



SASC LLC dba ACTIVATE LEARNING DATA SHARING AGREEMENT

WHEREAS, the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and its implementing regulations codified at 34 C.F.R 99. 1 et seq. make personally identifiable student information in education records confidential and, subject to certain exceptions, prohibits the disclosure of such information to third parties,

WHEREAS, FERPA and its implementing regulations allow for an educational agency or institution to share personally identifiable student-level data with contractors performing work on their behalf,

WHEREAS, La R.S. 17:3914 allows for Local Educational Agencies to contract with a private entity for student and other educational services and release personally identifiable information pursuant to the terms of the Contract,

WHEREAS, the Louisiana Department of Education (hereinafter referred to as “State”) and SASC LLC dba Activate Learning (hereinafter referred to as “Contractor”) have entered into a contractual arrangement, pursuant to which the Contractor will provide services to State and Local Educational Agencies (LEAs).

WHEREFORE, the State and Contractor do enter into this Agreement subject to the terms and conditions as specified herein.

1. Local Educational Agencies Stipulation

The Contractor acknowledges that local educational agencies (LEAs) in Louisiana submit student data directly to the Contractor. The Contractor hereby agrees, to be bound, vis-à-vis any and all such Louisiana LEAs that unilaterally sign an addendum to this data sharing agreement, by all of the provisions of this Agreement with respect to any student data provided directly to the Contractor by such Louisiana LEAs.

2. Purpose of the Disclosure

The Contractor agrees to collect and use any data disclosed to it pursuant to this Agreement solely for the purpose to provide high school teachers and students with digital access to OpenSciEd high school units on Activate Learning’s platform as part of Learning Recovery Resources.



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3. Data

LEAs, opting to utilize the Contractor's services, will provide the Contractor with the following student level data solely for the purposes provided above. It is the responsibility of the LEAs to obtain parental permission per R. S. 17:3914 to share student level data.

- Student Full Name
- Student Local ID
- Student Email Address
- Teacher Full Name
- Teacher Email Address
- Student Grade Level
- School Name
- Class Name

4. Confidentiality

This Agreement is entered into by Contractor and the State in accordance with the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232(g), et seq., (FERPA) and La. R.S. 17:3914. The Contractor hereby acknowledges that all documents which include information contained in or derived from a student's education records are deemed confidential pursuant to FERPA and La. R.S. 17:3914 and therefore will not be disclosed by Contractor to any third party.

Contractor shall retain the original version of the data at a single location and shall not make a copy or extract of the data available to anyone except personnel who have a need for the data to perform the services referenced in this agreement. Contractor shall maintain the data in hard copy or electronic form, in an area that has limited access only to Contractor's authorized personnel. Contractor shall not permit removal of the data from the limited access area unless otherwise instructed by the state. Contractor will ensure that access to the data maintained on computer files or databases is controlled by password protection. Contractor shall establish procedures to ensure that the target data cannot be extracted from a computer file or database by unauthorized individuals. Contractor shall maintain all printouts, discs, or other physical products containing student-level data in locked cabinets, file drawers, or other secure locations when not in use. Contractor shall, under supervision of the State, destroy the data provided to Contractor, including all copies, whether in electronic or hard copy form, when the services are completed or this Agreement is terminated, whichever occurs first.

5. Restrictions on Use

The Contractor shall not use the data for any purpose not expressly permitted in this Agreement.



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Contractor cannot disclose any document, whether in hard copy or electronic form, or otherwise disclose to any third party any student-level data or information in any form whatsoever or under any circumstances which would directly or indirectly make a student's identity traceable.

6. Indemnification

Contractor shall defend, indemnify and hold harmless the State and any and all of the State's directors, officers, officials, employees, agents, contractors and representatives against and from any and all fines, penalties, government-imposed obligations, and damages awarded by a court of competent jurisdiction, including reasonable attorney's fees, the extent arising out of or resulting from any breach of Contractor's data privacy obligations hereunder except to the extent that they are due to the fault or negligence of the State.

Contractor shall defend, indemnify and hold harmless any LEA and any and all of the LEA's directors, officers, officials, employees, agents, contractors and representatives against and from any and all fines, penalties, government-imposed obligations, and damages awarded by a court of competent jurisdiction, including reasonable attorney's fees, the extent arising out of or resulting from any breach of Contractor's data privacy obligations hereunder, except to the extent that they are due to the fault or negligence of the LEA.

7. Ownership

Any data delivered or transmitted to the Contractor by the State and/or obtained by Contractor for the State pursuant to this Agreement shall become the property of the State, and shall, upon request, be provided or returned by Contractor to the State.

Any data delivered or transmitted to the Contractor by an LEA and/or obtained or prepared by Contractor for an LEA pursuant to this Agreement shall become the property of the LEA, and shall, upon request, be provided or returned by Contractor to the LEA.

