

In compliance with Conn. Gen. Stat. §§ 10-234aa et seq.

ADDENDUM
Berlin Public Schools
And
EDpuzzle, Inc.

This Addendum (“Addendum”) is entered into on this 5th day of June, 2019, between the ***Berlin Board of Education*** (the “Board”) and ***EDpuzzle, Inc.*** (“Contractor”) (collectively, the “Parties”) for the purpose of identifying the obligations of the Parties relative to the confidentiality of student data.

Article I. Definitions

For purposes of this Addendum, “directory information,” “de-identified student information,” “school purposes,” “student information,” “student records,” “student-generated content,” and “targeted advertising,” shall be as defined by Conn. Gen. Stat. § 10-234aa. “Education records” and “personally-identifiable information,” shall be defined by the Family Educational Rights and Privacy Act of 1974 (“FERPA”), codified at 20 U.S.C § 1232g (as amended); and its implementing regulations, 34 CFR 99.1 - 99.67 (as amended).

Article II. Purpose of Addendum

The Parties agree that the purpose of this Addendum is to detail the obligations of both Parties relative to the safety and confidentiality of student information, student records and student-generated content (collectively, “student data”), which student data may be provided to the Contractor in connection with Contractor’s provision of one or more of the following professional and non-instructional services:

- Student data storage, maintenance, collection and/or analysis
- Use of Edpuzzle Web and Apps

Article III. General Provisions

A. The Parties agree that this Addendum controls over any inconsistent terms or conditions contained within any other agreement entered into by the Parties concerning student data.

B. The Contractor shall, prior to modifying any separate Privacy Policy of the Contractor or any other policy, procedure or practice of the Contractor concerning student data that is applicable to the Board and not superseded by this Agreement, notify the Board in advance of said changes, either by electronic mail or by posting an informative banner on the Contractor’s website. In case the Board does not accept the changes made to the Contractor’s practices or policies, the Board shall be entitled to resolve any agreements it has with the Contractor. In such events, Contractor shall proceed to delete student data in a manner consistent with this Agreement.

C. All student data provided or accessed pursuant to this Addendum is and remains under the control of the Board. All student data are not the property of, or under the control of, the Contractor.

D. The Board may request that the Contractor delete any student data in the Contractor's possession that is not (1) otherwise prohibited from deletion or required to be retained under state or federal law, or (2) stored as a copy as part of a disaster recovery storage system and that is (a) inaccessible to the public, and (b) unable to be used in the normal course of business by the Contractor, provided the Board may request the deletion of any such student data if such copy has been used by the Contractor to repopulate accessible data following a disaster recovery. Such request by the Board shall be made by electronic mail to the Contractor at privacy@edpuzzle.com. The Contractor will delete the requested student data within two (2) business days of receiving such a request.

E. The Contractor shall not use student data for any purposes other than those authorized in this Addendum and may not use student data for any targeted advertising.

F. If the Contractor receives a request to review student data in the Contractor's possession directly from a student, parent, or guardian, the Contractor agrees to refer that individual to the Board. The Contractor agrees to work cooperatively with the Board to permit a student, parent, or guardian to review personally identifiable information in student data that has been shared with the Contractor, and correct any erroneous information therein, by following the amendment procedures outlined in the Board's Confidentiality and Access to Education Records Policy.

Article IV. Security and Confidentiality of Student Data

A. The Contractor and the Board shall ensure that they each comply with the FERPA.

B. Further, the Contractor shall take actions designed to ensure the security and confidentiality of student data that, based on the sensitivity of the data and the risk of unauthorized access, include but are not limited to:

1. Using technologies and methodologies consistent with the guidance issued in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, § 13402(h)(2), 42 U.S.C. § 17932.
2. Maintaining technical safeguards relating to the possession of education records in a manner consistent with 45 C.F.R. 164.312.
3. Otherwise meeting or exceeding industry standards relating to the safeguarding of confidential information.

Article V. Prohibited Uses of Student Data

A. The Contractor shall not use student data for any purposes other than those authorized pursuant to this Addendum.

B. The Contractor shall not retain, and the Board shall not otherwise make available, any student data upon completion of the contracted services, except a student, parent, or legal guardian of a student may choose to independently establish or maintain an electronic account with the Contractor after the expiration of this Addendum for the purpose of storing student-generated content.

C. During the entire effective period of this Addendum, the Board shall have control of any and all student data provided to or accessed by the Contractor. If a student, parent or guardian requests deletion of student data, the Contractor agrees to (a) refer that individual to the Board, and (b) not delete such student data because it is controlled by the Board. The contractor shall destroy any and all student data within a reasonable period of time if the Board requests the deletion of such student data.

