



JEFFERSON • LEWIS • HAMILTON • HERKIMER • ONEIDA
BOARD OF COOPERATIVE EDUCATIONAL SERVICES

Contract Addendum

Protection of Student, Teacher, and Principal Data

1. Applicability of this Addendum

The Jefferson, Lewis, Hamilton, Herkimer, Oneida BOCES ("BOCES"), an educational agency, and Chris Wenger ("Vendor") are parties to a contract dated 5-6-2024 ("the underlying contract") governing the terms under which BOCES accesses, and Vendor provides, Dynamic Assessment of Social Emotional Learning [name of product(s) covered by contract] ("Product"). BOCES' use of the Product results in Vendor receiving student, teacher, or principal personally identifiable information as defined in federal and state statute, including New York Education Law Section 2-d and this Addendum. The terms of this Addendum shall amend and modify the underlying contract and shall have precedence over terms set forth in the underlying contract and any online Terms of Use or Service published by Vendor.

2. Definitions

- 2.1 "Assignee" and "Subcontractor" shall each mean any person or entity that receives, stores, or processes "Protected Information" covered by this Contract from Vendor for the purpose of enabling or assisting Vendor to deliver the product or services covered by this Contract.
- 2.2 "This Contract" means the underlying contract as modified by this Addendum.
- 2.3 "Protected Information", as applied to student data, means "personally identifiable information" as defined in 34 CFR Section 99.3 implementing the Family Educational Rights and Privacy Act (FERPA) where that information is received by Vendor from BOCES or is created by the Vendor's product or service in the course of being used by BOCES. "Protected Information", as applied to Teacher or Principal Data means personally identifiable information from the records of an educational agency relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of Education Law §§3012-c and 3012-d.
- 2.4 "Breach" means the unauthorized acquisition, access, use, or disclosure of student data and/or teacher or principal data by or to a person not authorized to acquire, access, use, or receive the student data and/or teacher or principal data.

3. Vendor Status

Vendor acknowledges that for purposes of New York State Education Law Section 2-d it is a third-party contractor, and that for purposes of any Protected Information that constitutes education records under the Family Educational Rights and Privacy Act (FERPA) it is a school official with a legitimate educational interest in the educational records.

4. Confidentiality of Protected Information

Vendor agrees that the confidentiality of Protected Information that it receives, processes, or stores will be handled in accordance with all state and federal laws that protect the confidentiality of Protected Information, and in accordance with the BOCES Policies on Data Security and Privacy and the Parent's Bill of Rights for Data Privacy and Security, copies of which are Attachment B to this Addendum.

5. Vendor Employee Training

Vendor agrees that any of its officers or employees, and any officers or employees of any Assignee of Vendor, who have access to Protected Information will receive training on the federal and state law governing confidentiality of such information prior to receiving access to that information.

6. No Use of Protected Information for Commercial or Marketing Purposes

Vendor warrants that Protected Information received by Vendor from BOCES or by any Assignee of Vendor, shall not be sold or used for any commercial or marketing purposes; shall not be used by Vendor or its Assignees for purposes of receiving remuneration, directly or indirectly; shall not be used by Vendor or its Assignees for advertising purposes; shall not be used by Vendor or its Assignees to develop or improve a product or service; and shall not be used by Vendor or its Assignees to market products or services to students.

7. Ownership and Location of Protected Information

- 7.1 Ownership of all Protected Information that is disclosed to or held by Vendor shall remain with BOCES. Vendor shall acquire no ownership interest in education records or Protected Information.
- 7.2 BOCES shall have access to the BOCES' Protected Information at all times through the term of this Contract. BOCES shall have the right to import or export Protected Information in piecemeal or in its entirety at their discretion, without interference from Vendor.
- 7.3 Vendor is prohibited from data mining, cross tabulating, and monitoring data usage and access by BOCES or its authorized users, or performing any other data analytics other than those required to provide the Product to BOCES. Vendor is

allowed to perform industry standard back-ups of Protected Information. Documentation of back-up must be provided to BOCES upon request.

