

## City of Colonial Heights School Board Data Privacy Agreement

This Data Privacy Agreement (“DPA”) is entered into by and between the City of Colonial Heights School Board (hereinafter referred to as “the Board”) and Newsela, Inc. (hereinafter referred to as “Provider”) on 9/24/2021. The Parties agree to the terms as stated herein.

### RECITALS

**WHEREAS**, the Provider has agreed to provide the Board with certain digital educational services (“Services”) as described in Article I and **Exhibit “A”**; and

**WHEREAS**, in order to provide the Services described in Article 1 and Appendix A, the Provider may receive or create and the Board may provide documents or data that are covered by multiple federal laws; and

**WHEREAS**, the documents and data transferred from Virginia Boards and created by the Provider’s Services are also subject to several Virginia student privacy laws; and

**WHEREAS**, the Parties wish to enter into this DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties; and

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

## City of Colonial Heights School Board Data Privacy Agreement

### ARTICLE I: PURPOSE AND SCOPE

1. **Purpose of DPA.** The purpose of this DPA is to describe the duties and responsibilities to protect Board Data (as defined in **Exhibit "C"**) transmitted to Provider from the Board pursuant to **Exhibit "A"** including compliance with all applicable state law. In performing these services, to the extent Personally Identifiable Information (as defined in **Exhibit "C"**) from Pupil Records (as defined in **Exhibit "C"**) are transmitted to Provider from the Board, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the Board. Provider shall be under the direct control and supervision of the Board.
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:

Newsela Services

3. **Board Data to Be Provided.** In order to perform the Services described in this Article and **Exhibit "A"**, Provider shall list the categories of data collected, managed or shared as described below or as indicated in the Schedule of Data, attached hereto as **Exhibit "B"**:

See 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 all other writings, including, but not limited to, a service agreement, privacy policies or any terms of service.

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### ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Board Data Property of Board**. All Board Data, user generated content or any other Pupil Records transmitted to the Provider pursuant to this Agreement is and will continue to be the property of and under the control of the Board, or to the party who provided such data (such as the student, in the case of user generated content.). The Provider further acknowledges and agrees that all copies of such Board Data or any other Pupil Records transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are also subject to the provisions of this Agreement in the same manner as the original Board Data or Pupil Records. The Parties agree that as between them, all rights, including all intellectual property rights in and to Board Data or any other Pupil Records contemplated per this Agreement shall remain the exclusive property of the Board. For the purposes of FERPA and state law, the Provider shall be considered a School Official, under the control and direction of the Board as it pertains to the use of Board Data notwithstanding the above. The Provider will cooperate and provide Board Data within ten (10) days at the Board's request. Provider may transfer pupil-generated content to a separate account, according to the procedures set forth below.
2. **Parent Access**. Provider shall cooperate and respond within ten (10) days to the Board's request for personally identifiable information 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 Board Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the Board, who will follow the necessary and proper procedures regarding the requested information.
3. **Separate Account**. Provider shall, at the request of the Board, transfer Student Generated Content to a separate student account when required by Code of Virginia § 22.1-289.01. School service providers; school-affiliated entities.
4. **Third Party Request**. Provider shall notify the Board in advance of a compelled disclosure to a Third Party, unless legally prohibited.
5. **Subprocessors**. Provider shall enter into written agreements with all Subprocessors performing functions pursuant to this DPA, whereby the Subprocessors agree to protect Board Data in a manner consistent with the terms of this DPA.

### ARTICLE III: DUTIES OF THE BOARD

1. **Privacy Compliance**. Board shall provide data for the purposes of the DPA and any related contract in compliance with federal and state law. School service providers; school-affiliated entities; student personal information; and § 22.1-287.02. Students' personally identifiable information, and all other applicable Virginia statutes.
2. **Parent Notification of Rights**. Board shall ensure that its annual notice under FERPA defines vendors, such as the Provider, as "School Officials" and shall specify what constitutes a legitimate educational interest. The Board will provide parents with a notice of the websites and online services under this agreement for which it has consented to student data collection on behalf of the parent, as permitted under federal law.