No records, reports, documents, materials or products created or developed under this contract can be distributed to third parties.

8. Security Audits

Pursuant to in La. R.S. 17:3914, the Contractor shall permit virtual security audit checks pertaining to Contractor's security and usage of student data. Such security audits shall occur no more than once per year, or following a Security Incident (defined below), and the State and/or LEA shall provide Contractor with at least ten (10) business days' prior written notice of any security audit. Contractor shall reasonably cooperate with all security audits. Access shall be made available at all reasonable times on working days during working hours at Contractor's business premises to Contractor's employees, together with records, books and correspondence and other papers and



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documentation or media of every kind in possession of Contractor and Contractor's employees pertaining to this Agreement. No person or entity will access PII except as authorized by law.

9. Security Breach

As used in this Agreement "Security Breach" means any act or omission that compromises either the security, confidentiality or integrity of personally identifiable student information related to the State or an LEA or receipt of a complaint from the State or an LEA in relation to the privacy practices of Contractor or a breach or alleged breach of this Agreement relating to such privacy practices.

Contractor shall take commercially reasonable steps and best efforts, in accordance with industry standards, to prevent security breaches. Contractor shall also take commercially reasonable steps, in accordance with industry standards, to promptly remedy any security breach and prevent any further security breach at Contractor's expense in accordance with standard industry practices and applicable law.

Contractor shall:(i) provide the State and LEA with the name and contact information for an employee of Contractor who shall serve as the State's and LEA's primary security contact and shall be available to assist State as a contact in resolving issues and fulfilling obligations associated with a security breach; (ii) immediately notify the State and LEA via email, SMS text, or a phone call to the State and LEA contacts which have been provided to the Contractor once the Contractor becomes aware of a security breach.

Promptly following Contractor's notification to the State and LEA of a security breach, Contractor, the State, and the LEA shall coordinate with each other to investigate the security breach. Contractor agrees to reasonably cooperate with State and LEA in their handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) facilitating interviews with Contractor's employees and others involved in the matter; and (iii) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law or industry standards and as otherwise required by the State and LEA and (iv) providing any notices to persons or organizations affected by the security breach as required by law and as required by the State or LEA.

10. Term of Agreement

This Agreement shall begin on December 1, 2023 and shall terminate on March 31, 2029. The effective date of this Agreement may be extended only if an amendment to that effect is duly executed by the parties and approved by the necessary authorities prior to said termination date. If either party informs the other that an extension of this Agreement is deemed necessary, an amendment may be prepared by one party for appropriate action by the other party.



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11. Termination for Convenience

The State may terminate this Agreement at any time by giving Contractor and all LEAs written notice of such termination.

12. Assignment of Contract

Neither party may assign this Agreement or any of its right or obligations under this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, either party may transfer and/or assign this Agreement, without the other party's consent, to any successor by way of a merger, acquisition, or change of control. For the purposes of this Agreement, "change of control" means consolidation, or any sale of all or substantially all of the assignee's assets or any other transaction in which more than 50% of its voting securities are transferred. Nothing in this provision shall preclude the Contractor from subcontracting with third parties to perform work contemplated herein; however, the Contractor is responsible for ensuring that any such subcontractor(s) adhere to, and agree to be bound by, data sharing terms and conditions that meet the minimum requirements of the provisions of this agreement, and that any contract with such subcontractor(s) shall explicitly make such subcontractor subject to the audit provisions. Contractor remains fully liable for any breach of this agreement caused by an act, error or omission of any of its subcontractor(s).

13. Jurisdiction, Venue and Governing Law

Exclusive jurisdiction and venue for any and all suits between the State and Contractor arising out of, or related to, this Agreement shall be filed and adjudicated in the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

Exclusive jurisdiction and venue for any and all suits between the LEA and Contractor arising out of, or related to, this Agreement shall be filed and adjudicated in the appropriate Louisiana State District Court, in the Parish in which the LEA is domiciled.

Exclusive jurisdiction and venue for any and all suits among the Contractor, the State, and one or more LEAs arising out of, or related to, this Agreement shall be filed and adjudicated in the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

The laws of the State of Louisiana, without regard to Louisiana law on conflicts of law, shall govern this Agreement.




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
14. Survival

Contractor's obligation under Clauses 2, 4, 5, 6, 7, and 13 shall survive expiration and/or termination of this Agreement. Contractor's obligations under Clauses 8 and 9 shall survive expiration and/or termination of this Agreement until Contractor has fully complied with its obligation to destroy data as set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below.

DocuSigned by:

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12/11/2023

Dr. Cade Brumley,
State Superintendent of Education 



David Robertshaw
Chief Product Officer
SASC LLC dba Activate Learning