D. The Contractor shall not collect, store, or use student data or persistent unique identifiers for purposes other than the furtherance of school purposes, as determined by the Board.

E. The Contractor shall not sell, rent or trade student data. In the event that all or a portion of the Contractor or its assets are acquired by or merged with a third party, student data collected by the Contractor will be one of the assets transferred to or acquired by said third party. This Agreement will continue to apply and rule the processing of student data, and any eventual acquirer shall only be able to handle student data as per this Agreement. The Contractor will provide the Board with notice of an acquisition within thirty (30) calendar days following the completion of such a transaction, by posting it on the Contractor's website, and by email to the Board's provided email address. If the Board does not consent to the use of student data by such a successor company, the Board may request the deletion of student data to the successor company. In such events, Contractor shall proceed to the deletion of student data within (2) business days, in the terms foreseen in this Agreement.

Article VI. Data Breaches

A. Upon the discovery by the Contractor of a breach of security that results in the unauthorized release, disclosure, or acquisition of student data, or the suspicion that such a breach may have occurred, the Contractor shall provide initial notice to the Board as soon as possible, but not more than forty-eight (48) hours after such discovery ("Initial Notice"). The Initial Notice shall be delivered to the Board by electronic mail to serveradmins@berlinschools.org and shall include the following information, to the extent known at the time of notification:

1. Date and time of the breach;
2. Names of student(s) whose student data was released, disclosed or acquired;
3. The nature and extent of the breach;
4. The Contractor's proposed plan to investigate and remediate the breach.

B. Upon discovery by the Contractor of a breach, the Contractor shall conduct an investigation and restore the integrity of its data systems and, without unreasonable delay, but not later than thirty (30) calendar days after discovery of the breach, shall provide the Board with a more detailed notice of the breach, including but not limited to the date and time of the breach; name(s) of the student(s) whose student data was released, disclosed or acquired; nature and extent of the breach; and measures taken to ensure that such a breach

does not occur in the future.

C. The Contractor agrees to cooperate with the Board with respect to investigation of the breach and to reimburse the Board for costs associated with responding to the breach, including but not limited to the costs relating to notifications as required by Conn. Gen. Stat. § 10-234dd.

D. Notwithstanding the breach notifications required in this Article, the Contractor shall provide the Board with a copy of the notification that it provides to a student or the parents or guardians of such student pursuant to Conn. Gen. Stat. § 10-234dd. The copy of such notice shall be provided to the Board by electronic mail on the same date that it is provided to the student or parents or guardians of such student. The Parties agree that the following information shall be included in the Contractor's notice of breach to a student or parent or guardian of a student:

1. Name of the student being notified whose student data was released, disclosed or acquired, which shall not include the names of other students;
2. Date and time of the breach.

Article VII. Choice of Law, Choice of Forum, Merger, Severability

A. **Choice of Law.** The parties agree that this addendum and any disputes arising from or relating to this Addendum, including its formation and validity, shall be governed by the laws of the State of Connecticut.

B. **Choice of Forum.** The parties agree that any and all disputes arising from or relating to this Addendum, including its formation and validity, shall be settled in the State of Connecticut.

C. **Amendment.** This Addendum may be changed, amended, or superseded, only upon an addendum in writing executed by both parties hereto.

D. **Severability.** A court finding of invalidity for any provision of this Addendum does not invalidate other provisions or applications that are not affected by the finding.

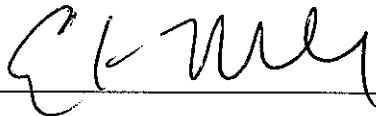
Article VIII. Term

A. The term of this Addendum shall be effective upon execution by both parties and shall terminate when all of the student data collected, used, possessed or maintained by the Contractor is properly and completely deleted or destroyed or returned to the Board, or, if it is infeasible to return or completely delete or destroy the student data, protections are extended to such student data in accordance with the provisions of Paragraph B within this Article.

B. In the event that the Contractor determines that returning or completely deleting or destroying the student data is infeasible, the Contractor shall provide to the Board notification of the conditions that make return or complete deletion or destruction infeasible. The Contractor shall extend the protections of this


Addendum to such student data and limit further uses and disclosures of such student data to those purposes that make the return or complete deletion or destruction infeasible. The Contractor shall not use or disclose such student data and shall maintain its security pursuant to this Addendum for so long as the Contractor possesses or maintains such student data. In the event a disaster recovery system containing student data is used to repopulate the Contractor's databases following the recovery from a disaster, the Contractor shall delete all such student data immediately.

Dr. Erin McGurk, Asst. Superintendent
Berlin Public Schools

 6/5/19

Date

Jordi González Arriola, Product Manager
EDpuzzle, Inc.

 06 / 14 / 2019

Date

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