



DATA PROTECTION & CONTINUITY OF LEARNING



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CONSIDERATIONS

During these unprecedented times of isolation and uncertainty, we would like to work with districts to help them understand how Education Law 2-D and Part 121 of the Commissioner’s Regulations apply to providing instruction using online tools with students.

You might be wondering, "What is OK to use?" There is not a simple answer to that question. Using technology platforms such as Google Hangouts, Microsoft Teams, Cisco Webex, and Zoom are proving to be effective ways for teachers to stay connected with students and with one another - but we as a school community must make an effort to protect student information and staff data, even during these uncertain times.

Below are considerations for school districts, teachers, and families when using these tools:

FOR SCHOOL DISTRICTS



- Consider using your local BOCES service, rather than tackling data privacy on your own.
- Consider using those online tools you were already using before this crisis - rather than introducing something totally new into your district.
- Consider how the Child Online Privacy Protection Act (COPPA) may limit student instruction with online tools for students under the age of 13 years old.
- Consider what should or should not be recorded in an online instructional session.
- Consider how to limit access to the online instructional sessions.
- Avoid using “free” educational applications.

FOR TEACHERS



- Only use the tools that your district has approved - do not use free tools independently that are not approved by your district.
- Do not share your or students’ Personally Identifiable Information (PII) in online settings.
- Examples of PII are described on subsequent pages of this document.

FOR FAMILIES



- Be sure the tools your student is using to complete assignments and communicate with teachers are approved by your school district.
- It’s always a good idea to monitor your child’s Internet use.
- If multiple family members are using the same devices throughout the day, be sure to log out between different family members.

THIRD-PARTY CONTRACTORS & DISTRICT REQUIREMENTS

Data privacy and security obligations related to third-party contractors must be addressed by the district entering into a compliant agreement with vendors to whom they are providing protected Personally Identifiable Information (PII). An agreement that covers the requirements defined by Ed Law 2-D must exist either directly between the school district and the product vendor, or, if the product is part of a service obtained through a BOCES CoSer, an agreement between that BOCES and the product vendor. **A vendor cannot achieve compliance unilaterally.**

COMPLIANCE ASSESSMENT QUESTIONS

1. Is the information contained within the product considered student PII under FERPA, or does it contain personally identifiable components of teacher and principal evaluation data?

Information that, alone or in combination, is linkable to a specific student that would allow a reasonable person in the school community to identify the student. For example, but not limited to:

- Student Name
- Student ID Number
- Student Email Address
- Contact Names
- Student or Contact Addresses
- Student Photos
- Video of Students
- Student Birthdate
- Student Birthplace
- Student Medical Information
- Special Education Information
- Teacher & Principal Evaluation Data

Please be aware this applies to any information that may be entered into or created at any point, by any user, including: students, faculty, administration, integration routines, etc.

2. How is our district procuring the product?

The method of procurement is important. If a district procures a product directly from a vendor, whether it is a paid platform or the district “signs up” for a free service, your district is entering into a contract with the vendor. You should make sure that district contracting procedures are followed and that the agreement with the vendor includes the provisions required by law.

