

Bidder: _____

Durham Public Schools

<p>Durham Public Schools</p> <p>RFP# 179-2526-274-ELEARNING-C&I</p> <p>Attn: Amy Morris 511 Cleveland Street Durham, NC 27701</p>	<p>REQUEST FOR PROPOSALS NO:</p> <p>RFP# 179-2526-274-ELEARNING-C&I</p> <hr/> <p>Bid Opening DATE: 3/3/2026 (3 pm EST)</p>
<p>Direct all inquiries concerning this RFP to:</p> <p>Durham Public Schools</p> <p>Attn: Amy Morris</p> <p>All questions must be submitted <u>via email</u> no later 12:00pm (Noon) EST on 2/24/2026</p>	<p>Contract Type: <u>Open Market, Purchase</u> using various funds; when using Federal Funds Durham Public Schools will follow all Federal guidelines.</p>
<p>Email: Dist.Purchasing@dpsnc.net</p>	<p>Using Agency Name:</p> <p>Durham Public Schools</p>

Bids will be publicly opened on: Tuesday, March 3, 2026, at 3:00 pm

NOTE: Questions concerning the specifications in this Request for Proposals will be received until date and time listed above. ALL QUESTIONS MUST BE SUMITTED IN WRITING, EITHER BY EMAIL or TO THE ADDRESS LISTED ABOVE. NO QUESTIONS will be received by telephone. Questions received after the date and time listed above will not be considered. A summary of all questions and answers will be posted on the Interactive Purchasing System as an addendum, located under the RFP # being modified. It is the OFFEROR'S responsibility to assure that all addenda have been reviewed and, if need be, signed and returned.

NOTICE TO BIDDERS

Sealed Proposals subject to the conditions made a part hereof, will be received until **1:00 pm 3/3/2026** for furnishing and delivering the commodity/services described herein and then publically opened.

Bids submitted via telegraph, facsimile (FAX) machine, telephone and electronic means, including but not limited to e-mail, in response to this Request for Proposals will not be acceptable. Bids are subject to rejection unless submitted on this form.

Please submit three (3) hard copies and one (1) copy via flash drive of your proposal. One copy must be marked original.

EXECUTION

In compliance with this Request for Proposals, and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this proposal, the undersigned Vendor certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that it is not an ineligible Vendor as set forth in G.S. 143-59.1. False certification is a Class I felony. Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor’s knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency. As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this RFP, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public Contract; or awarding or administering public Contracts; or inspecting or supervising delivery of the public Contract of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of this response to the RFP, the undersigned certifies, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Failure to execute/sign proposal prior to submittal shall render proposal invalid and it WILL BE REJECTED. Late proposals cannot be accepted.

VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #10):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:	FEDERAL ID NUMBER:	
VENDOR’S AUTHORIZED SIGNATURE:	DATE:	EMAIL:

Offer valid for at least 180 business days from date of proposal opening. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this RFP.

ACCEPTANCE OF PROPOSAL

If any or all parts of this proposal are accepted by Durham Public Schools, an authorized representative of Durham Public Schools shall affix his/her signature hereto and this document and all provisions of this Request For Proposal along with the Vendor proposal response and the written results of any negotiations shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

FOR DURHAM PUBLIC SCHOOLS USE ONLY: Offer accepted and Contract awarded this _____ day of _____, 20____, as indicated on the attached certification, by
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1.0 REQUEST FOR PROPOSAL DOCUMENT

The RFP is comprised of the base RFP document, any attachments, and any addenda released before Contract award. All attachments and addenda released for this RFP in advance of any Contract award are incorporated herein by reference.

1.1 Proposal Questions

Written questions concerning this RFP will be received until **12:00 (noon) pm 2/24/2026** Eastern Standard Time. They must be sent via e-mail to: **Dist.Purchasing@dpsnc.net** please insert "Questions for bid **RFP# 179-2526-274-ELEARNING-C&I**) as the subject for the email.

Durham Public Schools will prepare responses to all written questions submitted, and post an addendum to the NCEVP system: <https://eprocurement.nc.gov/training/vendor-training> oral answers are not binding on Durham Public Schools.

Questions received prior to the submission deadline date, Durham Public Schools response, and any additional terms deemed necessary by Durham Public Schools be posted in the form of an addendum to the NCEVP system: <https://eprocurement.nc.gov/training/vendor-training>, and shall become an Addendum to this RFP. No information, instruction or advice provided orally or informally by any Durham Public Schools personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. Vendors shall rely only on written material contained in an Addendum to this RFP.

Vendor contact regarding this RFP with anyone other than DPS employee listed above may be grounds for rejection of said Vendor's offer.

Critical updated information may be included in these Addenda. It is important that all Vendors bidding on this RFP periodically check the State website for any and all Addenda that may be issued prior to the offer opening date.