- 7.4 All Protected Information shall remain in the continental United States (CONUS) or Canada. Any Protected Information stored, or acted upon, must be located solely in data centers in CONUS or Canada. Services which directly or indirectly access Protected Information may only be performed from locations within CONUS or Canada. All helpdesk, online, and support services which access any Protected Information must be performed from within CONUS or Canada.

8. Purpose for Sharing Protected Information

The exclusive purpose for which Vendor is being provided access to Protected Information is to provide the product or services that are the subject of this Contract to BOCES.

9. Downstream Protections

Vendor agrees that, in the event that Vendor subcontracts with or otherwise engages another entity in order to fulfill its obligations under this Contract, including the purchase, lease, or sharing of server space owned by another entity, that entity shall be deemed to be an "Assignee" of Vendor for purposes of Education Law Section 2-d, and Vendor will only share Protected Information with such entities if those entities are contractually bound to observe the same obligations to maintain the privacy and security of Protected Information as are required of Vendor under this Contract and all applicable New York State and federal laws.

10. Protected Information and Contract Termination

- 10.1 The expiration date of this Contract is defined by the underlying contract.
- 10.2 Upon expiration of this Contract without a successor agreement in place, Vendor shall assist BOCES in exporting all Protected Information previously received from, or then owned by, BOCES.
- 10.3 Vendor shall thereafter securely delete and overwrite any and all Protected Information remaining in the possession of Vendor or its assignees or subcontractors (including all hard copies, archived copies, electronic versions or electronic imaging of hard copies of shared data) as well as any and all Protected Information maintained on behalf of Vendor in secure data center facilities.
- 10.4 Vendor shall ensure that no copy, summary or extract of the Protected Information or any related work papers are retained on any storage medium whatsoever by Vendor, its subcontractors or assignees, or the aforementioned secure data center facilities.

- 10.5 To the extent that Vendor and/or its subcontractors or assignees may continue to be in possession of any de-identified data (data that has had all direct and indirect identifiers removed) derived from Protected Information, they agree not to attempt to re-identify de-identified data and not to transfer de-identified data to any party.
- 10.6 Upon request, Vendor and/or its subcontractors or assignees will provide a certification to BOCES from an appropriate officer that the requirements of this paragraph have been satisfied in full.

11. Data Subject Request to Amend Protected Information

- 11.1 In the event that a parent, student, or eligible student wishes to challenge the accuracy of Protected Information that qualifies as student data for purposes of Education Law Section 2-d, that challenge shall be processed through the procedures provided by the BOCES for amendment of education records under the Family Educational Rights and Privacy Act (FERPA).
- 11.2 Vendor will cooperate with BOCES in retrieving and revising Protected Information, but shall not be responsible for responding directly to the data subject.

12. Vendor Data Security and Privacy Plan

- 12.1 Vendor agrees that for the life of this Contract the Vendor will maintain the administrative, technical, and physical safeguards described in the Data Security and Privacy Plan set forth in Attachment C to this Contract and made a part of this Contract.
- 12.2 Vendor warrants that the conditions, measures, and practices described in the Vendor's Data Security and Privacy Plan:
 - a. align with the NIST Cybersecurity Framework 1.0;
 - b. equal industry best practices including, but not necessarily limited to, disk encryption, file encryption, firewalls, and password protection;
 - c. outline how the Vendor will implement all state, federal, and local data security and privacy contract requirements over the life of the contract, consistent with the BOCES data security and privacy policy (Attachment B);
 - d. specify the administrative, operational and technical safeguards and practices it has in place to protect Protected Information that it will receive under this Contract;
 - e. demonstrate that it complies with the requirements of Section 121.3(c) of this Part;

- f. specify how officers or employees of the Vendor and its assignees who have access to Protected Information receive or will receive training on the federal and state laws governing confidentiality of such data prior to receiving access;
- g. specify if the Vendor will utilize sub-contractors and how it will manage those relationships and contracts to ensure Protected Information is protected;
- h. specify how the Vendor will manage data security and privacy incidents that implicate Protected Information including specifying any plans to identify breaches and unauthorized disclosures, and to promptly notify BOCES; and
- i. describe whether, how and when data will be returned to BOCES, transitioned to a successor contractor, at BOCES' option and direction, deleted or destroyed by the Vendor when the contract is terminated or expires.