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3. **Unauthorized Access Notification.** Board shall notify Provider promptly of any known unauthorized access. Board 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 Virginia and federal laws and regulations pertaining to data privacy and security.
2. **Authorized Use.** Board Data shared pursuant to this DPA, including persistent unique identifiers, shall be used for no purpose other than the Services stated in this DPA and as authorized under applicable law. Provider also acknowledges and agrees that it shall not make any re-disclosure of any Board Data or any portion thereof, including without limitation, any Board Data, metadata, user content or other non-public information and/or personally identifiable information contained in the Board Data, without the express written consent of the Board, unless it fits into the de-identified information exception in Article IV, Section 4, or there is a court order or lawfully issued subpoena for the information.
3. **Employee Obligations.** Provider shall require all employees and agents who have access to Board data to comply with all applicable provisions of this DPA with respect to the data shared under the Service Agreement.
4. **Use of De-identified Information.** De-identified information, as defined in **Exhibit "C"**, 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 federal law. The Provider and Board agree that the Provider cannot successfully de-identify information if there are fewer than twenty (20) students in the samples of a particular field or category of information collected, *i.e.*, twenty students in a particular grade, twenty students of a particular race, or twenty students with a particular disability. Provider agrees not to attempt to re-identify de-identified Board Data and not to transfer de-identified Board 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 the Board who has provided prior written consent for such transfer.
5. **Disposition of Data.** Upon written request and in accordance with the applicable terms in subsections below, Provider shall dispose of or delete all division data obtained under this agreement when it is no longer needed for the purposes for which it was obtained. Disposition will include (1) the shredding of any hard copies of any Board data, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in the service agreement authorizes Provider to maintain Board data obtained under the service agreement beyond the time reasonably needed to complete the disposition, unless a student, or parent or legal guardian of a student chooses to establish or maintain an electronic account with the Provider for the purpose of storing student-generated content. Provider shall provide written notification when the division data has been disposed. The duty to dispose of Board data shall not extend to data that has been de-identified or placed in a separate student account, pursuant to the terms of the agreement. The Board may employ a request for return or deletion of Board data form, a copy of which is attached hereto as **Exhibit "D"**. Upon receipt of a request from the Board, the provider will promptly provide the Board with any specified portion of the Board data within ten (10) calendar days of the receipt of the request.

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- a. **Partial Disposal During the Term of Service Agreement.** Throughout the term of the service agreement, Board may request partial disposal of Board data obtained under the service agreement that is no longer needed. Partial disposal of data shall be subject to Board's request to transfer data to a separate account, pursuant to Article II Section 3, above.
  - b. **Complete Disposal upon Termination of Service Agreement.** Upon termination of the service agreement, Provider shall dispose of or securely destroy all Board data obtained under the service agreement. Prior to disposal of the data, Provider shall notify Board in writing of its option to transfer data to a separate account, pursuant to Article 2, Section 3, above. In that event the Provider shall dispose of data pursuant to this provision unless and until Provider has received affirmative written confirmation from Board that data will not be transferred to a separate account.
6. **Advertising Prohibition.** Provider is prohibited from using or selling Board Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing or advertising efforts by a Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service to Board; or (d) use the Board Data for the development of commercial products or services, other than as necessary to provide the Service to Board. This section does not prohibit Provider from generating legitimate personalized learning recommendations or other activities permitted under Code of Virginia § 22.1-289.01.
7. **Penalties.** The failure to comply with the requirements of this agreement could subject Provider and any third party to all allowable penalties under State and federal law. In the event the Family Policy Compliance Office of the U.S. Department of Education determines that Provider improperly disclosed personally identifiable information obtained from the Board's education records, the Board may not allow Provider access to the Board's education records for at least five years.

### ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personal information and makes use of appropriate administrative, technological, and physical safeguards. The general security duties of Provider are set forth below. These duties shall include, but are not limited to:
  - a. **Passwords and Employee Access.** Provider shall secure and manage usernames, passwords, and any other means of gaining access to the Services or to Board Data, at levels suggested by the National Institute of Standards and Technology ("NIST") SP800-171 (Password complexity, encryption, and re-use), NIST SP 800-53 (IA control Family), NIST SP 800-63-3 (Digital Identity), and NIST SP 800-63B (Authenticator and Verifier Requirements), or equivalent industry best practices.
  - b. **Security Protocols.** Both parties agree to maintain security protocols that meet industry best practices in the collection, storage 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 DPA in a secure computer environment.

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- c. **Provider Employee Training.** The Provider shall provide annual security training to those of its employees who operate or have access to the system.
  - d. **Security Technology.** When the service is accessed using a supported web browser, Federal Information Processing Standards ("FIPS") 140-2 validated transmission encryption protocols, or equivalent technology shall be employed to protect data from unauthorized access. The service security measures shall follow National Institute of Standards and Technology (NIST) SP 800-171, or equivalent industry best practices.
  - e. **Periodic Risk Assessment.** Provider further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner. Upon Board's written request, Provider shall make the results of findings available to the Board. The Board shall treat such audit reports as Provider's Confidential Information under this Agreement.
  - f. **Backups and Audit Trails, Data Authenticity and Integrity.** Provider will take reasonable measures, including all backups and audit trails, to protect Board Data against deterioration or degradation of data quality and authenticity. Provider shall be responsible for ensuring that Board Data is retrievable in a reasonable format.
  - g. **Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Board 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. **Unauthorized Access or Data Breach.** In the event that Board Data are reasonably believed by the Provider or School Board to have been disclosed (lost, accessed or obtained) in violation of the Family Educational Rights and Privacy Act or other federal or State law applicable to such information accessed or obtained by an unauthorized individual, Provider shall follow the following process:
- a. provide prompt notification to Board upon verification of the incident and allow the Board or its authorized representatives to fully participate in the investigation of the incident.
  - b. notification will be provided to the contact(s) identified in ARTICLE VII, N: Notice, and sent via email and postal mail. Such notification shall include the
    - i. date, estimated date, or date range of the loss or disclosure;
    - ii. Board Data that was or is reasonably believed to have been lost or disclosed; and
    - iii. remedial measures taken or planned in response to the loss or disclosure.
  - c. promptly take action to prevent further access;
  - d. take all legally required, reasonable, and customary measures in working with the Board to remediate the breach, which may include toll free telephone support with informed customer services staff to address questions by affected parties and/or provide monitoring services if necessary given the nature and scope of the loss or disclosure;

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- e. cooperate with Board efforts to communicate to affected parties.
- f. Provider is prohibited from directly contacting parent, legal guardian or eligible pupil unless expressly requested by Board. If Board requests Provider's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to Provider, Provider shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed in subsections b and c, above. If requested by Board, Provider shall reimburse Board for costs incurred to notify parents/families of a breach not originating from Board's use of the Service.
- g. the Provider shall indemnify and hold harmless the Board from and against any loss, claim, cost (including attorneys' fees) or damage of any nature to the extent arising from or in connection with the breach by the Provider or any of its officers, directors, employees, agents or representatives of the obligations of the Provider or its Authorized Representatives under this provision or under a Confidentiality Agreement, as the case may be.

### ARTICLE VI: GENERAL OFFER OF PRIVACY TERMS

The 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 Board who signs the acceptance in said Exhibit. The Form is limited by the terms and conditions described therein.