1.2 NOTICE TO VENDORS REGARDING RFP TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions, the State's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this RFP, and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFP.

If Vendors have questions, issues, or exceptions regarding any term, condition, or other component within this RFP, those must be submitted as questions in accordance with in the instructions in Section 1.1 PROPOSAL QUESTIONS. If Durham Public Schools determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an RFP addendum. Durham Public Schools may also elect to leave open the possibility for later negotiation and amendment of specific provisions of the Contract that have been addressed during the question and answer period. Other than through this process, Durham Public Schools rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's proposal. This applies to any language appearing in or attached to the document as part of the Vendor's proposal that purports to vary any terms and conditions or Vendors' instructions herein or to render the proposal non-binding or subject to further negotiation. Vendor's proposal shall constitute a firm offer. **By execution and delivery of this RFP Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's proposal as nonresponsive.**

If a Vendor desires modification of the terms and conditions of this solicitation, it is urged and cautioned to inquire during the question period, in accordance with the instructions in this RFP, about whether specific language

proposed as a modification is acceptable to or will be considered by Durham Public Schools. Identification of objections or exceptions to Durham Public Schools terms and conditions in the proposal itself shall not be allowed and shall be disregarded or the proposal rejected.

Contact with anyone working for or with Durham Public Schools regarding this RFP other than the State Contract Specialist named on the face page of this RFP in the manner specified by this RFP shall constitute grounds for rejection of said Vendor's offer, at the State's election.

2.0 PROPOSAL SUBMITTAL

Sealed proposals, subject to the conditions made a part hereof and the receipt requirements described below, shall be received at the address indicated in the table below, for furnishing and delivering those items or services as described herein.

Mailing address for delivery of proposal via US Postal Service	Office Address of delivery by any other method (special delivery, overnight, or any other carrier)
<p><i>Durham Public Schools</i></p> <p>RFP# 179-2526-274-ELEARNING-C&I</p> <p>Purchasing Department Attn: Amy Morris 511 Cleveland Street Durham, NC 27701</p>	<p><i>Durham Public Schools</i></p> <p>RFP# 179-2526-274-ELEARNING-C&I</p> <p>Purchasing Department Attn: Amy Morris 511 Cleveland Street Durham, NC 27701</p>

IMPORTANT NOTE: All proposals shall be physically delivered to the office address listed above on or before the proposal deadline in order to be considered timely, regardless of the method of delivery. **This is an absolute requirement.** All risk of late arrival due to unanticipated delay—whether delivered by hand, U.S. Postal Service, courier or other delivery service is entirely on the Vendor. It is the sole responsibility of the Vendor to have the proposal physically in this Office by the specified time and date of opening. The time of delivery will be marked on each proposal when received, and any proposal received after the proposal submission deadline will be rejected. Sealed proposals, subject to the conditions made a part hereof, will be received at the address indicated in the table in this Section, for furnishing and delivering the commodity as described herein.

Vendors are cautioned that proposals sent via U.S. Mail, including Express Mail, may **not** be delivered to the agency's purchasing office on the due date in time to meet the proposal deadline. All Vendors are urged to take the possibility of delay into account when submitting a proposal. **Attempts to submit a proposal via facsimile (FAX) machine, telephone or electronic means, including but not limited to email, in response to this RFP shall NOT be accepted.**

- a) Submit your proposal in a sealed package. Clearly mark each package with: (1) Vendor name; (2) the RFP number; and (3) the due date. Address the package(s) for delivery as shown in the table above. If Vendor is submitting more than one (1) proposal, each proposal shall be submitted in separate sealed envelopes and marked accordingly. For delivery purposes, separate sealed envelopes from a single Vendor may be included in the same outer package. Proposals are subject to rejection unless submitted with the information above included on the outside of the sealed proposal package.

- b) **Please submit three (3) copies of your proposal. One copy must be marked original. One copy must be in digital format. Digital format shall be on a USB Drive and include windows-based files (Adobe PDF, Word, and Excel).**

2.1 PROPOSAL CONTENTS

Vendors shall populate all attachments of this RFP that require the Vendor to provide information and include an authorized signature where requested. Vendor RFP responses shall include the following items and those attachments should be arranged in the following order:

- a) Cover Letter
- b) Title Page: Include the company name, address, phone number and authorized representative along with the Proposal Number.
- c) Completed and signed version of EXECUTION PAGES, along with the body of the RFP, and signed receipt pages of any addenda released in conjunction with this RFP (if required to be returned).
- d) All Data Protection Agreements must be signed and dated by an authorized representative from the company.

