



Student Data Protection Agreement

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The New Mexico Public Education Department should model the Student Data Protection Agreement on elements of the Student Data Privacy Consortium's (SDPC) National Data Privacy Agreement.¹ The SDPC is a collaborative of school districts, educational marketplace vendors, trade organizations, and public sector officials. The National Data Privacy Agreement (NDPA) is being used by 31 states with over 61,000 agreements signed by educational marketplace vendors supporting 34 million students.²

In addition to the clauses detailed in the National Data Privacy Agreement, the New Mexico Student Data Protection Agreement (SDPA) should also include the following additional key provisions:

- **An expanded definition of “Personally Identifiable Information (PII)”:** The PII definition should be expanded to include metadata, browser data search history, behavioral observations, geolocation, eye movements, predictive classifications, “cookies, beacons, pixel tags, mobile ad identifiers and similar identifiers that can be used to track a unique consumer, household, or device over time and across different services”;³
- **Vendor notifications for schools, parents and students:** The SDPA should include clear processes for vendors to notify schools, parents, caregivers, and students about any updates to their company educational and general privacy policies.
 - ▶ For example, Google for Education has core educational applications that align with its educational privacy policy. If schools provide access to additional tools in Google's suite that extend beyond these educational applications, then the schools must also abide by Google's general privacy policy, which has different implications than the

Google for Education privacy policy for students and school communities.

- ▶ In addition, standards for vendor notification should be detailed, including ensuring the vendors provide accessible and linguistically responsive informational materials for students, parents, and caregivers to be educated on any changes to the Terms of Service Agreement.
- **Restrictions on data usage:** The SDPA should include a provision that vendors designated as school officials in their Terms of Service Agreements may not use student data for purposes beyond enhancing educational quality. More specifically:
 - ▶ Vendors must notify school officials how they plan to use student data and for what purposes, and give schools the opportunity to approve that plan; and
 - ▶ There also should be a process for receiving affirmative consent from schools, parents, caregivers and students for any additional purposes or use for student data beyond what is initially agreed upon.

Ensuring An Equitable Student Data Protection Agreement

The size and funding of education vendors often helps determine whether it is plausible for the vendor to have the capacity to comply with the Data Protection Agreement.⁴ For example, smaller vendors may experience greater barriers to establishing district-wide contracts, and/or building tools that apply privacy protections to personal data.

To ensure an equitable school procurement process that prioritizes supporting small, women, and minority-owned businesses reflective of the student population, the NMPED should:

- Monitor and evaluate vendors during the contract renewal process to ensure that they are undertaking equitable procurement planning, as detailed in the 2020 Open Contracting Partnership's [A Procurement Path to Equity](#), the Tribal Education Alliance's [Pathways to Education Sovereignty](#), the Edtech Equity Project's [School Procurement Guide](#), and the Edtech Evidence Exchange's [Edtech Genome Project](#);
 - ▶ Example educational technology vendor evaluation metrics may include metrics

measuring: education equity, student learning outcomes, student well-being, student data protections, teacher satisfaction, tool adoption rate, interoperability, etc.

- Provide technical assistance to small, women, and minority-owned businesses in the procurement process through the [New Mexico Procurement Technical Assistance Center](#); and
- Ensure vendor or school partners do not collect data from students that it is unable to protect.

ENDNOTES

- 1 Access 4 Learning Student Data Privacy Consortium, "National Data Privacy Agreement," March 2021, <https://privacy.a4l.org/national-dpa/>.
- 2 "Privacy By the Numbers," Access 4 Learning Student Data Privacy Consortium, accessed January 2, 2022, <https://privacy.a4l.org/>.
- 3 These data fields are included in the California Consumer Privacy Act's definition of a "unique identifier". See: *California Consumer Privacy Act of 2018*, *California Civil Code* 3 (2018), §§ 1.81.5 et seq, https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=3.&part=4.&lawCode=CIV&title=1.81.5.
- 4 Tyler Park, "The First National Model Student Data Privacy Agreement Launches," *Future of Privacy Forum Blog*, September 18, 2020, <https://fpf.org/blog/the-first-national-model-student-data-privacy-agreement-launches/>.