### ARTICLE VII: MISCELLANEOUS

- A. **Term.** The Provider shall be bound by this DPA for so long as the Provider maintains or possesses any Board Data.
- B. **Termination.** In the event that either party seeks to terminate this DPA, it may do so by mutual written consent and as long as any service agreement or terms of service, to the extent one exists, has lapsed or has been terminated. The Board may terminate this DPA and any service agreement or contract in the event of a material breach of the terms of this DPA.
- C. **Data Transfer Upon Termination or Expiration.** Provider will notify the Board of impending cessation of its business and any contingency plans. Provider shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the Board. As mutually agreed upon and as applicable, Provider will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the Board, all such work to be coordinated and performed in advance of the formal, transition date.
- D. **Effect of Termination Survival.** If the DPA is terminated, the Provider shall destroy all of Board's data pursuant to Article V, section 5(b). The Provider's obligations under this agreement shall survive termination of this Agreement until all Board Data has been returned or securely destroyed.
- E. **Priority of Agreements.** This DPA supersedes all end user and "click-thru" agreements. In the event there is conflict between the terms of the DPA and any other writing, such as service agreement or with any other bid/RFP, terms of service, privacy policy, license agreement, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph, all other provisions of any other agreement shall remain in effect.

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- F. **Amendments** : 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
- G. **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.
- H. **Governing Law and Venue** This agreement shall be governed by and construed in accordance with the laws of the state of Virginia, without regard to conflicts of law principles; and any litigation arising out of this DPA shall be filed and tried in the appropriate state court in Colonial Heights, Virginia.
- I. **Authority**. Provider represents that it is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Board Data and any portion thereof, all related or associated institutions, individuals, employees or contractors who may have access to the Board Data and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Board Data and portion thereof is stored, maintained or used in any way.
- J. **Waiver**. No delay or omission of the Board to exercise any right hereunder shall be construed as a waiver of any such right; and the Board reserves the right to exercise any such right from time to time, as often as may be deemed expedient.
- K. **Successors Bound**: This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business.
- L. **Electronic Signature**: The parties understand and agree that they have the right to execute this Agreement through paper or through electronic signature technology, which is in compliance with Virginia and federal law governing electronic signatures. The parties agree that to the extent they validly sign electronically, their electronic signature is the legally binding equivalent to their handwritten signature.
- M. **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:



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### a. Designated Representatives

The designated representative for the Provider for this Agreement is:

Name: Melissa Perlman  
Title: Sr. Field Sales/Growth Sales  
Address: 500 5th Ave, Floor 28, New York, NY 30318  
eMail: melissa.perlman@newsela.com  
Phone: (443 ) 718-8975

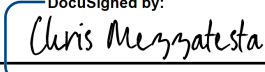
The designated representative for the Board for this Agreement is:

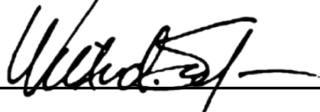
Name: Erin Ford  
Title: Director of Technology  
Address: 3451 Conduit Road  
eMail: erin\_ford@colonialhts.net  
Phone: ( 804 ) 520-9073

[Signature Page Follows]

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

Provider Signature:   
Date: 9/24/2021  
Printed Name: Chris Mezzatesta  
Title: Chief Customer Officer

Board Signature:   
Date: 09/24/2021  
Printed Name: William Sroufe  
Title: Superintendent of Schools

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### EXHIBIT "A"

#### DESCRIPTION OF SERVICES

[Insert detailed description of products and services here. If more than one product or service is included, list each product here.]

Newsela provides content at differentiated consumption levels along with integrated assessments via [www.newsela.com](http://www.newsela.com) (the "Website"), the Newsela mobile application ("App") and any other websites or applications of Newsela, Inc. Services include ongoing upgrading of the consumption level algorithm, communications with teachers and administrators in support of their use of the product, as well as the benefits of related research and development, improvements and supplements supporting the Newsela offerings, the Website and/or the App (collectively, the "Services")

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## 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.	<input checked="" type="checkbox"/>
	Other application technology meta data – please specify:	Browser user Agents
Application Use Statistics	Meta data on user interaction with application	<input checked="" type="checkbox"/>
Assessment	Standardized test scores	<input type="checkbox"/>
	Observation data	<input type="checkbox"/>
	Other assessment data – please specify:	
Attendance	Student school (daily attendance data)	<input type="checkbox"/>
	Student class attendance data	<input type="checkbox"/>
Communication	Online communications that are captured (emails, blog entries)	<input type="checkbox"/>
Conduct	Conduct or behavioral data	<input type="checkbox"/>
Demographics	Date of Birth	<input checked="" type="checkbox"/>
	Place of Birth	<input type="checkbox"/>
	Gender	<input type="checkbox"/>
	Ethnicity or race	<input type="checkbox"/>
	Language information (native, preferred, or primary language spoken by student)	<input type="checkbox"/>
	Other demographic information – please specify:	

Category of Data	Elements	Check if used by your system:
Enrollment	Student school enrollment	<input checked="" type="checkbox"/>
	Student grade level	<input checked="" type="checkbox"/>
	Homeroom	<input type="checkbox"/>
	Guidance Counselor	<input type="checkbox"/>
	Specific curriculum programs	<input type="checkbox"/>
	Year of graduation	<input type="checkbox"/>
	Other enrollment data – please specify:	
Parent/Guardian Contact Information	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
Parent/Guardian ID	Parent ID created to link parents with students	<input type="checkbox"/>
Parent/Guardian Name	First	<input type="checkbox"/>
	Last	<input type="checkbox"/>
Schedule	Student scheduled courses	<input type="checkbox"/>
	Teacher names	<input type="checkbox"/>

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### SCHEDULE OF DATA Continued

Category of Data	Elements	Check if used by your system:
Special Indicator	English language learner information	<input type="checkbox"/>
	Low income status	<input type="checkbox"/>
	Medical alerts/health data	<input type="checkbox"/>
	Student disability information	<input type="checkbox"/>
	Specialized education services (IEP or 504)	<input type="checkbox"/>
	Living situations (homeless or foster care)	<input type="checkbox"/>
	Other indicator information – please specify:	<input type="checkbox"/>
	Observation data	<input type="checkbox"/>
	Other assessment data – please specify:	<input type="checkbox"/>
Student Contact Information	Address	<input type="checkbox"/>
	Email	<input checked="" type="checkbox"/>
	Phone	<input type="checkbox"/>
Student Identifiers	Local (school district) ID	<input type="checkbox"/>
	State ID number	<input type="checkbox"/>
	Provider/App-assigned student ID number	<input type="checkbox"/>
	Student app username	<input checked="" type="checkbox"/>
	Student app passwords	<input checked="" type="checkbox"/>
Student Name	First	<input checked="" type="checkbox"/>
	Last	<input checked="" type="checkbox"/>
Student in-app performance	Program application performance (examples: typing program-student types 60 WPM; reading program-student reads below grade level)	<input checked="" type="checkbox"/>

Category of Data	Elements	Check if used by your system:
Student program mentorship	Activities or extracurricular activities a student may belong to or participate in	<input type="checkbox"/>
Student survey responses	Student responses to surveys or questionnaires.	<input checked="" type="checkbox"/>
Student work	Student-generated content, writing, pictures, etc.	<input checked="" type="checkbox"/>
	Other student work data – please specify:	Multiple choice quiz answers, annotations
Transcript	Student course grades	<input type="checkbox"/>
	Student course data	<input type="checkbox"/>
	Student performance scores	<input type="checkbox"/>
	Other transcript data – please specify:	
Transportation	Student bus assignment	<input type="checkbox"/>
	Student pick-up or drop-off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>
	Other transportation data	<input type="checkbox"/>
Other	Please list each additional data element used, stored, or collected by your application	

No Student Data Collected at this time .

\*Provider shall promptly notify LEA if this designation is no longer applicable.

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## SCHEDULE OF DATA Continued

**OTHER:** Use this box if more space is needed:

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### EXHIBIT “C”

#### DEFINITIONS

**Data Breach** means an event in which Board Data is exposed to unauthorized disclosure, access, alteration or use.

**Board Data** includes all business, employment, operational and Personally Identifiable Information that Board provides to Provider and that is not intentionally made generally available by the Board on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student, employees, and personnel data, user generated content and metadata but specifically excludes Provider Data (as defined in the Contract).

**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.

Anonymization or de-identification should follow guidance equivalent to that provided by U.S Department of Education publication “Data De-identification: An Overview of Basic Terms” or NISTIR Special Publication (SP) 8053 De-Identification of Personally Identifiable Information. The Provider’s specific steps to de-identify the data will depend on the circumstances, but should be appropriate to protect students. Some potential disclosure limitation methods are blurring, masking, and perturbation. De-identification should ensure that any information when put together cannot indirectly identify the student, not only from the viewpoint of the public, but also from the vantage of those who are familiar with the individual. Information cannot be de-identified if there are fewer than twenty (20) students in the samples of a particular field or category, i.e., twenty students in a particular grade or less than twenty students with a particular disability.

**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

**Personally Identifiable Information (PII):** The terms “Personally Identifiable Information” or “PII” shall include, but are not limited to, student data, staff data, parent 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 Board or its users, students, or students’ parents/guardians, including “directory information” as defined by §22.1-287.1 of the Code of Virginia“.

PII includes, without limitation, at least the following:

- Staff, Student or Parent First, Middle and Last Name
- Staff, Student or Parent Telephone Number(s)
- Discipline Records
- Special Education Data
- Grades
- Criminal Records
- Health Records
- Biometric Information
- Socioeconomic Information

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- Political Affiliations
- Text Messages
- Student Identifiers Photos
- Videos
- Grade
- Home Address Subject
- Email Address
- Test Results
- Juvenile Dependency Records Evaluations
- Medical Records
- Social Security Number
- Disabilities
- Food Purchases
- Religious Information Documents
- Search Activity
- Voice Recordings
- Date of Birth
- Classes
- Information in the Student's Educational Record
- Information in the Student's Email

**Provider:** For purposes of the DPA, 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.

**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 Board 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 local educational Board employee.

**Securely Destroy:** Securely Destroy means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards of Technology (NIST) SP 800-88 Appendix A guidelines relevant to sanitization of data categorized as high security. All attempts to overwrite magnetic data for this purpose must utilize Department of Defense ("DOD") approved methodologies.

**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.



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**Student Data:** Student Data includes any data, whether gathered by Provider or provided by Board 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 Virginia 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. Anonymization or de-identification should follow guidance equivalent to that provided by U.S Department of Education publication "Data De-identification: An Overview of Basic Terms" or NISTIR Special Publication (SP) 8053 De-Identification of Personally Identifiable Information.

**Student Generated Content:** Alternatively known as user-created content (UCC), is any form of content, such as images, videos, text and audio, that have been created and posted by student users on online platforms.

**Subscribing Board:** A Board 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 the Board 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.

**Third Party:** The term "Third Party" means an entity that is not the Provider or Board.

# City of Colonial Heights School Board Data Privacy Agreement

EXHIBIT "D"

## DIRECTIVE FOR DISPOSITION OF DATA

City of Colonial Heights School Board directs \_\_\_\_\_ to dispose of data obtained by Provider pursuant to the terms of the DPA between Board and Provider. The terms of the Disposition are set forth below:

1. **Extent of Disposition**

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

2. **Nature of Disposition**

- Disposition shall be by destruction or secure deletion of data.
- 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:

- As soon as commercially practicable
- By \_\_\_\_\_

4. **Signature of Authorized Representative of Board**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title/Position: \_\_\_\_\_

5. **Verification of Disposition of Data**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title/Position: \_\_\_\_\_