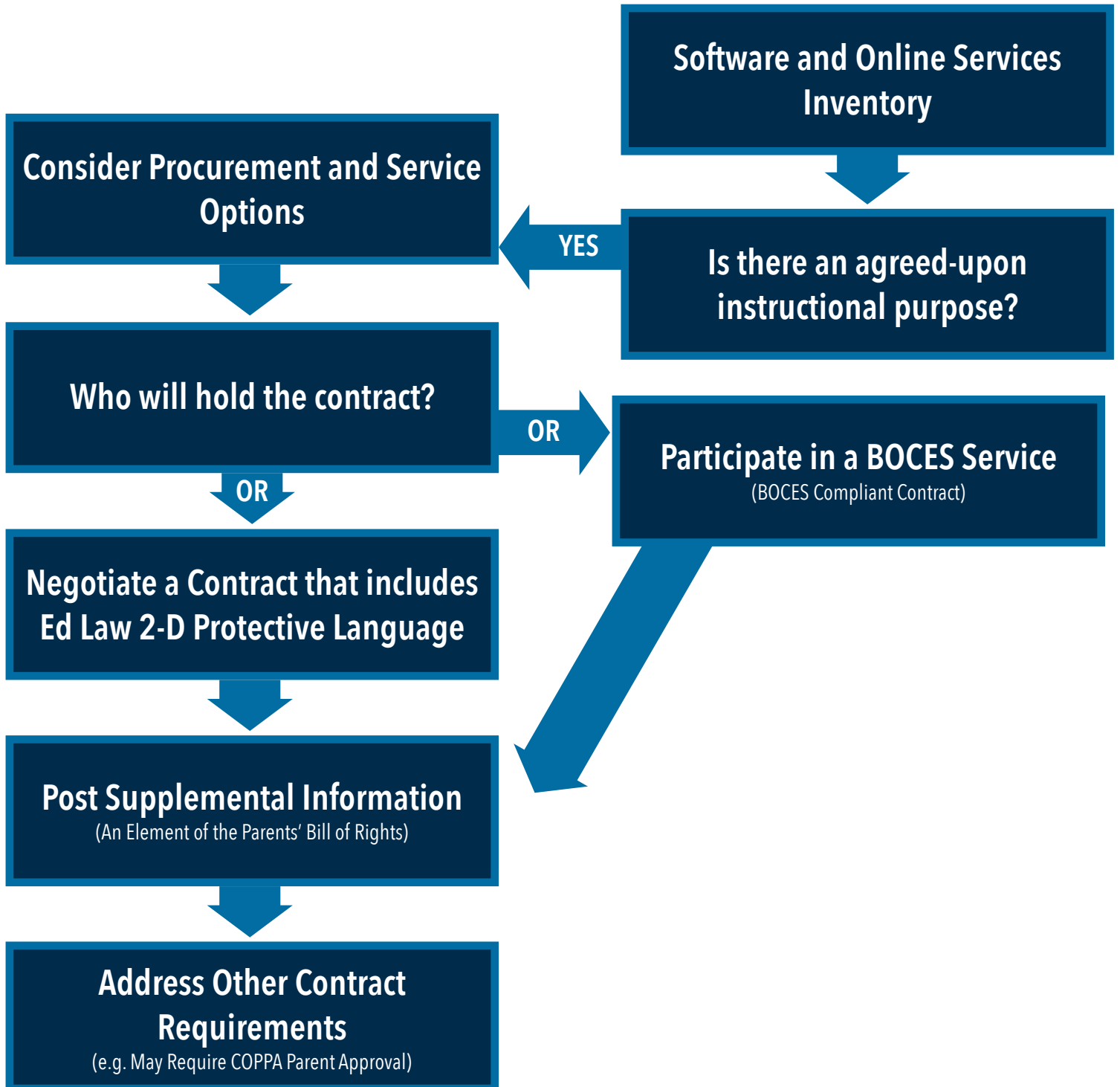
It is important to note, even though a compliant agreement may exist between a BOCES and a vendor, if a district does not obtain the product as part of a service delivered through a BOCES CoSer, the BOCES-negotiated terms do not apply, and the district is responsible for negotiating its own agreement.

3. Does the agreement we have with the vendor address all obligations under Ed Law 2-D?

- Signed Parent’s Bill of Rights
- Exclusive Purposes for Data Use
- Oversight of Subcontractors
- Contract Lifecycle Practices
- Data Correction Practices
- Data Security Protections
- Data Location
- Encryption Practices
- Data Return / Destruction Practices
- Data Security and Privacy Plan
- Unauthorized Release Notification
- NIST Safeguards
- Data Security Policy Compliance
- Limit Internal Vendor Data Access
- Data Security Protections
- Prohibitions on Commercial Use
- Data Confidentiality
- Vendor Staff / Subcontractor Training

CONTRACTORS SAMPLE APPROVAL PROCESS

Education Law 2-D and Part 121 protect the personally identifiable information (PII) of students, and certain teacher and educator evaluation data. Whenever the educational agency discloses PII to a third-party contractor, **agencies must ensure that the written agreement for using the product or services includes required language.** COPPA puts parents in control over what information is collected from children under 13 online. Schools may act as the parent’s agent and can consent to the collection of their child’s information on the parent’s behalf. Terms of Service may require school districts to provide notice and attain parent permission to use tools. **The process below can be used to implement software and online services.**



CONTRACTUAL CONSIDERATIONS

ARE ONLINE CONFERENCING SOLUTIONS COMPLIANT WITH EDUCATION LAW SECTION 2-D?

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REQUIREMENT CATEGORIES RELATED TO THIRD-PARTY CONTRACTORS

DATA SECURITY AND PRIVACY PLAN

CONFIDENTIALITY MAINTAINED

SUPPLEMENTAL INFORMATION FOR THE BILL OF RIGHTS

ADDITIONAL STATUTORY AND REGULATORY OBLIGATIONS

HOW DOES YOUR DISTRICT ACQUIRE THEIR ONLINE CONFERENCING SOLUTION?