13. Additional Vendor Responsibilities

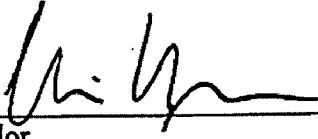
Vendor acknowledges that under Education Law Section 2-d and related regulations it has the following obligations with respect to any Protected Information, and any failure to fulfill one of these statutory obligations may subject the vendor to a monetary civil penalty and shall be a breach of this Contract:

- 13.1 Vendor shall limit internal access to Protected Information to those individuals and Assignees or subcontractors that need access to provide the contracted services;
- 13.2 Vendor will not use Protected Information for any purpose other than those explicitly authorized in this Contract;
- 13.3 Vendor will not disclose any Protected Information to any party who is not an authorized representative of the Vendor using the information to carry out Vendor's obligations under this Contract or to the BOCES unless (1) Vendor has the prior written consent of the parent or eligible student to disclose the information to that party, or (ii) the disclosure is required by statute or court order, and notice of the disclosure is provided to BOCES no less than three (3) business day prior to disclosure, unless such notice is expressly prohibited by the statute or court order;
- 13.4 Vendor will maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of Protected Information in its custody;
- 13.5 Vendor will use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the U S. Department of HHS in guidance issued under P.L. 111-5, Section 13402(H)(2);

- 13.6 Vendor will notify the BOCES of any breach of security resulting in an unauthorized release of student data by the Vendor or its Assignees in violation of state or federal law, or of contractual obligations relating to data privacy and security in the most expedient way possible and without unreasonable delay but no more than seven calendar days after the discovery of the breach; and
- 13.7 Where a breach or unauthorized disclosure of Protected Information is attributed to the Vendor, the Vendor shall pay for or promptly reimburse BOCES for the full cost incurred by BOCES to send notifications required by Education Law Section 2-d.

Dated: 5-6-2024

Michelle A. Carpenter
For the Jefferson-Lewis BOCES


For the Vendor



JEFFERSON • LEWIS • HAMILTON • HERKIMER • ONEIDA
BOARD OF COOPERATIVE EDUCATIONAL SERVICES

Attachment A - Supplemental Information about this Contract

| | |
|---|--|
| | |
| CONTRACTOR | [VENDOR NAME] <i>Chris Wenger</i> |
| PRODUCT | [PRODUCT NAME] <i>Dynamic Assessment of Social Emotional Learning</i> |
| PURPOSE DETAILS | <p>The exclusive purpose for which Vendor is being provided access to Protected Information is to provide the product or services that are the subject of this Contract to BOCES.</p> <p>The product or services are used to provide [e.g., mathematics instruction in Grades 1 and 2].</p> |
| SUBCONTRACTOR DETAILS | Vendor represents that it will only share Protected Information with subcontractors if those subcontractors are contractually bound to observe the same obligations to maintain the privacy and security of Protected Information as are required of Vendor under this Contract and all applicable New York State and federal laws. |
| DATA DESTRUCTION INFORMATION | <p>The agreement expires [DATE OF EXPIRATION]. <i>6-30-2024</i></p> <p>Upon expiration of this Contract without a successor agreement in place, Vendor shall assist BOCES in exporting all Protected Information previously received from, or then owned by, BOCES. Vendor shall thereafter securely delete and overwrite any and all Protected Information remaining in the possession of Vendor or its assignees or subcontractors (including all hard copies, archived copies, electronic versions or electronic imaging of hard copies of shared data) as well as any and all Protected Information maintained on behalf of Vendor in secure data center facilities. Vendor shall ensure that no copy, summary or extract of the Protected Information or any related work papers are retained on any storage medium whatsoever by Vendor, its subcontractors or assignees, or the aforementioned secure data center facilities.</p> |

