

CALIFORNIA STUDENT DATA PRIVACY AGREEMENT
Version 1.0

IRVINE UNIFIED SCHOOL DISTRICT

and

EDMENTUM, INC.

MAY 9, 2018

This California Student Data Privacy Agreement ("DPA") is entered into by and between the [Insert name of School District or Local Education Agency] (hereinafter referred to as "LEA") and Edmentum Inc. (hereinafter referred to as "Provider") on [Insert Date]. 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") identified on Order Form Number q-15814 dated January 18, 2018 ("Service Agreement"); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive and the LEA may provide documents or data that are covered by several federal and statutes, among them, the Federal Educational and Privacy rights Act ("FERPA") at 12 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. 1232 h; and

WHEREAS, the documents and data transferred from California LEAs are also subject to several California student privacy laws, including AB 1584, found at California Education Code Section 49073.1 and the Student Online Personal Information Protection Act (sometimes referred to as either "SB 1177" or "SOPIPA") found at California Business and Professions Code section 22584; and

WHEREAS, the Parties wish to enter into this DPA to ensure that the Service Agreement conforms to the applicable 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", agrees to allow other LEAs in California the opportunity to accept and enjoy the benefits of this DPA for the specific Services the Provider provides to the other applicable LEA's, without the need to negotiate terms in a separate DPA.

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

ARTICLE I: PURPOSE AND SCOPE

1. **Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities of the parties to protect student data transmitted to Provider from the LEA pursuant to the Service Agreement, including compliance with all applicable privacy provisions, included in FERPA, PPRA, COPPA, SB 1177 (SOPIPA), and AB 1584. In performing the Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA. Control duties are set forth below.
2. **Nature of Services Provided.** The Provider has agreed to provide the digital educational services described in the Service Agreement, attached hereto as Exhibit "A".

[Insert Brief Description of Services]

3. **Student Data to Be Provided.** In order to perform the Services described in the Service Agreement, LEA shall provide the categories of data described below or as indicated in the Schedule of Data, attached hereto as Exhibit "B":

NOTE to SCHOOL: PLEASE NOTE THAT WE NEVER SUGGEST THAT ANY STUDENT PII IS INSERTED BY YOUR EDUCATORS INTO OUR SYSTEMS. ALTHOUGH YOUR EDUCATORS HAVE THE ABILITY TO DETERMINE WHETHER TO INCLUDE ANY PII, IT IS NOT REQUIRED TO ACCESS, USE OR OPERATE OUR SOLUTIONS AND WE RECOMMEND THAT THEY ONLY IDENTIFY A STUDENT BY A NUMBER THAT ONLY THE EDUCATOR OR SCHOOL RETAINS.

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 or any other Pupil Records 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 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 LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEAs as it pertains to the use of student data notwithstanding the above. 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 PII on the Pupil's Records, correct erroneous PII, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner to the LEA's request for PII 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 Pupil Records of 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.

NOTE to SCHOOL: ALTHOUGH WE WILL AGREE TO YOUR LANGUAGE IN SECTION 2 (OTHER THEN OUR CLEANING UP THE DEFINED TERMS), AS STATED ABOVE THE ONLY WAY THAT PII GETS INTO A STUDENTS RECORD IS IF IT IS INSERTED BY YOUR EDUCATORS SO IT WOULD BE MOST APPROPRIATE THAT IS YOUR MADE AWARE OF AN ERROR, YOUR PERSONNEL WOULD CORRECT THE ERROR AS THEY HAVE THE ABILITY TO DO SO IN OUR SYSTEMS

3. **Separate Account.** Provider shall, at the request of the LEA, transfer pupil generated content to a separate student account. Once transferred to the separate student account, LEA is responsible for complying with all applicable laws and regulations related to its retention and distribution.
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 to the extent legally permissible. Provider shall notify the LEA in advance of a compelled disclosure to a Third Party unless legally prohibited.
5. **No Unauthorized Use.** Provider shall not use Student Data or information in a Pupil Record for any purpose other than as explicitly specified in the Service Agreement.
6. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to the Service Agreement, whereby the Subprocessors agree protect Student Data in manner consistent with the terms of this DPA

