

WISCONSIN STUDENT DATA PRIVACY AGREEMENT

School District/Local Education Agency:

Menasha Joint School District

AND

Provider:

NCS Pearson, Inc.

Date:

July 27, 2021

This Wisconsin Student Data Privacy Agreement (“DPA”) is entered into by and between the Menasha Joint School District (hereinafter referred to as “LEA”) and (hereinafter referred to as “Provider”) on July 27, 2021 . The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the Local Education Agency (“LEA”) with certain digital educational services (“Services”) pursuant to a contract dated July 27, 2021 (“Service Agreement”); and NCS Pearson, Inc.

WHEREAS, in order to provide the Services described in the Service Agreement, 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; and

WHEREAS, the documents and data transferred from LEAs and created by the Provider’s Services are also subject to Wisconsin state student privacy laws, including pupil records law under Wis. Stat. § 118.125 and notice requirements for the unauthorized acquisition of personal information under Wis. Stat. § 134.98; and

WHEREAS, for the purposes of this DPA, Provider is a school district official with legitimate educational interests in accessing educational records pursuant to the Service Agreement; and

WHEREAS, the Parties wish to enter into this DPA to ensure that the Service Agreement conforms to the requirements of the privacy laws referred to above and to establish implementing procedures and duties; and

WHEREAS, the Provider may, by signing the “General Offer of Privacy Terms” (Exhibit “E”), agree to allow other LEAs in Wisconsin the opportunity to accept and enjoy the benefits of this DPA for the Services described herein, without the need to negotiate terms in a separate DPA.

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 transmitted to Provider from LEA pursuant to the Service Agreement, including compliance with all applicable statutes, including the FERPA, PPRA, COPPA, and applicable Wisconsin law, all as may be amended from time to time. In performing these services, the Provider shall be considered a School District Official with a legitimate educational interest, and performing services otherwise provided by the LEA. With respect to the use and maintenance of Student Data, Provider shall be under the direct control and supervision of the LEA.

2. **Nature of Services Provided.** The Provider has agreed to provide the following digital educational products and services described below and as may be further outlined in Exhibit “A” hereto:

See Exhibit A

3. **Student Data to Be Provided.** The Parties shall indicate the categories of student data to be provided in the Schedule of Data, attached hereto as Exhibit “B”.

Provider's Schedule of Data is attached hereto as Exhibit "G"

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 term used in the Service Agreement.

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 Agreement 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 District Official, under the control and direction of the LEAs as it pertains to the use of Student Data notwithstanding the above. Provider may transfer pupil-generated content to a separate account, 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 Student Data in the pupil’s records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a timely manner (and no later than 30 days from the date of the request) to the LEA’s request for Student Data in a pupil’s records held by the Provider to view or correct as necessary. In the event that a parent of a pupil 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 pupil 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 pupil generated content to a separate student account upon termination of the Service Agreement; provided, however, such transfer shall only apply to pupil generated content that is severable from the Service.

4. **Third Party Request.** Should a Third Party, including law enforcement and government entities, contact Provider with a request for data held by the Provider pursuant to the Services, the Provider shall redirect the Third Party to request the data directly from the LEA. Provider shall notify the LEA as soon as possible in advance of a compelled disclosure to a Third Party.

5. **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, as well as state and federal law.

ARTICLE III: DUTIES OF LEA

1. **Privacy Compliance.** LEA shall provide data for the purposes of the Service Agreement in compliance with FERPA, COPPA, PPRA, and applicable Wisconsin law.

2. **Annual Notification of Rights.** The LEA shall include a specification of criteria under FERPA 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 data.

4. **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 state and federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, and applicable Wisconsin law.

2. **Authorized Use.** The 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/or otherwise 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, 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.

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.

4. **No Disclosure.** 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.