Attachment B - Parents' Bill of Rights for Data Privacy and Security and BOCES Data Security Policy


Pursuant to New York State Education Law §2-d, parents, legal guardians and persons in parental relation to a student, as well as eligible students, defined as those students who are eighteen years or older, are entitled to certain rights with regard to their child's personally identifiable information (PII), as defined by Education Law §2-d. Jefferson-Lewis BOCES Policy 6001 contains a plain-English summary of such rights. Vendor specifically acknowledges receipt of Parents' Bill of Rights for Data Privacy and Security and BOCES Data Security Policy, which are attached hereto, and understands its legal obligations as provided therein.

[ATTACH POLICIES]

Dated: 5-6-2024

Michele A. Carpenter

For the Jefferson-Lewis BOCES



For the Vendor

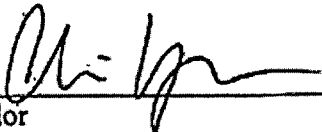
Attachment C – Vendor’s Data Security and Privacy Plan

The BOCES Parents Bill of Rights for Data Privacy Security, receipt of which is acknowledged as Attachment B to this Addendum, is incorporated into and made a part of this Data Security and Privacy Plan.

[INSERT LINKS OR TEXT, AS PROVIDED BY THE VENDOR]

Dated: 5-6-2024

Michele A. Carpenter
For the Jefferson-Lewis BOCES


For the Vendor

Privacy Policy

Chris Wenger dba Speech Dude (“**Company**,” “**we**,” or “**us**”) respects your privacy and is committed to protecting it through this Privacy Policy.

This Privacy Policy governs your access to and use of www.SpeechDude.com, including any content, functionality and services offered on or through www.SpeechDude.com (the “**Website**”), whether as a guest or a registered user.

When accessing the Website, the Company will learn certain information about you, both automatically and through voluntary actions you may take, during your visit. This policy applies to information we collect on the Website and in email, text, or other electronic messages between you and the Website.

Please read the Privacy Policy carefully before you start to use the Website. **By using the Website or by clicking to accept or agree to the Terms of Use when this option is made available to you, you accept and agree to be bound and abide by the Privacy Policy.** If you do not want to agree to the Privacy Policy, you must not access or use the Website.

Children Under The Age Of 13

Our Website is not intended for children under 13 years of age. No one under age 13 may provide any information to or on the Website. We do not knowingly collect personal information from children under 13. If you are under 13, do not use or provide any information on this Website or on or through any of its features/register on the Website, make any purchases through the Website, use any of the interactive or public comment features of this Website or provide any information about yourself to us, including your name, address, telephone number, email address, or any screen name or user name you may use.

If we learn we have collected or received personal information from a child under 13 without verification of parental consent, we will delete that information. If you believe we might have any information from or about a child under 13, please contact us at chris@speechdude.com.

Information We Collect About You

When you access the Website, the Company will learn certain information about you during your visit.

Information You Provide To Us. The Website provides various places for users to provide information. We collect information that users provide by filling out forms on the Website, communicating with us via contact forms, responding to surveys, search queries on our search feature, providing comments or other feedback, and providing information when ordering a product or service via the Website.

We use information you provide to us to deliver the requested product and/or service, to improve our overall performance, and to provide you with offers, promotions, and information.

Information We Collect Through Automatic Data Collection Technology. As you navigate through our Website, we may use automatic data collection technologies including Google Analytics to collect certain information about your equipment, browsing actions, and patterns. This will generally include information about your location, your traffic pattern through our website, and any communications between your computer and our Website. Among other things, we will collect data about the type of computer you use, your Internet connection, your IP address, your operating system, and your browser type.

