

**CYPRESS-FAIRBANKS INDEPENDENT SCHOOL DISTRICT  
STUDENT DATA PRIVACY AGREEMENT VERSION (2018)**

This Student Data Privacy Agreement ("DPA") is entered into by and between the Cypress-Fairbanks Independent School District (hereinafter referred to as "CFISD" or "the District") and DecisionEd Group, Inc.

(hereinafter referred to as "Provider") on 05-01-18. The Parties agree to the terms as stated herein.

## RECITALS

**WHEREAS**, the Provider has agreed to provide CFISD with certain digital educational services ("Services") pursuant to a contract dated 05-01-18 ("Service Agreement"); and

**WHEREAS**, in order to provide the Services described in the Service Agreement, the District may provide Provider access to documents or data that are covered by several federal statutes, among them, the Federal Educational and Privacy Rights Act ("FERPA") at 20 U.S.C. 1232g, Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment ("PPRA") 20 U.S.C. 1232g; and

**WHEREAS**, the documents and data accessed by Provider to provide Provider's Services are also subject to state privacy laws, including Subchapter D of Chapter 32 of the Texas Education Code; 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.

**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 accessed by Provider from the District's servers pursuant to the Service Agreement, including compliance with all applicable state privacy statutes, including the FERPA, PPRA, COPPA, 603 C.M.R. 23.00, and Chapter 32 of the Texas Education Code. In performing these services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the District. Provider shall be under the direct control and supervision of the District.
  2. **Nature of Services Provided.** The Provider has agreed to provide the following digital educational services described below and as may be further outlined in Exhibit "A" hereto:
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3. **Student Data to Be Provided.** In order to perform the Services described in the Service Agreement, CFISD shall provide access to the categories of data described below or as indicated in the Schedule of Data, attached hereto as Exhibit "B":

Insert Categories of Student Data to be Provided to the Provider.

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 CFISD.** All Student Data or any other Pupil Records accessed by the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the District. The Provider further acknowledges and agrees that all copies of such Student Data or any other Pupil Records accessed by 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 or Pupil Records. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data or any other Pupil Records contemplated per the Service Agreement shall remain the exclusive property of the District. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the District as it pertains to the use of student data notwithstanding the above.
2. **Parent Access.** CFISD shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review personally identifiable information on 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. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Pupil Records of Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the District, who will follow the necessary and proper procedures regarding the requested information.
3. **No Unauthorized Use.** Provider shall not use Student Data or information in a Pupil Record for any purpose other than as explicitly specified in the Service Agreement.
4. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to the Service Agreement, whereby the Subprocessors agree not to use Student Data in manner consistent with the terms of this DPA.

## **ARTICLE III: DUTIES OF CFISD**

1. **Provide Data in Compliance with FERPA.** CFISD shall provide data for the purposes of the Service Agreement in compliance with the FERPA, PPRA, 603 C.M.R. 23.00 and Chapter 32 of the Texas Education Code and any other privacy statutes quoted in this DPA.



2. **Reasonable Precautions.** CFISD shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted data.

#### **ARTICLE IV: DUTIES OF PROVIDER**

1. **Privacy Compliance.** The Provider shall comply with all Texas and Federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, 603 C.M.R. 23.00 and Chapter 32 of the Texas Education Code that may be applicable to the Provider in connection with providing the Provider's Services.
2. **Authorized Use.** The data accessed 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, any student data, meta data, user content or other non-public information and/or personally identifiable information contained in the Student Data, without the express written consent of the District.
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 accessed under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.
4. **No Disclosure.** De-identified information may be used by the Provider for the purposes of development, research, and improvement of educational sites, services, or applications, as any other member of the public or party would be able to use de-identified data pursuant to 34 CFR 99.31(b). Provider agrees not to attempt to re-identify de-identified Student Data and not to transfer de-identified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to CFISD who has provided prior written consent for such transfer. Provider shall not copy, reproduce or transmit any District data accessed pursuant to the Service Agreement and/or any portion thereof, except as necessary to fulfill the Service Agreement.
5. **Advertising Prohibition.** Provider is prohibited from using Student Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising, or other commercial efforts by the Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Services to District; or (d) use the Student Data for the development of commercial products or services, other than as necessary to provide the Services to District.

#### **ARTICLE V: MISCELLANEOUS**

1. **Term.** The Provider shall be bound by this DPA for the duration that the Provider provides maintenance and support services to District pursuant to the Service Agreement.

Notwithstanding the foregoing, Provider agrees to be bound by the terms and obligations of this DPA for no less than three (3) years from the date of execution.

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 maintenance and support services provided by the Provider to District under the Service Agreement has lapsed or has been terminated.
3. **Priority of Agreements.** This DPA shall govern the treatment of student records in order to comply with the privacy protections, including those found in FERPA and 603 C.M.R. 23.00 and Chapter 32 of the Texas Education Code. In the event there is conflict between the terms of the DPA and the Service Agreement, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.
4. **Notice.** All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the designated representatives before:

The designated representative for the Provider for this Agreement is:

Mark Mason

Mark.mason@decisioned.com

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The designated representative for CFISD for this Agreement is:

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5. **Entire Agreement.** This DPA and the Service Agreement 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.

