Student Data Privacy Consortium

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National Data Privacy Agreement

NDPA

Meet The Team

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Special Recognition

Jefferson Fordham Lifetime Achievement Award

Presented by the American Bar Association Section of State & Local, and Tribal Government Law

Presented in recognition of outstanding contributions to the practice of state, local, regional and tribal government law by an individual over an entire career, for contributions over a number of years of service.

Specifically in the area of Education Technology law.

Mark Williams

F3 Partner

Topics for Today

Core Principles Shaping Our Work

Key Changes Being Proposed for Community Review for 2.3

Next Steps

NDPA Project Team: Core Principles

Mission:

- Develop and maintain the National Data Privacy Agreement as a standardized framework for K-12 student data privacy across the United States

Team Composition:

- State education agency and district representatives
- EdTech vendor and technology community partners
- Legal and compliance experts in student data privacy law
- SDPC governance leadership

How We Work:

- Elected Project Team with transparent review cycles
- Multi-stakeholder feedback and community review periods
- Regular version releases with documented change logs

2.3 Release Development Process

- Between releases comments & feedback collected
- NDPA PT begins by reviewing feedback and discussing if changes are warranted
- Non-substantive changes addressed without community Review
- Substantive changes put out for community review and feedback
- NA-Privacy-Leadership Group approves draft for Community Review
- NDPA PT reviews comments and determines if further edits are needs and/or second community review
- After community review period completed PT makes recommendation to NA-Privacy-LG to release next version.

NDPA Access

https://privacy.a4l.org/national-dpa/

Revision Highlights: Commercial Terms

1.1 Purpose of DPA.

The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal and state privacy laws, rules, and regulations, all as may be amended from time to time. In performing the Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing Services otherwise provided by the LEA. With respect to its use and maintenance of Student Data, Provider shall be under the direct control and supervision of the LEA as set forth in this DPA and the Service Agreement. Commercial Terms unrelated to student data privacy are reserved to the Service Agreement(s) between the Parties unless their inclusion is required by state law or regulation.

Rationale: Each LEA and Vendor relationship can vary. Commercial terms should be agreed upon in the Service Agreement, while Privacy terms live in the NDPA.

Revision Highlights: Commercial Terms

Commercial Terms:

Shall be defined as the business-specific details that govern the relationship between parties, such as the scope of work, payment terms, performance standards, as well as those pertaining to indemnification, and liability.

Rationale: Added a section on Commercial Terms as a defined term. Requires adding a definition to Exhibit C: Definitions.

Revision Highlights: COPPA Notice/Consent

2.2.3. COPPA Notice and Consent.

Provider is responsible for complying with COPPA, to the extent COPPA is applicable to the Provider's Services. To the extent permitted pursuant to COPPA, 15 U.S.C. 6501-6506 (16 C.F.R. Part 312) and guidance from the Federal Trade Commission, when collecting Student Data from children under 13 pursuant to this DPA for the use and benefit of the LEA and not for unrelated commercial purposes, the Parties agree that the LEA shall act as the parent's agent and is consenting under COPPA to the collection of students' information on the parent's behalf, and the Provider may rely on such agency. The Provider will provide the direct notice and notice of any material changes directly to the LEA, using the person(s) listed for Notices to LEA.

Rationale: Created a new section dedicated to COPPA Notice and Consent. Removed it from 4.7 for clarity and organization.

Revision Highlights: COPPA Notice/Consent

Why This Matters:

- Higher Stakes after 2023 FTC Edmodo Decision
- Provides additional clarity for vendors and schools

NDPA 2.3 Stipulates that…

- LEA acts as “Parent’s agent” for purposes of COPPA VPC
- Provider must provide COPPA “direct notice” (and on material change)

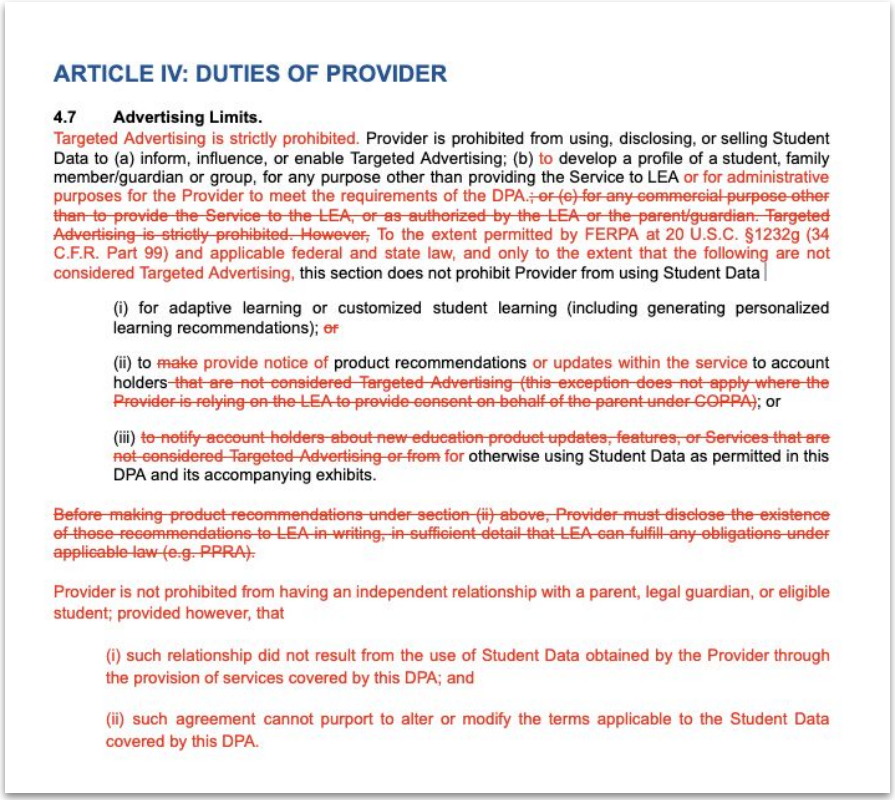
Limits: AI Training likely out of scope based on 2025 COPPA Rule

