users, students, or students’ parents/guardians. PII includes Indirect Identifiers, which is any information that, either alone or in aggregate, would allow a reasonable person to be able to identify a student to a reasonable certainty. For purposes of this DPA, Personally Identifiable Information shall include the categories of information listed in the definition of Data.

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.

Subscribing LEA: A LEA that was not party to the original Services Agreement and who accepts the Operator’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 Operator, who Operator 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 Operator’s website, online service or mobile application by such student or the retention of such student’s online activities or requests over time.

Texas Student Privacy Alliance: The Texas Student Privacy Alliance (TXSPA) is a collaborative group of Texas school districts that share common concerns around student privacy. The goal of the TXSPA is to set standards of both practice and expectations around student privacy such that all parties involved have a common understanding of expectations. The Texas K-12 CTO Council is the organization that sponsors TXSPA and the TXSPA is the Texas affiliate of the National Student Privacy Consortium.

EXHIBIT "D"

SAMPLE REQUEST FOR RETURN OR DELETION OF DATA

Instructions: This Exhibit is optional and provided as a sample ONLY. It is intended to provide a LEA an example of what could be used to request a return or deletion of data.

_____ directs Elevation INC. _____ to
LEA OPERATOR

dispose of data obtained by Operator pursuant to the terms of the Service Agreement between
return LEA and Operator. The terms of the Disposition are set forth below:

1. Extent of Return or Disposition

Return or Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

Return or Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Return or Disposition

Disposition shall be by destruction or deletion of data.

Return shall be by a transfer of data. The data shall be transferred to the following site as follows:

3. Timing of Return or Disposition

Data shall be returned or disposed of by the following date:

As soon as commercially practicable

By the following agreed upon date:


30 DAYS UPON WRITTEN
CONFIRMATION TO CANCEL

4. Signatures

Authorized Representative of LEA

Date:

5. Verification of Disposition of Data



Authorized Representative of Operator

10/14/19

Date: