

## **EDUCATION LAW 2-d RIDER**

New York State Education Law 2-d was enacted in 2014 to address concerns relative to securing certain personally identifiable information. In order to comply with the requirements of Education Law 2-d, educational agencies and certain third-party contractors who contract with educational agencies must take certain additional steps to secure such data. These steps include enacting and complying with a Parents' "Bill of Rights" relative to protected data, ensuring that each third-party contractor has a detailed data privacy plan in place to ensure the security of such data, and that each third-party contractor sign a copy of the educational agency's Parents' Bill of Rights, thereby signifying that the third-party contractor will comply with such Parents' Bill of Rights. This Agreement is subject to the requirements of Education Law 2-d and **Cengage Learning dba Infosec** (the "Contractor") is a covered third-party contractor.

In order to comply with the mandates of Education Law 2-d, and notwithstanding any provision of the Agreement between the Ulster County BOCES ("BOCES") and Contractor to the contrary, Contractor agrees as follows:

Contractor will treat "Protected Data" (as defined below) as confidential and shall protect the nature of the Protected Data by using the same degree of care, but not less than a reasonable degree of care, as the Contractor uses to protect its own confidential data, so as to prevent the unauthorized dissemination or publication of Protected Data to third parties. Contractor shall not disclose Protected Data other than to those of its employees or agents who have a need to know such Protected Data under this Agreement. Contractor shall not use Protected Data for any other purposes than those explicitly provided for in this Agreement. All Protected Data shall remain the property of the disclosing party. As more fully discussed below, Contractor shall have in place sufficient internal controls to ensure that Ulster County BOCES' Protected Data is safeguarded in accordance with all applicable laws and regulations, including, but not limited to, the Children's Internet Protection Act ("CIPA"), the Family Educational Rights and Privacy Act ("FERPA"), and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and Part 121 of the Regulations of the Commissioner of Education, as it may be amended from time-to-time if applicable.

**"Protected Data"** includes any information rendered confidential by State or federal law, including, but not limited to student data, student demographics, scheduling, attendance, grades, health and discipline tracking, and all other data reasonably considered to be sensitive or confidential data by Ulster County BOCES. Protected Data also includes any information protected under Education Law 2-d including, but not limited to:

"Personally identifiable information" from student records of Ulster County BOCES as that term is defined in § 99.3 of FERPA,

-AND-

Personally identifiable information from the records of Ulster County BOCES relating to the annual professional performance reviews of classroom teachers or principals that is

confidential and not subject to release under the provisions of Education Law §§3012-c and 3012-d.

Contractor and/or any subcontractor, affiliate, or entity that may receive, collect, store, record or display any Protected Data shall comply with New York State Education Law § 2-d. As applicable, Contractor agrees to comply with Ulster County BOCES policy(ies) on data security and privacy. Contractor shall promptly reimburse Ulster County BOCES for the full cost of notifying a parent, eligible student, teacher, or principal of an unauthorized release of Protected Data by Contractor, its subcontractors, and/or assignees. In the event this Agreement expires, is not renewed or is terminated, Contractor shall return all of Ulster County BOCES' data unless otherwise provided, including any and all Protected Data, in its possession by secure transmission.

### **Data Security and Privacy Plan**

Contractor and/or any subcontractor, affiliate, or entity that may receive, collect, store, record or display any of Ulster County BOCES' Protected Data, shall maintain a Data Security and Privacy Plan which includes the following elements:

1. Specifies the administrative, operational and technical safeguards and practices in place to protect personally identifiable information that Contractor will receive under the contract;
2. Demonstrates Contractor's compliance with the requirements of Section 121.3 of Part 121;
3. Specifies how officers or employees of the Contractor and its assignees who have access to student data, or teacher or principal data receive or will receive training on the federal and state laws governing confidentiality of such data prior to receiving access;
4. Specifies how Contractor will utilize sub-contractors and how it will manage those relationships and contracts to ensure personally identifiable information is protected;
5. Specifies how Contractor will manage data security and privacy incidents that implicate personally identifiable information including specifying any plans to identify breaches and unauthorized disclosures, and to promptly notify the educational agency;
6. Specifies whether Protected Data will be returned to Ulster County BOCES, transitioned to a successor contractor, at Ulster County BOCES' option and direction, deleted or destroyed by the Contractor when the contract is terminated or expires.