Keep and Eye On: COPPA 2.0 which passed the Senate on 3/4/26 included related language related to schools and “written agreements” (i.e. DPAs)

Revision Highlights: Advertising Limits

Targeted Advertising: Targeted Advertising means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the Provider Internet website, online service, or mobile application by such student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. Targeted Advertising does not include Contextual Advertising.

Revision Highlights: Advertising



ARTICLE IV: DUTIES OF PROVIDER

4.7 Advertising Limits.

Targeted Advertising is strictly prohibited. Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; (b) to develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA or for administrative purposes for the Provider to meet the requirements of the DPA.~~; or (c) for any commercial purpose other than to provide the Service to the LEA, or as authorized by the LEA or the parent/guardian. Targeted Advertising is strictly prohibited. However,~~ To the extent permitted by FERPA at 20 U.S.C. §1232g (34 C.F.R. Part 99) and applicable federal and state law, and only to the extent that the following are not considered Targeted Advertising, this section does not prohibit Provider from using Student Data

(i) for adaptive learning or customized student learning (including generating personalized learning recommendations); ~~or~~

(ii) to ~~make~~ provide notice of product recommendations or updates within the service to account holders ~~that are not considered Targeted Advertising (this exception does not apply where the Provider is relying on the LEA to provide consent on behalf of the parent under COPPA)~~; or

(iii) ~~to notify account holders about new education product updates, features, or Services that are not considered Targeted Advertising or from~~ for otherwise using Student Data as permitted in this DPA and its accompanying exhibits.

~~Before making product recommendations under section (ii) above, Provider must disclose the existence of those recommendations to LEA in writing, in sufficient detail that LEA can fulfill any obligations under applicable law (e.g. PPRA).~~

Provider is not prohibited from having an independent relationship with a parent, legal guardian, or eligible student; provided however, that

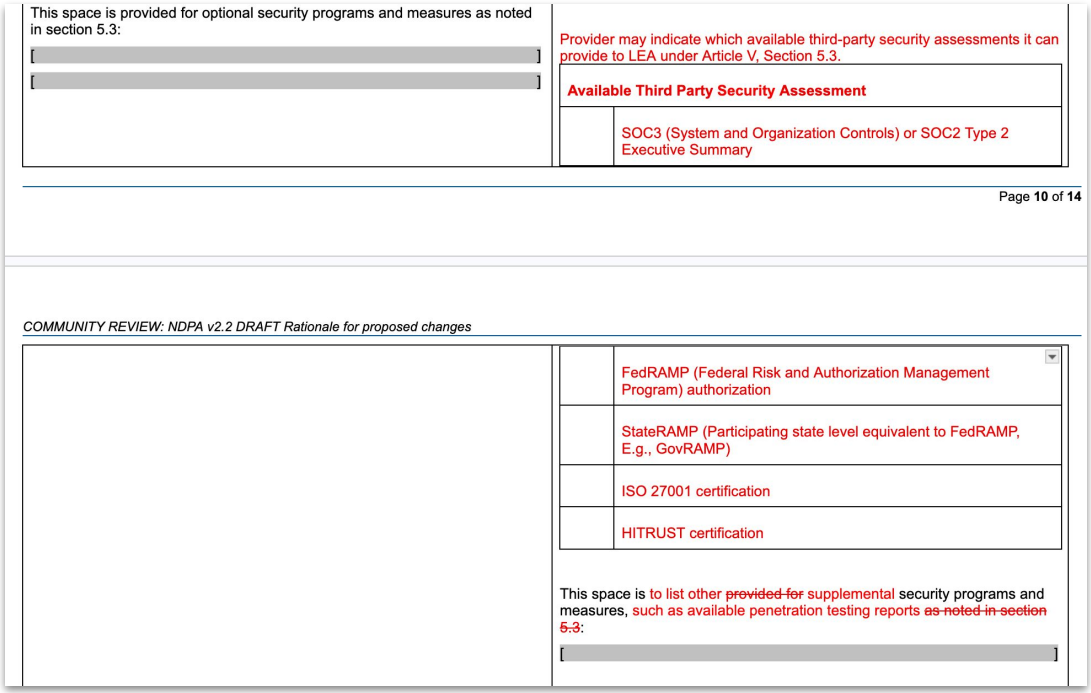
(i) such relationship did not result from the use of Student Data obtained by the Provider through the provision of services covered by this DPA; and

(ii) such agreement cannot purport to alter or modify the terms applicable to the Student Data covered by this DPA.