The information we collect automatically is used for statistical data and will not include personal information. We use this data to improve our Website and our service offerings. To the extent that you voluntarily provide personal information to us, our systems will associate the automatically collected information with your personal information.

Use of Cookies And Pixels

Similar to other commercial websites, our website utilizes a standard technology called “cookies” and server logs to collect information about how our site is used. Information gathered through cookies and server logs may include the date and time of visits, the pages viewed, time spent at our site, and the websites visited just before and just after our own, as well as your IP address.

A cookie is a very small text document, which often includes an anonymous unique identifier. When you visit a website, that site’s computer asks your computer for permission to store this file in a part of your hard drive specifically designated for cookies. Each website can send its own cookie to your browser if your browser’s preferences allow it, but (to protect your privacy) your browser only permits a website to access the cookies it has already sent to you, not the cookies sent to you by other sites.

The Company reserves the right to use technological equivalents of cookies, including social media pixels. These pixels allow social media sites to track visitors to outside websites so as to tailor advertising messages users see while visiting that social media website. The Company reserves the right to use these pixels in compliance with the policies of the various social media sites.

Third Party Use Of Cookies

Some content or applications, including advertisements, on the Website are served by third-parties, including advertisers, ad networks and servers, content providers, and application providers. These third parties may use cookies alone or in conjunction with web beacons or other tracking technologies to collect information about you when you use our website. The information they collect may be associated with your personal information or they may collect information, including personal information, about your online activities over time and across different websites and other online services. They may use this information to provide you with interest-based (behavioral) advertising or other targeted content.

We do not control these third parties' tracking technologies or how they may be used. If you have any questions about an advertisement or other targeted content, you should contact the responsible provider directly.

Email Information

If you choose to correspond with us through email, we may retain the content of your email messages together with your email address and our responses. We provide the same protections for these electronic communications that we employ in the maintenance of information received online, mail, and telephone. This also applies when you register for our website, sign up through any of our forms using your email address or make a purchase on this site. For further information see the email policies below.

Email Policies

We are committed to keeping your e-mail address confidential. We do not sell, rent, or lease our subscription lists to third parties, and will not disclose your email address to any third parties except as allowed in the section titled Disclosure of Your Information.

We will maintain the information you send via e-mail in accordance with applicable federal law.

In compliance with the CAN-SPAM Act, all e-mails sent from our organization will clearly state who the e-mail is from and provide clear information on how to contact the sender. In addition, all e-mail messages will also contain concise information on how to remove yourself from our mailing list so that you receive no further e-mail communication from us.

Our emails provide users the opportunity to opt-out of receiving communications from us and our partners by reading the unsubscribe instructions located at the bottom of any e-mail they receive from us at anytime.

Users who no longer wish to receive our newsletter or promotional materials may opt-out of receiving these communications by clicking on the unsubscribe link in the e-mail.

How And Why We Collect Information

The Company collects your information in order to record and support your participation in the activities you select. If you register to download a book or resources, sign up for our newsletter, and/or purchase a product from us, we collect your information. We use this information to track your preferences and to keep you informed about the products and services you have selected to receive and any related products and/or services. As a visitor to this Website, you can engage in most activities without providing any personal information. It is only when you seek to download resources and/or register for services that you are required to provide information.

If you are outside the European Union and opt to receive any free resources, participate in any free training programs, register for a webinar, register for a live event, register for a seminar, or purchase any products sold by the Company on this Website, we will automatically enroll you to receive our free email newsletter. If you do not wish to receive this newsletter, you can unsubscribe anytime. We include an “unsubscribe” link at the bottom of every email we send. If you ever have trouble unsubscribing, you can send an email to chris@speechdude.com requesting to unsubscribe from future emails.

If you are in the European Union and opt to receive any free resources, participate in any free training programs, register for a webinar, register for a live event, register for a seminar, or purchase any products sold by the Company on this Website, we will only enroll you to receive our free email newsletter if you affirmatively consent to it. If you do not wish to receive this newsletter, you can unsubscribe anytime. We include an “unsubscribe” link at the bottom of every email we send. If you ever have trouble unsubscribing, you can send an email to chris@speechdude.com requesting to unsubscribe from future emails.