5. **Disposition of Data.** Upon written request and in accordance with the applicable terms in subsection a or b, below, Provider shall dispose or delete all Student Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained. Disposition shall include (1) the shredding of any hard copies of any student data; (2) erasing; or (3) otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in the Service Agreement authorizes Provider to maintain Student Data obtained under the Service Agreement beyond the time period reasonably needed to complete the disposition. Provider shall provide written notification to LEA when the Student Data has been disposed. The duty to dispose of Student Data 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. The LEA may employ a “Request for Return or Deletion of Student Data” form, a copy of which is attached hereto as Exhibit “D”. 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.

a. **Partial Disposal During Term of Service Agreement.** Throughout the Term of the Service Agreement, LEA may request partial disposal of Student Data obtained under the Service Agreement that is no longer needed. Partial disposal of data shall be subject to LEA’s request to transfer data to a separate account, pursuant to Article II, section 3, above.

b. **Complete Disposal Upon Termination of Service Agreement.** Upon Termination of the Service Agreement Provider shall dispose or delete all Student Data obtained under the Service Agreement. Prior to disposition of the data, Provider shall notify LEA in writing of its option to transfer data to a separate account, pursuant to Article II, section 3, above. In no event shall Provider dispose of data pursuant to this provision unless and until Provider has received affirmative written confirmation from LEA that data will not be transferred to a separate account.

6. **Advertising Prohibition.** Provider is prohibited from 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 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. Provider may further detail its security programs and measures in

Exhibit "F" hereto. 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 the applicable standards, as set forth in 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 be subject to criminal background checks in compliance with state and local ordinances.
- b. Destruction of Data.** Provider shall destroy or delete all Student Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained, or transfer said data to LEA or LEA's designee, according to the procedure identified in Article IV, section 5, above. Nothing in the Service Agreement authorizes Provider to maintain Student Data beyond the time period reasonably needed to complete the disposition.
- c. Security Protocols.** Both parties agree to maintain security protocols that meet industry standards 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 digital 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.
- d. Employee Training.** The Provider shall provide periodic 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, Provider shall employ industry standard measures 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 updated according to industry standards.
- f. Security Coordinator.** If different from the designated representative identified in Article VII, section 5, 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 digital and physical periodic (no less than semi-annual) risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.

2. Data Breach. In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to LEA within a reasonable amount of time of the incident, and not exceeding forty-eight (48) hours. 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,” “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 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 because 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.
- c.** At LEA’s discretion, the security breach notification may also include any of the following:
 - i.** Information about what the agency 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 applicable state and 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 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 copy of said written incident response plan.

f. Provider is prohibited from directly contacting parent, legal guardian or eligible pupil unless expressly requested by LEA. If LEA requests Provider's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to Provider, Provider 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. If requested by LEA, Provider shall reimburse LEA for costs incurred to notify parents/families of a breach not originating from LEA's use of the Service.

g. 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 PRIVACY 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 this DPA to any other LEA who signs the acceptance on in said Exhibit. The Form is limited by the terms and conditions described therein.

ARTICLE VII: MISCELLANEOUS

1. Term. The Provider shall be bound by this DPA for the 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 so long as the Service Agreement has lapsed or has been terminated. LEA shall have the right to terminate the DPA and Service Agreement in the event of a material breach of the terms of this DPA.

3. Effect of Termination Survival. If the Service Agreement is terminated, the Provider shall destroy all of LEA's data pursuant to Article V, section 1(b), and Article II, section 3, above.

4. Priority of Agreements. This DPA shall govern the treatment of student data in order to comply with privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the DPA and the Service Agreement, the DPA shall apply and take precedence. Except as described in this paragraph herein, all other provisions of the Service 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, 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 before:

a. Designated Representatives

The designated representative for the LEA for this Agreement is:

Name: Greg Kehring
Title: Information Privacy Coordinator

Contact Information:
kehringg@mjsd.k12.wi.us
920-967-1848

The designated representative for the Provider for this Agreement is:

Name: Randy Trask
Title: SVP - Clinical Assessments
Contact Information:

- b. Notification of Acceptance of General Offer of Privacy Terms.** Upon execution of Exhibit “E”, General Offer of Privacy Terms, Subscribing LEA shall provide notice of such acceptance in writing and given by personal delivery, or e-mail transmission (if contact information is provided for the specific mode of delivery), or first-class mail, postage prepaid, to the designated representative below.