ARTICLE III: DUTIES OF LEA

1. **Provide Data In Compliance With FERPA.** LEA shall provide data for the purposes of the Service Agreement in compliance with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. section 1232 g, AB 1584 and the other privacy statutes quoted in this DPA.
2. **Reasonable Precautions.** LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the Services and hosted data.
3. **Unauthorized Access Notification.** LEA shall notify Provider promptly of any known or suspected unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.
4. **District Representative.** At request of Provider, LEA shall designate an employee or agent of the District as the District representative for the coordination and fulfillment of the duties of this DPA.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all applicable California and Federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, AB 1584, and SOIPA.

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.
3. **Employee Obligation.** Provider shall require all employees and agents who have access to Student Data to comply with all applicable provisions of FERPA laws with respect to the data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.
4. **No Disclosure.** LEA shall not disclose any data obtained under the Service Agreement in a manner that could identify an individual student to any other entity in published results of studies as authorized by the Service Agreement. Deidentified information may be used by the Provider for the purposes of development and improvement of educational sites, services, or applications.
5. **Disposition of Data.** Provider shall dispose of all PII obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained. NOTE to SCHOOL: AS STATED ABOVE, ALL PII ENTERED INTO OUR SYSTEM WOULD BE ENTERED BY YOUR EDUCATORS. AS A RESULT, YOUR EDUCATORS WILL ALREADY HAVE THIS INFORMATION. Nothing in the Service Agreement authorizes Provider to maintain PII obtained under the Service Agreement beyond the time period reasonably needed to complete the disposition. Disposition shall include (1) the shredding of any hard copies of any PII; (2) erasing; or (3) otherwise modifying the PII in those records to make it unreadable or indecipherable. Provider shall provide written notification to LEA when the PII has been disposed. The duty to dispose of PII 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. Nothing in the Service Agreement authorizes Provider to maintain PII beyond the time period reasonably needed to complete the disposition.
6. **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 a Provider; or (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service to LEA.

ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to abide by and maintain adequate data security measures 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 in Exhibit "D" hereto. These measures shall include, but are not limited to:

- a. **Passwords and Employee Access.** Provider shall make reasonable efforts practices to secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. Provider shall only provide access to Student Data in connection with the Services and to employees or contractors that are performing the Services. As stated elsewhere in this DPA, employees with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records who may potentially come in contact with a student shall pass criminal background checks.
 - b. **HELD NOTE to SCHOOL: DISPOSITION IS ALREADY ADDRESSED IN SECTION 5 ABOVE.**
 - c. **Security Protocols.** Both parties agree to maintain security protocols that meet reasonable industry practices in the transfer or transmission of any Student Data., LEA shall ensure, that Student Data may only be viewed or accessed by its employees and agents legally allowed to do so and Provider shall ensure that Student Data may only be viewed or accessed by its employees and agents legally allowed to do so. Provider shall maintain all Student Data pursuant to the Service Agreement in a secure computer environment and not copy, reproduce, or transmit Student Data obtained pursuant to the Service Agreement, except as necessary to satisfy its Service obligations or to fulfill the purpose of Student 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 Student Data. 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 Services are accessed using a supported web browser, Secure Socket Layer ("SSL"), or equivalent technology protects information, using both server authentication and data encryption to help ensure that Student Data are safe secure only to authorized users. Provider shall host Student Data pursuant to the Service Agreement in an environment using a firewall that is periodically updated according to industry standards.
 - f. **Security Coordinator.** Provider shall provide the name and contact information of Provider's Security Coordinator for the Student Data received pursuant to the Service Agreement
 - g. **Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the terms of this Article V. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance with this Article.
2. **Data Breach.** In the event that Student Data is accessed or obtained by an unauthorized individual caused by Provider, Provider shall provide notification to LEA within a reasonable amount of time of the incident. Provider shall follow the following process:
 - a. The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described herein under the following

headings: "What Happened," "What Information Was Involved," "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 PII that were or are reasonably believed to have been the subject of a breach.
 - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.
 - iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.
 - v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- 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. Any agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. Provider shall assist LEA in these efforts.
- e. At the request and with the assistance of the District, 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.