Pursuant to the Plan Contractor will:

1. Have adopted technologies, safeguards and practices that align with the NIST Cybersecurity Framework referred to in Part 121.5(a);
2. Comply with the data security and privacy policy of Ulster County BOCES; Education Law § 2-d; and Part 121;
3. Have limited internal access to personally identifiable information to only those employees or sub-contractors that need access to provide the contracted services;
4. Have prohibited the use of personally identifiable information for any purpose not explicitly authorized in this contract;

5. Have prohibited the disclosure of personally identifiable information to any other party without the prior written consent of the parent or eligible student:
  - a. except for authorized representatives such as a subcontractor or assignee to the extent they are carrying out the contract and in compliance with state and federal law, regulations and its contract with the educational agency; or
  - b. unless required by statute or court order and Contractor has provided a notice of disclosure to the department, BOCES board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of disclosure is expressly prohibited by the statute or court order.
6. Maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable information in our custody;
7. Use encryption to protect personally identifiable information in its custody while in motion or at rest; and
8. Not sell personally identifiable information nor use or disclose it for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so.

In the event Contractor engages a subcontractor to perform its contractual obligations, the data protection obligations imposed on the third-party contractor by state and federal law and contract shall apply to the subcontractor.

Where a parent or eligible student requests a service or product from a third-party contractor and provides express consent to the use or disclosure of personally identifiable information by the third-party contractor for purposes of providing the requested product or service, such use by the third-party contractor shall not be deemed a marketing or commercial purpose prohibited by the Plan.

Contractor's signature below shall also constitute an acknowledgement, acceptance, and signature of Ulster County BOCES' Parent Bill of Rights.

**NAME OF PROVIDER:**

**Infosec**

*Katherine Wiersema*

**BY: Kate Wiersema, Client Success Manager**

**DATED: 09/09/2024**

**DATA PRIVACY AND SECURITY PLAN**

CONTRACTOR'S DATA PRIVACY AND SECURITY PLAN IS ATTACHED HERETO  
AND INCORPORATED HEREIN.



## PARENT'S BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Ulster BOCES is committed to protecting the privacy and security of student, teacher, and principal data. In accordance with New York Education Law §2-d, Ulster BOCES wishes to inform the community of the following:

1. A student's personally identifiable information cannot be sold or released for any marketing or commercial purposes.
2. Parents have the right to inspect and review the complete contents of their child's education record.
3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.
4. A complete list of all student data elements collected by the State is available for public review at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>, or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.
5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed in writing to:

Ulster BOCES  
175 Route 32 North  
New Paltz, New York 12561

or

Chief Privacy Officer  
New York State Education Department  
89 Washington Avenue  
Albany, New York 12234

Complaints may also be directed to the  
Chief Privacy Officer (CPO) via e-mail at  
CPO@mail.nysed.gov

6. The District Superintendent shall develop regulations to ensure compliance with all state and federal laws and regulations regarding the protection and security of student data as well as teacher or principal data.

### **Supplemental Information Regarding Third Party Contractors**

In the course of complying with its obligations under the law and providing educational services, Ulster BOCES has entered into agreements with certain third-party contractors. Pursuant to such agreements, third-party contractors may have access to "student data" and/or "teacher or principal data," as those terms are defined by law.

Each contract Ulster BOCES enters into with a third party contractor where the third party contractor receives student data or teacher or principal data will include the following information:

1. The exclusive purposes for which the student data or teacher or principal data will be used by third party contractor;
2. How the third party contractor will ensure that the subcontractors, persons or entities with whom the third party contractor will disclose the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
3. The duration of the contract, including when the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;
4. If and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected;
5. Where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected and data security and privacy risks mitigated.
6. Address how the data will be protected using encryption while in motion and at rest.

Signature: Kate Wiersema

Print Name: Kate Wiersema

Title: Client Success Manager

Company Name: Cengage Learner, dba Infosec

Date: 09/09/2024

## IRAN DIVESTMENT ACT OF 2012 CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, added new provisions to the State Finance Law (SFL), §165-a and General Municipal Law (GML) §103-g effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b) and GML §103-g, the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By submitting a response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Vendor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Vendor is advised that once the list is posted on the OGS website, any Vendor seeking to enter into, renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is bid upon or a proposal submitted, or the contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should BOCES receive information that a person is in violation of the above-referenced certification, BOCES will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then BOCES shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Vendor in default.

BOCES reserves the right to reject any bid, proposal or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Signature: Katherine Wiersema

Print Name: Katherine Wiersema

Title: Enterprise Client Success Manager

Company Name: Cengage Learning, DBA Infosec

Date: 7/12/2024