- LEVERAGE CONTRACT VIA BOCES/RIC CoSER
- CONTRACT DIRECTLY WITH VENDOR PARTNER (Contracts Below N/A)

ONLINE CONFERENCING SOLUTIONS

All major online conference solutions have similar features, including: two-way video, text chat, telephone call-in capabilities, and screen sharing support. Each solution differs in the way accounts are managed and created and how online conferences are scheduled. Below is information related to how districts can procure these technologies. Erie 1 BOCES, Erie 2 BOCES, and Capital Region BOCES have partnered with the vendor community to negotiate contracts that include protective Education Law 2-D language. **Remember that vendors cannot achieve compliance unilaterally. Districts must leverage a procurement mechanism that includes a contract with protective language.**

GOOGLE HANGOUTS



ERIE 1 AGREEMENT
7710 Consortium, Ed Law 2-D Contract

- Requires district to sign the Google Opt-in Agreement through their local RIC.
- Available in the free G Suite for Education core services.

MICROSOFT TEAMS



ERIE 1 AGREEMENT
7710 Consortium, Ed Law 2-D Contract

- Requires district to procure licensing through their local RIC.
- Cost based on district FTE count for Microsoft Enrollment for Education (EES) Volume Licensing.

CISCO WEBEX



CAP BOCES AGREEMENT
Capital Region BOCES, Ed Law 2-D Contract

- Requires district to sign the CISCO Opt-in Agreement through Cap BOCES/NERIC.
- Cost based on district FTE count through participation in NERIC services.

ZOOM VIDEO COMMUNICATIONS



ERIE 2 AGREEMENT
Erie 2 BOCES, ED Law 2-D Contract

- Requires district to sign the Zoom Opt-in Agreement.
- Cost varies based on district participation in BOCES/RIC Distance Learning Services.

Additional Resources - Online Conferencing Guidance: <https://sites.google.com/btbooces.org/bocesofnewyorkstateonlineconfe/home>



APPENDIX: STATEWIDE CONTRACTS





CONTRACTUAL RELATIONSHIPS

Data privacy and security obligations related to third-party contractors must be addressed by the district entering into a compliant agreement with vendors to whom they are providing protected Personally Identifiable Information (PII). An agreement that covers the requirements defined by Ed Law 2-D must exist either directly between the school district and the product vendor, or, if the product is part of a service obtained through a BOCES CoSer, an agreement between that BOCES and the product vendor. **A vendor cannot achieve compliance unilaterally.**

**STATEWIDE
 CONTRACT
 CONSORTIUMS THAT
 SUPPORT LEARNING
 TECHNOLOGIES**

**NYS Instructional
 Technology Contract
 Consortium**

**NYS Distance
 Learning Contract
 Consortium**

Districts need to procure these products through their local BOCES/RIC or a sister BOCES/RIC that participates in the Contract Consortium(s) and supports the product.

Please Note: All products listed have current contracts through June 30.

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool
3D Bear	3D Bear
3rd L Corp	NY Learns
A+ Educators	Propel
	Target ED
	Woz U, Science Curriculum Only
Accelerate Learning	STEM Scopes
Achieve3000	empowerPro
	eScience 3000
	KidBiz3000
	LevelSet eScience
	TeenBiz3000
	SmartyAntz
	Spark 3000
American Reading Company	School Pace / IRLA
Amplify	Amplify Science
Answer Pad	Answer Pad



CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool
Bird Brain	Hummingbird
BK Interactive	Boardworks
Bridges Transitions	Choices (all products)
Buncee	Buncee
Certica	TestWiz
Charmtech Labs	CaptiVoice
Chester Technical Services	Virtuoso
Classlink	Classlink
Code Monkey	Code Monkey
Code Z - JZA Training	Code Z - JZA Training
Codesters	Codesters
Curriculum Associates	iReady (all products)
Curriculum Technology	Curriculum Mapper
Dreambox	Dreambox
eDoctrina	Accountability Suite
	BeHAVE
	Educator Suite
	rePORT Cards
	Question Bank Add Ons
Eduporium	Root Robotics
	Robo Wunderkind
	E-Blox

