

MAINE STUDENT DATA PRIVACY AGREEMENT
Version 1.0

Portland Public Schools

and

Houghton Mifflin Harcourt Publishing Company

This Maine Student Data Privacy Agreement ("DPA") is entered into by and between the Portland Public Schools (hereinafter referred to as "School Unit") and Houghton Mifflin Harcourt Publishing Company (hereinafter referred to as "Provider") on the date provided on the preceding page. The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the School Unit with certain digital educational services ("Services") pursuant to a contract dated 1/7/2021 ("Service Agreement"); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive or create, and the School Unit may provide, documents or data that are covered by several federal statutes, among them, the Federal Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. §1232g et. Seq. (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 et. Seq.; and Individuals with Disabilities Education Act ("IDEA") 20 U.S.C. § 1400 et. Seq. (34 CFR Part 300); and

WHEREAS, the documents and data transferred from School Units and created by the Provider's Services are also subject to several state student privacy laws, including Maine's dissemination of student records law 20-A M.R.S. §6001; Maine Student Information Privacy Act 20-A M.R.S. §951 et. Seq. ("MSIPA"); and Maine Unified Special Education Regulations ("MUSER") Maine Dep't of Edu. Rule Ch. 101; and

WHEREAS, this Agreement complies with Maine laws, and federal law; 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", agree to allow other school units in Maine 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 the School Unit pursuant to the Service Agreement, including compliance with all applicable federal and state privacy statutes, including FERPA, PPRA, COPPA, IDEA, MSIPA, and MUSER and other applicable Maine laws, all as may be amended from time to time. In performing these Services, the Provider shall be

considered a School Official with a legitimate educational interest, and performing services otherwise provided by the School Unit. Provider shall be under the direct control and supervision of the School Unit with respect to the use and maintenance of information shared with Provider by School Unit pursuant to this Agreement and the Service Agreement.

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:
iRead, READ 180 Universal, System 44 Next Generation
3. **Student Data to Be Provided.** In order to perform the Services described in the Service Agreement, School Unit shall provide the categories of data described below or as indicated in the Schedule of Data, attached hereto as Exhibit “B”:
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 terms used in the Service Agreement.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of School Unit**. All Student Data provided by the School Unit to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the School Unit. 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 DPA 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 shall remain the exclusive property of the School Unit. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the School Unit 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. Notwithstanding the foregoing, Provider retains all right, title and interest in and to any and all of Provider’s software, materials, tools, forms, documentation, training and implementation materials and intellectual property (collectively, “Provider Materials”.) Provider grants to School Unit a personal, nonexclusive license to use the Provider materials for its own non-commercial, incidental use as set forth in the end user license agreement accompanying such Provider Materials and as contemplated herein.
2. **Parent Access.** School Unit shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Student Data on the pupil’s records, correct erroneous information. Provider shall respond in a reasonably timely manner (and no later than 30 days

from the date of the request for Student Data) to the School Unit's written 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 School Unit, who will follow the necessary and proper procedures regarding the requested information.

3. **Separate Account.** [Intentionally Deleted]

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 School Unit. Provider shall notify the School Unit in advance of a compelled disclosure to a Third Party unless Provider is legally prohibited from notifying. The Provider will not use, disclose, compile, transfer, and/or sell the Student Data and/or any portion thereof to any third party or other entity or allow any other third party or other entity to use, disclose, compile, transfer or sell the Student Data and/or any portion thereof.

5. **No Unauthorized Use.** Provider shall not use Student Data for any purpose other than as explicitly specified in the Service Agreement. Any use of Student Data shall comply with the terms of this DPA.

6. **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 a manner no less stringent than the terms of this DPA.

ARTICLE III: DUTIES OF SCHOOL UNIT

1. **Provide Data In Compliance With FERPA.** School Unit shall provide data for the purposes of the Service Agreement in compliance with FERPA, COPPA, PPRA, IDEA, MSIPA, and MUSER and all other Maine privacy statutes and regulations referenced or identified in this DPA.

2. **Annual Notification of Rights.** If the School Unit has a policy of disclosing education records under 34 CFR § 99.31 (a) (1), School Unit shall include a specification of criteria for determining who constitutes a "school official" and what constitutes a "legitimate educational interest" in its annual notification of rights, and determine whether Provider qualifies as a "school official."