The designated representative for notice of acceptance of the General Offer of Privacy Terms is:

Name: Pearson Legal TSC
Title:

Contact Information:

legaltsc@pearson.com

6. Entire Agreement. This DPA constitutes 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 WISCONSIN, 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 IN WHICH THIS AGREEMENT IS FORMED FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT 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. Provider agrees that any purchaser of the Provider shall also be bound to the Agreement.

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. 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.

[Signature Page Follows]

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

Provider:

BY: Randall Trask Date: Aug 2, 2021
Randall Trask (Aug 2, 2021 13:27 MDT)

Printed Name: **Randy Trask** Title/Position: **SVP - Clinical Assessments**

Local Education Agency:

BY: [Signature] Date: 8/2/2021

Printed Name: **Greg Kehring** Title/Position: **Information Privacy Coordinator**

BY: [Signature] Date: 8/2/21

Printed Name: **Chris L. VanderHeyden** Title/Position: **Superintendent of Schools**

Note: Electronic signature not permitted.

EXHIBIT "A"

DESCRIPTION OF SERVICES

PLATFORM

Assessment Technology Platform
TEP / Program Workshop
AimswebPlus
Review360
Work Sampling Online / Ounce
DRA2
DRA3
WriteToLearn
Q-global™
Q-interactive™

COVERED PRODUCTS

NNAT3, Grade, Gmade, TELL
SAT, OLSAT, NNAT2
AimswebPlus
Review360
Work Sampling Online / Ounce
DRA2
DRA3
WriteToLearn
Web-based system for test administration, scoring and reporting
iPad-based testing system that helps administer, score and report
clinical assessments

SEE EXHIBIT "G"

EXHIBIT "B"

~~SCHEDULE OF DATA~~

Category of Data	Elements	Check if used by your system	Category of Data	Elements	Check if used by your system
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.			Gender	
	Other application technology meta data-Please specify:			Ethnicity or race	
Application Use Statistics	Meta data on user interaction with application			Language information (native, preferred or primary language spoken by student)	
				Other demographic information-Please specify:	
Assessment	Standardized test scores		Enrollment	Student school enrollment	
	Observation data			Student grade level	
	Other assessment data-Please specify:			Homeroom	
Attendance	Student school (daily) attendance data			Guidance counselor	
	Student class attendance data			Specific curriculum programs	
Communication s	Online communications that are captured (emails, blog entries)			Year of graduation	
				Other enrollment information-Please specify:	
Conduct	Conduct or behavioral data				
			Parent/Guardian Contact Information	Address	
Demographics	Date of Birth			Email	
	Place of Birth			Phone	
			Parent/Guardian ID	Parent ID number (created to link parents to students)	

Category of Data	Elements	Check if used by your system	Category of Data	Elements	Check if used by your system
Parent/Guardian Name	First and/or Last			Vendor/App assigned student ID number	
				Student app username	
Schedule	Student scheduled courses			Student app passwords	
	Teacher names				
			Student Name	First and/or Last	
Special Indicator	English language learner information		Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
	Low income status				
	Medical alerts /health data				
	Student disability information		Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
	Specialized education services (IEP or 504)				
	Living situations (homeless/foster care)				
	Other indicator information- Please specify:				
			Student Survey Responses	Student responses to surveys or questionnaires	
Student Contact Information	Address		Student work	Student generated content; writing, pictures etc. Other student work data - Please specify:	
	Email				
	Phone				
Student Identifiers	Local (School district) ID number				
	State ID number				

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

No Student Data Collected at this time _____.
 *Provider shall immediately notify LEA if this designation is no longer applicable.

OTHER: Use this box, if more space needed

EXHIBIT “C”

DEFINITIONS

De-Identifiable Information (DII): De-Identification refers to the process by which the Provider 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.

Educational Records: Educational Records are official records, files and data directly related to a student and maintained by the 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. For purposes of this DPA, Educational Records are referred to as Student Data.