How Do We Use the Information That You Provide to Us?

We use personal information for purposes of presenting our Website and its contents to you, providing you with information, providing you with offers for products and services, providing you with information about your subscriptions and products, carrying out any contract between you and the Company, administering our business activities, providing customer service, and making available other items and services to our customers and prospective customers.

From time-to-time, we may use the information you provide to us to make you offers to purchase products and services provided by third parties in exchange for a commission to be paid to us by such third parties. Should you opt to take part in such promotions, the third parties will receive your information.

From time-to-time, we may use the information you provide to us to display advertisements to you that are tailored to your personal characteristics, interests, and activities.

Disclosure Of Your Information

As a general rule, we do not sell, rent, lease or otherwise transfer any information collected whether automatically or through your voluntary action.

We may disclose your personal information to our subsidiaries, affiliates, and service providers for the purpose of providing our services to you.

We may disclose your personal information to a third party, including a lawyer or collection agency, when necessary to enforce our terms of service or any other agreement between you and the Company.

We may provide your information to any successor in interest in the event of a merger, divestiture, restructuring, reorganization, dissolution, or other sale or transfer of some or all of the Company's assets and/or business.

We may disclose information when legally compelled to do so, in other words, when we, in good faith, believe that the law requires it or for the protection of our legal rights or when compelled by a court or other governmental entity to do so.

How Do We Protect Your Information and Secure Information Transmissions?

We employ commercially reasonable methods to ensure the security of the information you provide to us and the information we collect automatically. This includes using standard security protocols and working only with reputable third-party vendors.

Email is not recognized as a secure medium of communication. For this reason, we request that you do not send private information to us by email. However, doing so is allowed, but at your own risk. Some of the information you may enter on our website may be transmitted securely via a secure medium known as Secure Sockets Layer, or SSL. Credit Card information and other sensitive information is never transmitted via email.

The Company may use software programs to create summary statistics, which are used for such purposes as assessing the number of visitors to the different sections of our site, what information is of most and least interest, determining technical design specifications, and identifying system performance or problem areas.

For site security purposes and to ensure that this service remains available to all users, the Company uses software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage.

Policy Changes

It is our policy to post any changes we make to our privacy policy on this page. If we make material changes to how we treat our users' personal information, we will notify you by email to the email address specified in your account and/or through a notice on the Website home page. The date the privacy policy was last revised is identified at the bottom of the page. You are responsible for ensuring we have an up-to-date active and deliverable email address for you, and for periodically visiting our Website and this privacy policy to check for any changes.

Visitors' GDPR Rights

If you are within the European Union, you are entitled to certain information and have certain rights under the General Data Protection Regulation. Those rights include:

We will retain the any information you choose to provide to us until the earlier of: (a) you asking us to

delete the information, (b) our decision to cease using our existing data providers, or (c) the Company decides that the value in retaining the data is outweighed by the costs of retaining it.

You have the right to request access to your data that the Company stores and the rights to either rectify or erase your personal data.

You have the right to seek restrictions on the processing of your data.

You have the right to object to the processing of your data and the right to the portability of your data.

To the extent that you provided consent to the Company's processing of your personal data, you have the right to withdraw that consent at any time, without affecting the lawfulness of processing based upon consent that occurred prior to your withdrawal of consent.

You have the right to lodge a complaint with a supervisory authority that has jurisdiction over issues related to the General Data Protection Regulation.

We require only the information that is reasonably required to enter into a contract with you. We will not require you to provide consent for any unnecessary processing as a condition of entering into a contract with us.

Contact Us

The Company welcomes your questions or comments regarding the Privacy Policy:

Speech Dude c/o Chris Wenger

11801 Lark Drive

Rancho Cucamonga, CA 91701

Email Address: chris@speechdude.com

Effective as of October 18, 202...