3. **Reasonable Precautions.** School Unit 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.** School Unit shall notify Provider promptly of any known or suspected unauthorized access. School Unit 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, IDEA, MSIPA, MUSER and all other Maine privacy statutes and regulations identified in this DPA.
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 School Unit.
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.** 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. 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.** Provider shall dispose of or delete all Student Data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained and transfer said data to School Unit or School Unit's designee within sixty (60) days of the date of written notice and termination and according to a schedule and procedure as the Parties may

reasonably agree. 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. Disposition shall include: (1) shredding any and all hard copies of any Student Data; and (2) erasing or otherwise modifying the records to make them unreadable and indecipherable. Provider shall provide written notification to School Unit when the Student Data has been disposed of or deleted. The duty to dispose of or delete 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 School Unit may employ a “Directive for Disposition of Data” Form, a copy of which is attached hereto as Exhibit “D”. Upon receipt of a written request from the School Unit, the Provider will promptly provide the School Unit with any specified portion of the Student Data within ten (10) calendar days of receipt of said request.

Advertising Prohibition. Without limiting any other provision in this DPA, Provider is specifically prohibited from using, disclosing, 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(s) to School Unit

6. .

ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to abide by and maintain commercially reasonable data security measures, consistent with industry standards, 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 exercise commercially reasonable practices to secure usernames, passwords, and any other means of gaining access to the Services or to Student Data. Provider shall only provide access to Student Data to employees or contractors that are performing the Services. Employees and contractors with access to Student Data shall have signed confidentiality agreements regarding Student Data. All employees with access to Student Records shall pass criminal background checks.
- 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 and/or transfer said data to School Unit or School Unit’s designee, according to a schedule and procedure as the parties may reasonable agree upon. 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 standard practices 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 computer 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 School Unit.
- 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 School Unit with contact information of an employee who School Unit may contact if there are any security concerns or questions.
- e. Security Technology.** When the service is accessed using a supported web browser, Secure Socket Layer (“SSL”) or equivalent technology shall be employed 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 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 a commercially reasonable security program. Provider shall periodically conduct or review assessments of Subprocessors to determine the adequacy of their security program.
- h. Ongoing Risk Assessment.** Provider further acknowledges and agrees to conduct ongoing risk assessments and remediate any identified security and privacy vulnerabilities in a reasonably timely manner. Upon written request from School Unit, Provider shall provide School Unit with a summary of such risk assessments and documenting any identified security and privacy vulnerabilities as well as the remedial measures taken to correct them.

- i. Backups.** Provider agrees to maintain backup copies, backed up at least daily, of Student Data in case of Provider’s system failure or any other unforeseen event resulting in loss of Student Data or any portion thereof.
 - j. Audits.** Upon receipt of a written request from the School Unit, the Provider will allow the School Unit to audit the security and privacy measures that are in place to ensure protection of the Student Record or any portion thereof. The Provider will reasonably cooperate with the School Unit and any local, state, or federal agency with oversight authority/jurisdiction in connection with any audit or investigation of the Provider and/or delivery of Services to students and/or School Unit, subject to such third-party’s execution of a confidentiality agreement reasonably acceptable to Provider, and shall provide full access to the Provider’s facilities, staff, agents and School Unit’s Student Data and all records pertaining to the Provider, School Unit and delivery of Services to the Provider. Failure to cooperate shall be deemed a material breach of the Agreement. Such audits shall be made no more than once per year, during normal business hours, and not take longer than one (1) business day. Such audits shall be subject to scheduling according to the mutual convenience of the parties.
- 2. Data Breach.** In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to School Unit within a reasonable amount of time of the incident. Provider shall follow the following process for such notification:
- 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,” 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 School Unit subject to this section.
 - ii.** A list of the types of personal information that were 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 School Unit's discretion, the security breach notification may also include any of the following:
 - 2. Information about what the agency has done to protect individuals whose information has been breached.
- d. Provider agrees to adhere to all requirements in applicable state and in federal law with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for assisting with School Unit's notification and mitigation of any such data breach.
- e. Provider further acknowledges and agrees to have a written incident response plan that commercially reasonable 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 School Unit, upon written request, with a summary of said written incident response plan.

ARTICLE VI- GENERAL OFFER OF 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 to any other School Unit 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. Notwithstanding the foregoing, Provider agrees to be bound by the terms and obligations of this DPA for no less than three (3) years.
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.
3. **Effect of Termination Survival**. If the Service Agreement is terminated, then upon written request by School Unit, the Provider shall dispose of and destroy all of School Unit's data pursuant to Article IV, section 5, and Article V, section 1(b).