NIST: Draft National Institute of Standards and Technology (“NIST”) Special Publication Digital Authentication Guideline.

Operator: The term “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 primarily for K–12 school purposes and was designed and marketed for K–12 school purposes. For the purpose of the Service Agreement, the term “Operator” is replaced by the term “Provider.” This term shall encompass the term “Third Party,” as it is found in applicable state statutes.

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 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 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 Student Data.

Provider: For purposes of the Service Agreement, 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. Within the DPA the term “Provider” includes the term “Third Party” and the term “Operator” as used in applicable state statutes.

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 all of the following: (1) Any information that directly relates to a pupil

that is maintained by LEA;(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 LEA employee; and any information that meets the definition of a “pupil record” under Wis. Stat. § 118.125(1)(d). For the purposes of this Agreement, Pupil Records shall be the same as Educational Records, Student Personal Information and Covered Information, all of which are deemed Student Data for the purposes of this Agreement.

Service Agreement: Refers to the Contract or Purchase Order to which this DPA supplements and modifies.

School District Official: For the purposes of this Agreement and pursuant to 34 CFR 99.31 (B) and Wis. Stat. § 118.125(2)(d), a School District 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) and Wis. Stat. § 118.125(2) governing the use and re-disclosure of personally identifiable information from student records.

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, student identifies, 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 Wisconsin 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.

SDPC (The Student Data Privacy Consortium): Refers to the national collaborative of schools, districts, regional, territories and state agencies, policy makers, trade organizations and marketplace providers addressing real-world, adaptable, and implementable solutions to growing data privacy concerns.

Student Personal Information: “Student Personal Information” means information collected through a school service that personally identifies an individual student or other information collected and maintained about an individual student that is linked to information that identifies an individual student, as identified by Washington Compact Provision 28A.604.010. For purposes of this DPA, Student Personal Information is referred to as Student Data.

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 a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. However, for the purpose of this Agreement, the term “Third Party” when used to indicate the provider of digital educational software or services is replaced by the term “Provider.”

EXHIBIT "D"

DIRECTIVE FOR DISPOSITION OF DATA

directs **NCS Pearson, Inc.** to dispose of data
obtained by Provider pursuant to the terms of the Service Agreement between LEA and Provider.
The terms of the Disposition are set forth below:

<u>Extent of Disposition</u> Disposition shall be:	<input type="checkbox"/> Partial. The categories of data to be disposed of are as follows: <input type="checkbox"/> Complete. Disposition extends to all categories of data.
<u>Nature of Disposition</u> Disposition shall be by:	<input type="checkbox"/> Destruction or deletion of data. <input type="checkbox"/> Transfer of data. The data shall be transferred as set forth in an attachment to this Directive. Following confirmation from LEA that data was successfully transferred, Provider shall destroy or delete all applicable data.
<u>Timing of Disposition</u> Data shall be disposed of by the following date:	<input type="checkbox"/> As soon as commercially practicable <input type="checkbox"/> By (Insert Date) _____ [Insert or attach special instructions]

Authorized Representative of LEA

Date

Verification of Disposition of Data
by Authorized Representative of Provider

Date

EXHIBIT "E"

GENERAL OFFER OF PRIVACY TERMS
NCS Pearson, Inc.

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and Menasha Jt School District and which is dated to any other LEA ("Subscribing LEA") who accepts this General Offer through its signature below. 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 other LEA may also agree to change the data provided by LEA to the Provider in Exhibit "B" to suit the unique needs of the LEA. 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 services and products subject listed in the Originating Service Agreement; or three (3) years after the date of Provider's signature to this Form.

Provider: NCS Pearson, Inc.

BY: *Randall Trask*
BY: Randall Trask (Aug 2, 2021 13:27 MDT)

Date: Aug 2, 2021

Printed Name: Randall Trask

Title/Position: Senior Vice President

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.