Rationale: Provide additional clarity to the community by simplifying the language - while still addressing specific concerns.

Revision Highlights: Exhibit F

EXHIBIT F: ADEQUATE CYBERSECURITY ~~FRAMEWORKS~~ CONTROLS



This space is provided for optional security programs and measures as noted in section 5.3:

[ ]

[ ]

Provider may indicate which available third-party security assessments it can provide to LEA under Article V, Section 5.3.

Available Third Party Security Assessment	
	SOC3 (System and Organization Controls) or SOC2 Type 2 Executive Summary

Page **10** of **14**

COMMUNITY REVIEW: NDPA v2.2 DRAFT Rationale for proposed changes

	FedRAMP (Federal Risk and Authorization Management Program) authorization
	StateRAMP (Participating state level equivalent to FedRAMP, E.g., GovRAMP)
	ISO 27001 certification
	HITRUST certification

This space is to list other ~~provided for~~ supplemental security programs and measures, such as available penetration testing reports ~~as noted in section 5.3~~:

[ ]

Rationale:

- A separate, optional section to share third-party assessment information
- Section renamed to reflect the addition
- Goal is to streamline security diligence and provide emerging and small vendors a chance to highlight a range of third-party assessments

Revision Highlights: Exhibit G

EXHIBIT G: Standard Supplemental ~~State~~ Terms for [~~State Name of Agreement Author/State~~]

[The Supplemental ~~State Terms (the "State Supplement")~~ is an optional set of terms intended to address specific data privacy requirements of the agreement authoring entity. ~~that will be generated on an as-needed basis to meet state specific data privacy statute requirements. The scope of these State Supplements will be to cite and address any state specific data privacy statutes and their requirements to the extent that they require terms in addition to or different from the Standard Clauses. The State Supplements will be written in a manner such that they will not be edited/updated by individual parties and will be posted on the SDPC website to provide the authoritative version of the terms. Any changes by LEAs or Providers will be made in amendment form in an Exhibit (Exhibit "H" in this proposed structure).~~]

Rationale: Added back the flexibility for alliances to include terms that suit their state needs.

Moved most of the detailed language into the Usage Guide.

Revision Highlights: Exhibit H

LEA and Provider agree to the following additional or replacement terms and modifications:

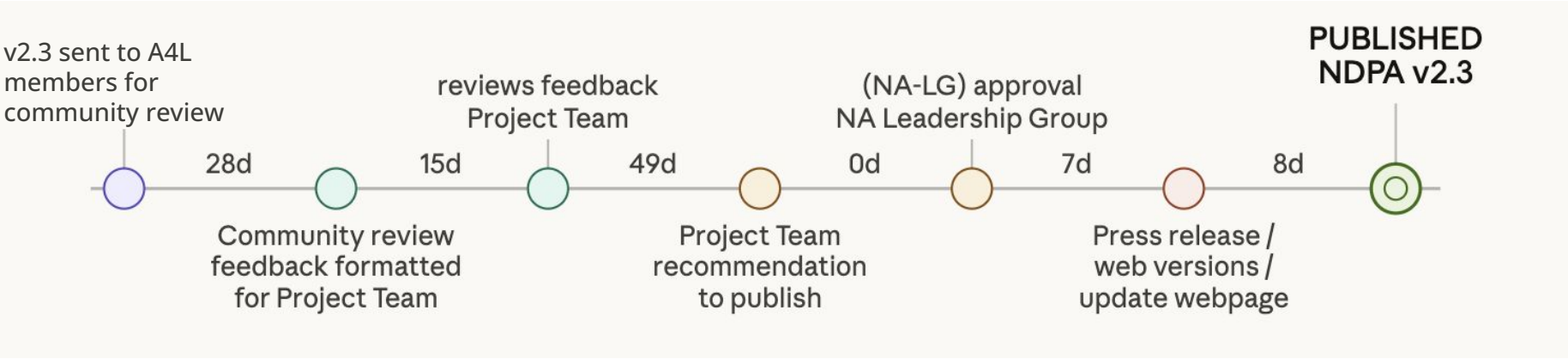
[This ~~is a free text field that the parties can use to add or modify terms in or to the DPA. This field can also be used for partial or complete replacement of the DPA with a marked up version~~ optional field is designed to modify or supplement the Standard Clauses with respect to the subject matter of student data privacy and security as needed and shall not include any Commercial Terms beyond those specified in state statutes or regulations. All other Commercial Terms are reserved to the service agreement(s) between the Parties. If there are no additional, replaced, or modified terms, this field should read "None."]

Rationale: Clarified that Commercial Terms are reserved for the Service Agreement and should not be added to Exhibit H.

Included the optional use of the Exhibit.

Next Steps: v2.3 Community Review

Community Review Timeline



Next Steps

NDPAv3.0