4. **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 all applicable privacy statutes identified in this DPA. In the event there is conflict between the data protection terms of the DPA and the Service Agreement, or with any other bid/RFP, license agreement, terms of use, or privacy policy, or writing, the data protection terms of this DPA shall apply and take precedence. Except as described in this paragraph, 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, 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:

Lisa Jacobson
Director, Bids and Contracts
lisa.jacobson@hnhco.com

The designated representative for the School Unit for this Agreement is:

Jaime Kearney
Director of Data
kearnj@portlandschools.org
(207) 842-5313

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 MAINE, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS IN CUMBERLAND COUNTY, MAINE 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.

10. Waiver. No delay or omission of the School Unit to exercise any right hereunder shall be construed as a waiver of any such right and the School Unit 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 Maine Student Data Privacy Agreement as of the last day noted below.


Houghton Mifflin Harcourt Publishing Company

BY: Lisa A. Jacobson Date: February 5, 2021

Printed Name: Lisa Jacobson Title/Position: Sr Director, Bids and Contracts

Address for Notice Purposes: 125 High Street, Boston, MA 02110

Portland Public Schools

BY:  _____ Date: Feb 8, 2021 _____

Printed Name: Jaime Kearney Title/Position: Director of Data

Address for Notice Purposes:
PPS Dept of Data and Technology
353 Cumberland Ave
Portland, ME 04101

EXHIBIT “A”

DESCRIPTION OF SERVICES

iRead, READ 180 Universal, System 44 Next Generation

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.	X		Language information (native, preferred or primary language spoken by student)	X
	Other application technology meta data-Please specify:			Other demographic information-Please specify:	X (Demographics as specified by the District)
Application Use Statistics	Meta data on user interaction with application	X	Enrollment	Student school enrollment	X
				Student grade level	X
Assessment	Standardized test scores	X		Homeroom	
	Observation data	X		Guidance counselor	
	Other assessment data-Please specify:	X (Performance-based Assessment Scores; Universal Screener and Progress Monitoring Scores; Curriculum-embedded		Specific curriculum programs	
				Year of graduation	

		Assessment Scores)
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications that are captured (emails, blog entries)	
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	X
	Place of Birth	
	Gender	X
	Ethnicity or race	X

	Other enrollment information- Please specify:	
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
Schedule	Student scheduled courses	X
	Teacher names	X

Category of Data	Elements	Check if used by your system
Special Indicator	English language learner information	X
	Low income status	X
	Medical alerts /health data	
	Student disability information	X
	Specialized education services (IEP or 504)	X
	Living situations (homeless/foster care)	
	Other indicator information- Please specify:	X (Please see SAM Data Management Manual: https://www.hmhco.com/product-support/content/techsupport/sam/manuals/HMHSAM_Hosting_DMM_7-20.pdf)
Category of Data	Elements	Check if used by your system
Student Contact Information	Address	
	Email	
	Phone	
Student Identifiers	Local (School district) ID number	X

Category of Data	Elements	Check if used by your system
Student In App Performance	Program/application performance (typing programstudent 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	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures etc.	
	Other student work data -Please specify:	
Transcript	Student course grades	X
	Student course data	X
	Student course grades/performance scores	X
	Other transcript data -Please specify:	

	State ID number	
	Vendor/App assigned student ID number	X
	Student app username	X
	Student app passwords	X
Student Name	First and/or Last	X

Transportation	Student bus assignment	
	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:	

Category of Data	Elements	Check if used by your system
Other	Please list each additional data element used, stored or collected by your application:	

X (Please see SAM Data Management Manual: https://www.hmhc.com/product-support/content/techsupport/sam/manuals/HMHSAM_Hosting_DMM_20.pdf)

EXHIBIT “C”

DEFINITIONS

METDA (Maine Educational Technology Directors Association): Refers to the membership organization serving educational IT professionals in the state of Maine to promote general recognition of

the role of IT professionals in educational institutions; improve network and computer services; integrate emerging technologies; encourage appropriate use of information technology for the improvement of education and support standards whereby common interchanges of electronic information can be accomplished efficiently and effectively.

Covered Information: Covered Information means materials that regard a student that are in any media or format and includes materials as identified by MSIPA. The categories of Covered Information under Maine law are found in Exhibit B. For purposes of this DPA, Covered Information is referred to as Student Data.