Subscribing LEA:

BY: _____

Date: _____

Printed Name: _____

Title/Position: _____

TO ACCEPT THE GENERAL OFFER, THE SUBSCRIBING LEA MUST DELIVER THIS SIGNED EXHIBIT TO THE PERSON AND EMAIL ADDRESS LISTED BELOW

Name: Pearson Legal TSC

Title: _____

Email Address: legaltsc@pearson.com

EXHIBIT "F"

DATA SECURITY REQUIREMENTS

Not applicable.

EXHIBIT "G"

SCHEDULE OF DATA

DATA CATEGORIES

Depending on the Services, we may collect and process the following categories of data in order to manage day to day business needs including, but not limited to, performing services on behalf of a business, payment processing and financial account management, business planning and forecasting, system improvements, security and fraud prevention, and compliance with legal and regulatory obligations:

- (A) Identifiers such as a real name, address, unique personal identifiers, or email address
- (B) Customer records such as signature
- (C) Characteristics of protected classifications under California or federal law
- (D) Commercial information, such as products or services purchased, obtained, or considered
- (E) Internet or other electronic network activity information such as information regarding a consumer's interaction with an Internet Web site, application, or advertisement
- (F) Geolocation data
- (G) Sensory data, such as audio, electronic, visual, or similar information
- (H) Professional or employment-related information
- (I) Education information
- (J) Inferences about preferences, characteristics, psychological trends, preferences, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes

COLLECTION AND STORAGE OF INFORMATION

We will collect certain personal information during different activities on this Site or otherwise, such as user registration, when you purchase materials, participate in a survey, contact us with questions or offer feedback on the Site. In connection with such activities, you may be asked to provide certain information such as your name, mailing address, telephone number, fax number, credit card number and email address. In order to qualify for the purchase of materials we may also request professional qualifications, affiliations or employment information. We may maintain this information in our computer and ordering system.

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PLATFORM AND SYSTEMS INFORMATION

Platform specific data collection is described in the table below:

PRODUCT PLATFORM	CATEGORIES OF DATA
Clinical Assessments (Q-Global and Q-interactive)	<p>In providing tests and testing services through this system, We collect or receive Personal Information from Examinees, as well as Test Administrators. Certain Examinee Personal Information is provided to us by the Test Administrator; and other information is provided to us by the Examinee. Test Administrator Personal Information is provided to us by the Qualified Customer and the Test Administrator.</p> <ul style="list-style-type: none"> •Test Administrator Personal Information Collected. The Personal Information that We collect, receive or process with respect to a Test Administrator through this system may include: name, phone number, mobile phone number, email address, Pearson qualification level, log-in ID and password. •Examinee Personal Information Collected. The Personal Information that We collect, receive or process with respect to Examinees may include: first name, last name, Examinee ID (as assigned by a Test Administrator), date of birth, gender, race/ethnicity, handedness and home language. In addition, depending upon the particular clinical assessment, a wide range of additional demographic information may be collected, including, but not limited to: clinical history; education history and issues; work and employment status, history and issues; health conditions; medications; employment status; marital status; family information and history; and living arrangements. Through this system, We collect and score the responses to the clinical assessment questions and derive raw scores and test scaled or percentile scores.
AimswwebPlus	<p>Educator: To create a record for a student the following information must be collected from educators through this Site: student's name, grade, birth date, gender, student identification number, district, school, service code, ethnicity and free and reduced lunch status. The following additional information may be collected: Entry Grade, IEP, ESL, Section 504, After School, Correctional, Summer School, IDEA, Gifted/Talented, Intervention Level, Mobility, Behavior Disorder, Federal Disability Categories. Upon initial login by an educator the following personal information may be collected: name, school district, address, phone number, and email. If Pearson receives inquiries or emails about or through this Site from educators, Pearson may keep a record of the email, correspondence and comments, including the individual's name, school district or organization name and email address in order to reply to the communication, perform Site support and issue resolution and maintain business records concerning this Site. THE ENTRY OF ALL STUDENT PERSONAL DATA IS THE SCHOOL'S RESPONSIBILITY AND PEARSON ASSUMES NO RESPONSIBILITY TO ENTER, COLLECT, OR REVIEW ANY SUCH DATA.</p> <ul style="list-style-type: none"> • Student Data: Students cannot access aimswwebPlus. Any required student testing is conducted in a separate test platform, TestNav. Once a student completes testing in TestNav the student testing data is transferred to aimswwebPlus. Student testing