2.2 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial offer, made in response to a request by the issuing agency.
- b) **BUYER:** The employee of Durham Public Schools or Other Eligible Entity that places an order with the Vendor.
- c) **CONTRACT LEAD:** Representative of Durham Public Schools who corresponds with potential Vendors in order to identify and contract with that Vendor providing the greatest benefit to Durham Public Schools and who will administer this contract
- d) **E-PROCUREMENT SERVICES:** The program, system, and associated services through which the State conducts electronic procurement.
- e) **FOB-DESTINATION:** Title changes hand from Vendor to purchaser at the destination point of the shipment; Vendor owns commodity in transit and files any claims, and Vendor pays all freight and any related transportation charges. A solicitation may request Vendors to separately identify freight charges in their proposal, but no amount or charge not included as part of the total proposal price will be paid.
- f) **LOT:** A grouping of similar products within this RFP.
- g) **ON-TIME DELIVERY:** The delivery of all items within a single order to the receiving point designated by the ordering entity within the delivery time required.
- h) **QUALIFIED PROPOSAL:** A responsive proposal submitted by a responsible Vendor.
- i) **RFP:** Request for Proposal
- j) **STATE:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
- k) **STATE AGENCY:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, boards, commissions, institutions of higher education and other institution.
- l) **VENDOR:** Supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to a Request for Proposal.

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3.0 METHOD OF AWARD AND PROPOSAL EVALUATION PROCESS PROPOSAL REVIEW AND AWARD

It is the intent of Durham Public Schools to award this RFP to the responsible bidder(s) who best matches the needs of Durham Public Schools. Durham Public Schools reserves the right to reject any and all bids. All qualified proposals will be evaluated and awards will be made to the Vendor(s) meeting the RFP requirements and achieving the highest and best final evaluation.

While it is the intent of Durham Public Schools to award this RFP to a single Vendor, Durham Public Schools reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items or to cancel this RFP in its entirety without awarding a contract, if it is considered to be most advantageous to Durham Public Schools to do so.

The status of a Vendor's E-Procurement Services account(s) shall be considered a relevant factor in determining whether to approve the award of a contract under this RFP. Any Vendor with an E-Procurement Services account that is in arrears by 91 days or more at the time of proposal opening may, at the State's discretion be disqualified from further evaluation or consideration.

Durham Public Schools reserves the right to waive any minor informality or technicality in proposals received.

3.1 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

During the evaluation period—from the date proposals are opened through the date the contract is awarded—each Vendor submitting a proposal (including its representatives, sub-contractors and/or suppliers) is prohibited from

having any communications with any person inside or outside the using agency, issuing agency, other government agency office, or body (including the purchaser named above, department secretary, agency head, members of the general assembly and/or governor's office), or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the contents of another Vendor's proposal, another Vendor's qualifications or ability to perform the contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals and/or the award of the contract. A Vendor not in compliance with this provision shall be disqualified from contract award, unless it is determined in the State's discretion that the communication was harmless, that it was made without intent to influence and that the best interest of the State would not be served by the disqualification. A Vendor's proposal may be disqualified if its sub-contractor and supplier engage in any of the foregoing communications during the time that the procurement is active (i.e., the issuance date of the procurement to the date of contract award). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this RFP or general inquiries directed to the purchaser regarding requirements of the RFP (prior to proposal submission) or the status of the contract award (after submission) are excepted from this provision.

3.2 PROPOSAL EVALUATION PROCESS

Durham Public Schools shall review all Vendor responses to this RFP to confirm that they meet the specifications and requirements of the RFP.

Durham Public Schools will conduct a Two-Step evaluation of Proposals:

Proposals will be received from each responsive Vendor in a sealed envelope or package. All proposals must be received by the issuing agency not later than the date and time specified on the cover sheet of this RFP.

At that date and time, the package containing the proposals from each responding firm will be opened publicly and the name of the Vendor and total cost offered will be announced. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor's pricing position.

At their option, the evaluators may request oral presentations or discussion with any or all Vendors for the purpose of clarification or to amplify the materials presented in any part of the proposal. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all proposals should be complete and reflect the most favorable terms available from the Vendor.

Durham Public Schools reserves the right to reject all original offers and request one or more of the Vendors submitting proposals within a competitive range to submit a best and final offer (BAFO), based on discussions and negotiations with Durham Public Schools, if the initial responses to the RFP have been evaluated and determined to be unsatisfactory.

Based on the initial evaluation, the Durham Public Schools will ask some vendors to present their product to the evaluation committee. The evaluation committee will ask vendors to conduct presentations on March 10, 2026. The presentations will be videotaped and made available to the DPS committee members not able to attend due to unforeseen circumstances. The video will not be made available outside the committee for confidential and proprietary reasons. In addition, please note that if the vendor has pages included in the bid response that cannot be made publically available or need to be redacted need to indicate (as a footnote, or other means) before submitting to DPS.

Upon completion of the evaluation process, Durham Public Schools will make Award(s) based on the evaluation and post the award(s) to NCEVP system: <https://eprocurement.nc.gov/training/vendor-training> under the RFP number for this solicitation. Award of a Contract to one Vendor does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous and represented the **best value** to Durham Public Schools.