Educational Records: Educational Records are official records, files and data directly related to a student and maintained by the school or school unit, 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 and 504 plans. The categories of Educational Records under Maine law are also found in Exhibit B. For purposes of this DPA, Educational Records are referred to as Student Data.

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.

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. 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 School Unit or its users, students, or students’ parents/guardians. PII includes Indirect Identifiers, which is any information that, either alone or in aggregate or combination, would allow a reasonable person who does not have knowledge of the relevant circumstances to be able to identify a student. 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 both of the following: (1) Any information that directly relates to a pupil that is maintained by School Unit 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 School Unit employee. For the purposes of this Agreement, Pupil Records shall be the same as Educational Records and Covered Information.

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

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 School Unit 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 Massachusetts 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.

Subscribing School Unit: A School Unit 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 School Unit 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

(“School Unit” directs

(“Company”) to dispose of data obtained by Company pursuant to the terms of the Service Agreement between School Unit and Company. The terms of the Disposition are set forth below:

1. Extent of Disposition

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

X Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Disposition

X Disposition shall be by destruction or deletion of data. (After transfer of data)

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

3. Timing of Disposition

Data shall be disposed of by the following date:

X As soon as commercially practicable

___ By

4. Signature

Authorized Representative of School Unit

Date

2. Verification of
Disposition of Data

Date

Authorized Representative of Company

EXHIBIT “E”

GENERAL OFFER OF PRIVACY TERMS

2. Offer of Terms

Provider offers the same privacy protections found in this DPA between it and _____ and which is dated _____ to any other School Unit (“Subscribing School Unit”) 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 School Unit may also agree to change the data provide by School Unit to the Provider to suit the _____ unique needs of the School Unit. The Provider may withdraw the General Offer in the event of: (1) a _____ material change in the applicable privacy statues; (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 either the METDA or SDPC in the event of any _____ withdrawal so that this information may be transmitted to the Alliance’s users.

BY: _____

Date: _____

Printed Name: _____

Title/Position: _____

Send signed agreements to:

2. Subscribing School Unit : _____

A Subscribing School Unit, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing School Unit and the Provider shall therefore be bound by the same terms of this DPA.

BY: _____


Date: _____

Printed Name: _____ Title/Position _____

EXHIBIT "F" DATA SECURITY REQUIREMENTS

Service Agreement

Date of Proposal: 1/7/2021 Proposal Expiration Date: 2/21/2021



Houghton Mifflin Harcourt

Proposal
Prepared For
Portland Public School Dist
353 Cumberland Ave
Portland ME 04101

Attention:
Gail Cressey
cressg@portlandschools.org

For the Purchase of
Read 180

Prepared By
Meghan Brann
meghan.brann@hnhoo.com

ATTN: This Proposal is not approved and is not valid

Purchase orders or duly executed service agreements for Professional Services purchased, must be submitted at least 30 days before the service event date.

ATTENTION: Gail Cressey, cressg@portlandschools.org

Intervention Solutions Group
255 38th Avenue, Suite L
St. Charles, IL 60174
FAX: 800-724-4716
InterventionSolutionsOrders@hnhoo.com

007902080 Sold 0000122048 Shp 000122048 Page 1 of 4 HMI Confidential and Proprietary Please submit this form with your purchase order

Date of Proposal: 1/7/2021

Proposal for

Expiration Date: 2/21/2021

ATTN: This Proposal is not approved and is not valid

ISBN	Title	Price	Quantity	Value of all Materials	Value of Free Materials	Value of Charged Materials
Grade K						
Materials and Services						
6001527	DRAFT IRead Annual License Subscription	\$15.00	435	\$6,960.00		\$6,960.00
Total for Materials and Services				\$6,960.00		
Gratis						
DRAFT	IREAD TEACHER LICENSE	\$145.00	26	\$3,770.00	\$3,770.00	
Total for Gratis						
Total for Grade K				\$8,980.00		
Grade 4						
Materials and Services						
3014556	DRAFT System 44 Next Generation Secondary 44 Book Student Edition (Standalone)	\$39.95	50	\$1,497.50		\$1,497.50
6003184	DRAFT READ 180 Universal Stage A/ System 44 Upper Elementary Literacy License Digital Student Subscription Package, 1 Year	\$169.00	80	\$13,520.00	\$11,120.00	\$2,400.00
Total for Materials and Services				\$3,897.50		
Gratis						
DRAFT	Literacy Intervention License (R180 U Stage A / 544 Upper Elementary)Teacher Subscription	\$299.00	5	\$1,794.00	\$1,794.00	
Total for Gratis						
Total for Grade 4				\$3,897.50		
Grade 8						
Materials and Services						
3017262	DRAFT READ 180 Universal Stage B Real Book	\$29.95	50	\$1,497.50		\$1,497.50
6003185	DRAFT READ 180 Universal Stage B/ System 44 Secondary Literacy License Digital Student Subscription Package, 1 Year	\$169.00	150	\$25,350.00	\$20,850.00	\$4,500.00
Total for Materials and Services				\$5,997.50		
Gratis						
DRAFT	Literacy Intervention License (R180 U Stage B / 544 Secondary) Teacher Subscription	\$299.00	5	\$1,495.00	\$1,495.00	
Total for Gratis						