PRODUCT PLATFORM	CATEGORIES OF DATA
	<p>data can be reported to Parents as a pdf file extract from aimswebPlus.</p> <ul style="list-style-type: none"> • Parents and Students: Pearson cannot collect personal information directly from parents or students through this website. Parents and students will not have login or access to AimswebPlus. Parents and students may receive PDF report extracts from an educator.
Development Reading Assessment (ORA)	<ul style="list-style-type: none"> • Administrators: Each school using the Site must designate an administrator, whose name is provided to the Site. The administrator also provides us with the following data for the administrator: office phone, birthdate and email address. We are also provided with the name of the school district, the name of the school, and the city, county, and zip code of that school. We collect from the administrator the full names of educators that the administrator has decided should be eligible to use the Site. Once entered, each such educator is assigned a user identification and password, enabling them to log onto the Site and to enter or modify student ORA assessment data for students in their class. An administrator may automatically import student data into the Site if the school or district has such files stored or otherwise available electronically. THE ENTRY OF ALL STUDENT PERSONAL DATA OR ORA ASSESSMENT DATA IS THE SCHOOL'S RESPONSIBILITY AND PEARSON ASSUMES NO RESPONSIBILITY TO ENTER, COLLECT, OR REVIEW ANY SUCH DATA. • Educators: Educators with User IDs and passwords may log onto the Site. If the administrator has not imported or otherwise entered the following information regarding the educator's classes and students, educators are asked to manually enter their students' full names, birthdates, grade, gender, student ID, and any special education and bilingual classifications. • View-Only Access Users: Other school or district officials that require view-only access shall be given access to ORA assessment data upon registration. View-only access users may only view ORA assessment data and may not modify or otherwise change any data on the Site. We will collect the name, email address, birthdate and work phone number when registering any view-only access user. • Students: Except for collecting the student information from a school official or educator for purposes of correlating ORA assessment data to such student, the Site does not request or collect any other personal information regarding students from the schools, administrators, educators, students or parents. In no event do we ask children or students for any personal information directly either online or offline.

PRODUCT PLATFORM	CATEGORIES OF DATA
Review360	<p>We collect a limited amount of personal information from educators, administrators, parents and non-registered users ("Users") about themselves and their students in order to be able to provide the services through the Site in connection with Review 360. This Site is only intended for use by educators in schools and/or school districts or related entities (collectively, "Schools"), and is not intended for use by the student. In no event do we ask students for any personal information directly either online or offline.</p> <ul style="list-style-type: none"> • Administrators: Each Review 360 licensee using the Site must designate at least one License Manager, whose name is provided to the Site. The License Manager also provides us with the necessary contact information for the administrator. The License Manager will be responsible for setting up all applicable professionals utilizing this License. License Managers are also responsible for creating additional administrator and professional-level accounts. Once entered, each such User is assigned a user identification and password, enabling them to log onto the Site and to enter or modify student Review 360 data for students. THE ENTRY OF ALL STUDENT PERSONAL DATA IS THE SCHOOL'S RESPONSIBILITY AND PEARSON ASSUMES NO RESPONSIBILITY TO ENTER, COLLECT, OR REVIEW ANY SUCH DATA. • Educators: Educators with User IDs and passwords may log onto the Site. If a license/program/site administrator has not imported or otherwise entered the following information regarding the educator's classes and students, educators are asked to manually enter their students' information. To create a record for a student, you need to supply us with the student's grade, unique student number, and campus of registration (this information is used to personalize the content of the Site). In addition, if you are registering as an educator or a school, you also have the option of supplying us with the following information: the student's first language, ethnicity and class level, as well as telling us whether the student participates in an Individualized Education Program (IEP), or any other customized demographics that your school or district asks to collect. • Students: Except for collecting the student information from a school official or educator as required for recording information, the Site does not request or collect any other personal information regarding students from the schools, administrators, educators, students or parents. In no event do we ask students for any personal information directly either online or offline.
WriteToLearn	<p>Student responses from WriteToLearn activities are collected and scored automatically. Through this Site, the School, through the student's educator (as designated on the Student Enrollment file), may obtain and print reports about the results for that student and track such student's learning progress.</p>