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 said Exhibit. The Form is limited by the terms and conditions described therein.

ARTICLE VII: MISCELLANEOUS

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.

1. **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 expired or has been terminated.
2. **Effect of Termination Survival.** If the Service Agreement is terminated, the Provider shall destroy all of LEA's data pursuant to Article IV, section 5.
3. **Priority of Agreements.** This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and AB 1584. 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 addresses set forth herein.
5. **Application of Agreement to Other Agencies.** Provider may agree by signing the Form of General Application be bound by the terms of this DPA for the services described therein for any Successor Agency who signs a Joinder to this DPA.
6. **Entire Agreement.** This DPA constitutes the entire agreement of the parties relating to the protection of Student Data 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

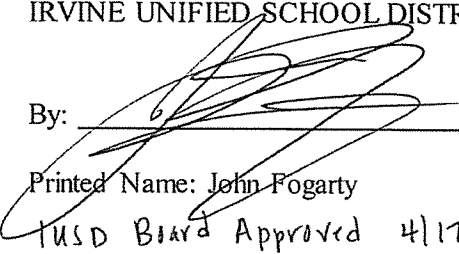
any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating 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 CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS LOCATED IN [Insert County] COUNTY, CALIFORNIA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
9. **Limitation of Liability.** Notwithstanding anything in this DPA to the contrary, any limitations of liability identified in the Services Agreement shall apply to this DPA.

[Signature Page Follows]

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

IRVINE UNIFIED SCHOOL DISTRICT

By:  Date: April 18, 2018

Printed Name: John Fogarty

Title/Position: Assistant Superintendent of Business Services

USD Board Approved 4/17/2018

EDMENTUM, INC.

By:  Date: 4/4/18

Printed Name: James Stewart | CFO Title/Position:

EXHIBIT "A"

DESCRIPTION OF SERVICES

See Attached Service Agreement

EXHIBIT "B"

SCHEDULE OF DATA

Category of Data	Elements	Check if used by your system
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.	X
	Other application technology meta data-Please specify:	Browser information, such as IP address, the name of a student's operating system, the name and version of a student's browser, the date and time of a student's visit, and the pages the student visits. This information is not personally identifiable, but it can be linked to information that identifies a student, and we reserve the right to do so.
Application Use Statistics	Meta data on user interaction with application	X
Assessment	Standardized test scores	
	Observation data	
	Other assessment data-Please specify:	Oral Fluency tasks allow for capturing of student scores by teachers.
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications that are captured (emails, blog entries)	X
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	Optional
	Place of Birth	
	Gender	Optional
	Ethnicity or race	Optional

Category of Data	Elements	Check if used by your system
	Language information (native, preferred or primary language spoken by student)	Optional
	Other demographic information-Please specify:	Personally identifiable information provided by the Customer who enrolled the student for access, by the student's parent/guardian, or by the student. This information may include information such as the student's name, name of school, grade level, and email address.
Enrollment	Student school enrollment	X
	Student grade level	X
	Homeroom	
	Guidance counselor	
	Specific curriculum programs	
	Year of graduation	Optional
	Other enrollment information-Please specify:	Personally identifiable information provided by the Customer who enrolled the student for access, by the student's parent/guardian, or by the student. This information may include information such as the student's name, name of school, grade level, and email address.
Parent/Guardian Contact Information	Address	
	Email	
	Phone	