6. **Severability.** Any provision of this DPA that is prohibited or unenforceable in Texas shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA. 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.
7. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, 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 HARRIS COUNTY, TEXAS FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
8. **Authority.** Provider represents that it is authorized to bind to the terms of this Agreement all related or associated institutions, individuals, employees or contractors who may have access to the Student Data and/or any portion thereof.
9. **Waiver.** No delay or omission of the District to exercise any right hereunder shall be construed as a waiver of any such right and the District reserves the right to exercise any such right from time to time, as often as may be deemed expedient.

*[Signature Page Follows]*

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

Cypress-Fairbanks Independent School District

By:       J. Frost        
          C/O  
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      J. Frost, CTO      

DecisionEd Group, Inc.

By:       Debbie Mason        
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**EXHIBIT "A"**

**DESCRIPTION OF SERVICES**

INSERT DETAILED DESCRIPTION OF SERVICES HERE.



# Complete Operational Support

Published by: DecisionEd, 9901 Valley Ranch Parkway East, Suite 1060, Irving, Texas 75063

Complete Operational Support from DecisionEd incorporates various services and support activities to ensure your entire system is running smoothly.

Moving forward as your source systems change DecisionEd is there to manage the process which may include upgrades, changes, customization, or processes which affects the way the source data is integrated into the warehouse. In a rapidly changing software environment, the DecisionEd deployment teams are always there to ensure data integrity is maintained throughout the life-cycle. If unexpected problems do arise, the DecisionEd Support Portal provides a comprehensive view of all support requests by the district with monitored priority that elevates production disruption issues to "immediate review" by project management.



**Complete Operation Support from DecisionEd includes the following:**

## **Product Updates**

The district receives all newly released content and functionality incorporated into the DecisionEd product you purchased from DecisionEd. Upgrades are performed by the DecisionEd deployment team most familiar with your original deployment. The district is responsible for the server O/S, Microsoft® SQL Server, and any district installed software not part of the DecisionEd product. All other related software is installed, configured, and setup by DecisionEd.

## **New Subject Areas**

New subject areas that are added to DecisionEd solution are included and incorporated into the nightly extracts as part of the DecisionEd product updates.

## **Source System changes**

Incorporation of any changes to data structures in existing source applications are integrated into the nightly extracts as required.

## **Custom Fields/Screens**

Incorporation of any new custom fields and screens in existing source applications are integrated into the nightly extracts as required.

## **Assessments**

Incorporation of any changes to existing assessment source structures and the addition of new assessments adopted by the district are integrated into the warehouse as required.



### Support Desk for Data Load Issues

Resolution of problems which occur with nightly load process. If desired an automatic email may be sent which notifies your support resources of problems when they occur.

### Support Desk for Dashboards and Reports

DecisionEd will resolve issues related to the operation of existing standard reports and dashboards that have embedded standard widgets. DecisionEd is always available to answer questions or concerns when the district is developing local customized reports and dashboards.

### How to access support

Three ways to initiate any activity:

- Create a ticket in our support system
  - All districts identify support contacts that can login and initiate tickets with DecisionEd
- Email your support contact (they will create the ticket for you)
  - Every district has an identified support contact which has tickets directly routed to them for assignment to the appropriate staff within DecisionEd
- Call your support contact (they will create the ticket for you)
  - Every district has an identified support contact which has tickets directly routed to them for assignment to the appropriate staff within DecisionEd

### About DecisionEd

Focusing on K-12 school districts, DecisionEd provides the most advanced solution for data dashboards, reporting, alerts, and analytics. By capturing a complete snapshot of essential data related to the educational process, DecisionEd allows school districts to view a single source for the most insightful information about their students, staff, curriculum, schools, and district.

Founded in 2005, DecisionEd serves school districts of all sizes across the United States.

Visit our web page at [www.decisioned.com](http://www.decisioned.com) to learn more and to schedule your demonstration.



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## EXHIBIT "B"

### SCHEDULE OF DATA

All data resides on Cypress Fairbanks servers. No data on DecisionEd servers.

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

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



Category of Data	Elements	Check if used by your system
	Student course grades/performance scores	X
	Other transcript data -Please specify:	X
Transportation	Student bus assignment	X
	Student pick up and/or drop off location	

Category of Data	Elements	Check if used by your system
	Student bus card ID number	
	Other transportation data - Please specify:	
Other	Please list each additional data element used, stored or collected by your application	

## EXHIBIT “C”

### DEFINITIONS

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

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

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

First and Last Name	Home Address
Telephone Number	Email Address
Discipline Records	Test Results
Special Education Data	Juvenile Dependency Records
Grades	Evaluations
Criminal Records	Medical Records
Health Records	Social Security Number
Biometric Information	Disabilities
Socioeconomic Information	Food Purchases
Political Affiliations	Religious Information
Text Messages	Documents
Student Identifiers	Search Activity
Photos	Voice Recordings
Videos	

General Categories:

Indirect Identifiers: Any information that, either alone or in aggregate, would allow a reasonable person to be able to identify a student to a reasonable certainty

Information in the Student’s Educational Record

Information in the Student’s Email

**Pupil Generated Content:** The term “pupil-generated content” means materials or content created by a pupil during and for the purpose of education including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of pupil content.

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

**School Official:** For the purposes of this Agreement and pursuant to 34 CFR 99.31 (B), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and (3) Is subject to 34 CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

**Student Data:** Student Data includes any data, whether gathered by Provider or provided by CFISD 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 Texas and Federal laws and regulations. Student Data as specified in Exhibit B is confirmed to be accessed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

**Subprocessor:** For the purposes of this Agreement, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than CFISD or Provider, who Provider uses to provide the Provider's Services, 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.