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool
Edgenuity	My Path
Edmentum	Education City
Educational Vistas	Stafftrac
eSpark	eSpark
Explore Learning	Gizmos
	Reflex
Frontline Technologies	Evaluation
	Teachscape
	Guidance Direct
Gale	Miss Hubblebee's Academy
	Gale Interactive Science only (not database tools)
Google (7710 CoSer Contract)	G Suite for Education
Hapara	Hapara
Houghton Mifflin Harcourt	Read 180
	System 44
	Math 180
	Reading Inventory
	Math Inventory
	Phonics Inventory
	iRead
iDesign	Vex Robotics
Illuminate	FastBridge Learning - FAST

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool
Imagine Learning	Imagine Espanol
	Imagine Language Literacy
	Imagine Math Facts
	Imagine Math
Interactive Media	Exploring Robotics
	Cubelets
	Dash-Dot
	Ozobot
	GoPiGo
	Airblock Drone
	Bolide
iSafe	iSafe
iStation	iStation
IXL Learning	IXL (all products)
Kinderlab Robotics	Kinderlab Robotics
Learning Ally	Learning Ally
learning.com	21st Century Skills Assessment
	Easy Tech
	Inquiry
	TechLiteracy Assessment
	Digital Literacy Assessment
	WayFind
	Curriculum Publisher

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool
Learning Sciences International	iObservation
Learning Without Tears	Keyboarding Without Tears
Legends of Learning	Legends of Learning
LEGO Education	LEGO Education
Lexia Learning	Lexia Learning
LinkIt	LinkIt
Mad Learn	Mad Learn
Maker's Empire	Maker's Empire
Math Space	Math Space
McGraw-Hill	Acuity
	Aleks Math
	Redbird
Mid Research Institute	ST Math
Microsoft (7710 CoSer Contract)	Microsoft Enrollment for Education Solution (EES)
Music First	Music First
Naviance	Naviance
Nearpod	Nearpod (all products)
	Flocabulary
Net Ref	Net Ref
Newsela	Newsela
NWEA	NWEA MAP
	CPAA

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool
Oneder	Oneder
Pasco	Pasco
Pearson Digital Learning	SuccessMaker
	Write to Learn
	AIMS Web
	iLit
Renaissance Learning	SR
	STAR Early Literacy
	SM
	Accelerated Reader
	English in a Flash
	Accelerated Math
	Freckle SubText
Right Reason Technologies	Right Path
Rosetta Stone	Rosetta Stone
Rubicon West, Inc.	Atlas Curriculum Mapping System
Scientific Learning	Fast ForWord
Sensavis	Sensavis
ServiceInfinity	Maia Learning
SkyOp	SkyOp

CONTRACTUAL RELATIONSHIPS

NYS INSTRUCTIONAL CONTRACT CONSORTIUM

NYSITCC Vendor	Software Tool	
Suntext International	First in Math	
Taylor & Associates Communications	Reading Plus	
Tech 4 Learning	Wixie	
Tequipment	Lab Disc	Rotois
	NAO	Wonder Workshop
	SMART	Ozobot
	STEM Fuse	Evo
	Now Button	Pi-Top
	STEM IT	Sphero
	OTIS	KiBo
Thimble	Thimble Kit	
VidCode	VidCode	
Waterford	Waterford	
zSpace	zSpace	

NEW RFP AWARDS *In Contract Negotiations*

Core Four, Edsby	PlayVS
Dell, Advanced Learning Partnerships Firm,	Portfolium
Online PD	PowerSchool, United Talent Professional
Ed Puzzle	Learning System, Online PD
Fresh Grade	TEQ, Active Floor
Go Guardian, Teacher	Type To Learn
High School eSports League	Typing Pal Online
Impero, edTeach	

CONTRACTUAL RELATIONSHIPS

NYS DISTANCE LEARNING CONTRACT CONSORTIUM

NYS DLCC Vendor	Software Tool
Apex	Apex
Blackboard	Blackboard
Desire2Learn	Desire2Learn
Edgenuity	Edgenuity
Edmentum	Plato
eDoctrina	SOLe
FEV Tutor	FEV Tutor
Florida Virtual School	Florida Virtual School
Instructure	Canvas
iTutor	iTutor
Odysseyware	Odysseyware
Pearson	Grad Point
Right Reason	RightPath
Schoology	Schoology

NEW RFP AWARDS *in Contract Negotiations*

Educere, MGRM Pinnacle, Otus,
Skooler, Spider Learning

OTHER STATEWIDE CONTRACTS

Vendor	Software Tool	Contract Holder
Cisco	Webex	NERIC, Capital Region BOCES
Zoom	Zoom	Erie 2 BOCES