Category of Data	Elements	Check if used by your system
Parent/Guardian ID	Parent ID number (created to link parents to students)	
Parent/Guardian Name	First and/or Last	
Schedule	Student scheduled courses Teacher names	
Special Indicator	English language learner information	Optional
	Low income status	Optional
	Medical alerts	Optional
	Student disability information	Optional
	Specialized education services (IEP or 504)	Optional
	Living situations (homeless/foster care)	Optional
	Other indicator information- Please specify:	Personally identifiable information provided by the Customer who enrolled the student for access, by the student's parent/guardian, or by the student.
Category of Data	Elements	Check if used by your system
Student Contact Information	Address	
	Email	X
	Phone	
Student Identifiers	Local (School district) ID number	X (District can decide what they use as student ID number)
	State ID number	X (See above)
	Vendor/App assigned student ID number	X (See above)
	Student app username	X
	Student app passwords	X
Student Name	First and/or Last	X
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	X

Category of Data	Elements	Check if used by your system
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures etc.	X
	Other student work data - Please specify:	Oral fluency tasks, diagnostic scores, writing assignments, audio recordings
Transcript	Student course grades	X
	Student course data	X
	Student course grades/performance scores	X
	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		We collect the following information about students who use our Online Learning Programs: <input type="checkbox"/> Personally identifiable information provided by the Customer who enrolled the student for access, by the student's parent/guardian, or by the student. This information may include information such as the student's name, name of school, grade level, and email address.
	Please list each additional data element used, stored or collected by your application	<input type="checkbox"/> Browser information, such as IP

Category of Data	Elements	Check if used by your system
		address, the name of a student's operating system, the name and version of a student's browser, the date and time of a student's visit, and the pages the student visits. This information is not personally identifiable, but it can be linked to information that identifies a student, and we reserve the right to do so. <input type="checkbox"/> Tracking information, including information collected by

Category of Data	Elements	Check if used by your system
		cookies, such as which pages students visit, which links they use, and how long they stay on each page. The tracking information we collect is not personally identifiable but can be linked to information that identifies a student, and we reserve the right to do so. Please note that a student's browser must be set to accept cookies for our Online Learning Programs to be fully functional.

Detailed Data-Related Standards and Policies:

- Edmentum's Standard Terms - <http://www.edmentum.com/standardterms>
- Customer Privacy Policy - <http://www.edmentum.com/Privacy>
- Edmentum's Assurance to COPPA - <http://www.edmentum.com/coppa>
- Edmentum's Assurance to FERPA - <http://www.edmentum.com/ferpa>
- Student Privacy Pledge - <http://www.studentprivacypledge.org>

EXHIBIT "C"

DEFINITIONS

AB 1584, Buchanan: The statutory designation for what is now California Education Code § 49073.1, relating to pupil records.

De-Identifiable Information (DII): De-Identification refers to the process by which the Vendor removes or obscures any Personally Identifiable Information ("PII") from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them.

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

Operator: For the purposes of SB 1177, SOPIPA, 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 AB 1584.

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, 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

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 Service Agreement the term "Provider" replaces the term "Third Party as defined in California Education Code § 49073.1 (AB 1584, Buchanan), and replaces the term as "Operator" as defined in SB 1177, SOPIPA.

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

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

SB 1177, SOPIPA: Once passed, the requirements of SB 1177, SOPIPA were added to Chapter 22.2 (commencing with Section 22584) to Division 8 of the Business and Professions Code relating to privacy.

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

School Official: For the purposes of this Agreement and pursuant to 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 CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

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

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

Subprocessor: For the purposes of this Agreement, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses in connection with the Services for data collection, analytics, storage, or other service to operate and/or improve its

software, and who has access to PII. This term shall also include in it meaning the term "Service Provider," as it is found in SOPIPA.

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" as appears in California Education Code § 49073.1 (AB 1584, Buchanan) 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"

DATA SECURITY REQUIREMENTS

N/A

EXHIBIT "E"

GENERAL OFFER OF PRIVACY TERMS

1. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and IRVINE UNIFIED SCHOOL DISTRICT and which is dated May 9, 2018 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 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 shall notify the California Student Privacy Alliance in the event of any withdrawal so that this information may be transmitted to the Alliance's users.

EDMENTUM, INC.

BY: 

Date: 4/4/18

Printed Name: James Stewart

Title/Position: Chief Financial Officer

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 NAME: _____

BY: _____

Date: _____

Printed Name: _____

Title/Position _____

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