PRODUCT PLATFORM	CATEGORIES OF DATA
<p>Ounce and Work Sampling</p>	<p>We collect a limited amount of personal information from educators, administrators, parents and non-registered users about themselves and their students in order to be able to provide the services through the Site in connection with Work Sampling Online and Ounce Online. This Site is only intended for use by parents or guardians and educators, schools and/or school districts (collectively, "Schools"), and is not intended for use by the student. In no event do we ask children or students for any personal information directly either online or offline.</p> <ul style="list-style-type: none"> • Administrators: Each Work Sampling Online and Ounce Online licensee using the Site must designate at least one License Manager, whose name is provided to the Site. The License Manager also provides us with the necessary contact information for the administrator. The License Manager will be responsible for setting up all applicable districts and schools utilizing this License. License Managers are also responsible for creating additional administrator and educator accounts. Once entered, each such User is assigned a user identification and password, enabling them to log onto the Site and to enter or modify student Work Sampling Online and Ounce Online assessment data for students in their class(es). THE ENTRY OF ALL STUDENT PERSONAL DATA OR WORK SAMPLING ONLINE OR OUNCE ONLINE ASSESSMENT DATA IS THE SCHOOL'S RESPONSIBILITY AND PEARSON ASSUMES NO RESPONSIBILITY TO ENTER, COLLECT, OR REVIEW ANY SUCH DATA. • Educators: Educators with Users IDs and passwords may log onto the Site. If an administrator has not imported or otherwise entered the following information regarding the educator's classes and students, educators are asked to manually enter their students' information. To create a record for a student, you need to supply us with the student's name, birth date, and gender (this information is used to personalize the content of the Site). In addition, if you are registering as an educator or a school, you also have the option of supplying us with the following information: the student's first language, ethnicity and class level, as well as telling us whether the student participates in an Individualized Education Program (IEP), or any other customized demographics that your school or district asks to collect. Such optional information would be used solely to create aggregated non-personalized outcome group progress reports that may be desired by an administrator or a school district. • Guest: As a guest, you may take a tour of the Site, as well as read information on the different applications available on the Site. This requires neither registration nor log in, and we do not ask for any personal information from guests. • Students: Except for collecting the student information from a school official or educator for purposes of correlating Work Sampling Online and Ounce Online assessment data to such student, the Site does not request or collect any other personal information regarding students from the schools, administrators,

<p>PRODUCT PLATFORM</p>	<p>CATEGORIES OF DATA</p>
<p>Assessment Technology Platform (ATP): TELL, NNAT, GMADE I GRADE</p>	<p>educators, students or parents. In no event do we ask children or students for any personal information directly either online or offline.</p> <ul style="list-style-type: none"> • Testing Information: Developmental Checklists and other individual reports are inputted (or otherwise imported) by the educator into the Site and are accessible only to educators, administrators or other authorized school official. <ul style="list-style-type: none"> • Administrators: To create an Assessment Program record for a student and register students for an assessment in that Assessment Program, the following information may be collected from educators through this Site, as specified by the Education Agency sponsoring the Assessment Program: student's name, birth date, gender, statewide identifier, student's first language, ethnicity, grade level, participation in an Individualized Education Program (IEP). Other demographic information may also be collected if so specified by the Education Agency for the Assessment Program. To order materials related to an Assessment Program, the following personal information may be collected: name, school district, address, phone number, and quantity. If Pearson receives inquiries or emails about or through this Site from educators, Pearson may keep a record of the email, correspondence and comments, including the individual's name, school district or organization name and email address in order to reply to the communication, perform Site support and issue resolution and maintain business records concerning this Site. • Parents and Students: At this time, Pearson does not seek to collect personal information from parents or students through this website.