Attention:
Gail Crowley
crowg@portlandschools.org

Intervention Solutions Group
255 36th Avenue, Suite L
St. Charles, IL 60174
FAX: 800-724-4716

HMM Confidential and Proprietary

InterventionSolutionsOrders@hmmhco.com

0079002080

Sold:0000122048 Ship:0000122048

Page 2 of 4

Please submit this form with your purchase order

Date of Proposal: 1/7/2021

Proposal for

Expiration Date: 2/21/2021

ATTN: This Proposal is not approved and is not valid

ISBN	Title	Price	Quantity	Value of all Materials	Value of Free Materials	Value of Charged Materials
Total for Gratis						
Total for Grade 8		\$5,987.50				
Grade 8 Materials and Services						
8001447	DRAFT Reading Inventory Annual License Subscription	\$5.90	300	\$1,770.00		\$1,770.00
Total for Materials and Services		\$1,770.00				
Total for Grade 8		\$1,770.00				

Subtotal Purchase Amount:	\$18,339.48
Shipping & Handling:	\$314.48
Total Cost of Proposal (PO Amount):	\$18,653.96

Please add proper sales tax to your order

Attention:
Gail Crowley
crowg@portlandschools.org

Intervention Solutions Group
255 38th Avenue, Suite L
St. Charles, IL 60174
FAX: 800-724-4716

HMH Confidential and Proprietary

InterventionSolutionsOrders@hnhco.com

001902080

Sold:0000122048 Ship:0000122048

Page 3 of 4

Please submit this form with your purchase order

Date of Proposal: 1/7/2021

Proposal for

Expiration Date: 2/21/2021

ATTN: This Proposal is not approved and is not valid

Total Cost of Proposal (PO Amount): \$18,939.48

Thank you for considering HMH as your partner. We are committed to providing an excellent experience and delivering ongoing, high-quality service to our customers. To meet these goals, we want to ensure you are aware of the below Terms of Purchase. These terms help us process your order quickly, efficiently, and accurately, ensuring successful delivery and implementation of our solutions.

- Please return this cost proposal with your signed purchase order that matches product, prices and shipping charges.
- Provide the exact address for delivery of print materials. The shipping address may be your district warehouse or individual school sites, but it is essential that this is accurate.
- Please supply the name of each important district point of contact for all aspects of the solution including their direct contact information (email/phone):
 - o Point of Contact for Print materials
 - o Point of Contact for Digital materials
 - o Point of Contact for Scheduling Professional Development
- Please confirm that we have the correct 'Ship to' and 'Sold to' information on the cost proposal.

Ship to:	Sold to:
Portland Public School District	Portland Public School District
- Please provide funding start and end dates.
- Please note that all products and services will be billed upon the processing of your purchase order.
- Our payment terms are 30 days from the invoice date.
- Print subscription material quantities may be adjusted across grades for like products, to accommodate enrollment fluctuations, quantities cannot be adjusted between different programs or copyrights.
- Our shipping terms are FOB shipping point. The shipping term for your proposal is Shipping Point.
- Should any of these Terms of Sale conflict with any preprinted terms on your purchase order, the HMH terms of service shall apply.

Thank you in advance for supplying us with the necessary information at time of purchase. Our goal is to ensure your success throughout the duration of this agreement, which starts with a highly successful delivery of our solution.

For greater detail, the complete Terms of Purchase may be reviewed here: <http://www.hmhco.com/common/terms-conditions>

Date of Proposal: 1/7/2021

Proposal Expiration Date: 2/21/2021



Houghton Mifflin Harcourt

Attention:
Gail Crossley
crossley@portlandschools.org

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255 38th Avenue, Suite L
St. Charles, IL 60174
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