3.3 INTERPRETATION OF TERMS AND PHRASES

This Request for Proposal serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the Department; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. As such, all terms in the Request for Proposal shall be enforceable as contract terms in accordance with the General Contract Terms and Conditions. The use of phrases such as “shall,” “must,” and “requirements” are intended to create enforceable contract conditions. In determining whether proposals should be evaluated or rejected, the Department will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the Department’s needs as described in the Request for Proposal. Except as specifically stated in the Request for Proposal, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in the Department exercising its discretion to reject a proposal in its entirety.

4.0 REQUIREMENTS

This Section lists the requirements related to this RFP. By submitting a proposal, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements and terms and conditions stated in this RFP. If a Vendor is unclear about a requirement or specification or believes a change to a requirement would allow for Durham Public Schools to receive a better proposal, the Vendor is urged and cautioned to submit these items in the form of a question during the question and answer period in accordance with Section 1.1.

4.1 CONTRACT TERM

The Contract shall have an initial term of five (5) years, beginning on the date of contract award (the “Effective Date”). The Vendor shall begin work under the Contract within thirty (30) business days of the Effective Date. The contract terms shall be on fiscal year, July 1 to June 30 (of the following year), on an annual basis.

At the end of the Contract’s current term, Durham Public Schools shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to a total of two (2) additional one-year terms. Durham Public Schools will give the Vendor written notice of its intent whether to exercise each option no later than thirty (30) days before the end of the Contract’s then-current term. In addition, Durham Public Schools reserves the right to extend a contract term for a period of up to 180 days in 90-day-or-less increments.

4.2 PRICING

Proposal price shall constitute the total cost to Buyer for complete performance in accordance with the requirements and specifications herein, including all applicable charges handling, administrative and other similar fees. Vendor shall not invoice for any amounts not specifically allowed for in this RFP. Complete ATTACHMENT C: PRICING FORM and include in Proposal.

4.3 INVOICES

- a) Invoices must be submitted to the Accounts Payable Office on the Vendor(s) official letterhead/stationery.

- b) Invoices must bear the correct contract number/purchase order number to ensure prompt payment. The Vendor's failure to include the correct purchase order number may cause delay in payment.
- c) Invoices must include an accurate description of the work/items for which the invoice is being submitted, the invoice date, the period of time covered when applicable, the amount of fees due to the Vendor and the original signature of the Vendor's project manager.

4.4 PAYMENT TERMS

- a) The Vendor will be compensated at the rates quoted in the Vendor's Cost Proposal.
- b) The Vendor will be paid net thirty (30) calendar days after the Vendor's invoice is approved by Durham Public Schools.

4.5 FINANCIAL STABILITY

Each Vendor shall certify it is financially stable by completing the ATTACHMENT D: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from Contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify Durham Public Schools within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification.

4.6 VENDOR EXPERIENCE

When applicable in its Proposal, Vendor shall demonstrate experience with public and/or private sector clients with similar or greater size and complexity to the State of North Carolina. Vendor shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person.

4.7 REFERENCES

Vendors shall provide at least five (5) references for which your company has provided services of similar size and scope to that proposed herein. At least three (3) of the five (5) must be public school districts in North Carolina (See Attachment D). Durham Public Schools may contact these users to determine the services provided are substantially similar in scope to those proposed herein and Vendor's performance has been satisfactory. The information obtained may be considered in the evaluation of the proposal.

4.8 BACKGROUND CHECKS

Vendor and its personnel are required to provide or undergo background checks at Vendor's expense prior to beginning work with the State. As part of Vendor background the details below must be provided to Durham Public Schools:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception, of Vendor, its officers or directors, or any of its employees or other personnel to provide services on this project, of which Vendor has knowledge or a statement that it is aware of none;
- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against Vendor of which it has knowledge or a statement it is aware of none;
- c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term "regulatory sanctions" includes the

revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;

- d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide services on this project by any state or federal regulatory agencies of which Vendor has knowledge or a statement that there are none.
- e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its proposal herein or a statement that there are none.

Vendor's responses to these requests shall be considered to be continuing representations and Vendor's failure to notify Durham Public Schools within thirty (30) days of any criminal litigation, investigation or proceeding involving Vendor or its then current officers, directors or persons providing services under this contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform services under this contract.

Any personnel or agent of the Vendor performing services under any contract arising from this RFP may be required to undergo a background check at the expense of the Vendor, if so requested by Durham Public Schools.

4.9 PERSONNEL

Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Contract Lead. Vendor shall notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. Durham Public Schools will approve or disapprove the requested substitution in a timely manner. Durham Public Schools may, in its sole discretion, terminate the services of any person providing services under this Contract. Upon such termination, Durham Public Schools may request acceptable substitute personnel or terminate the contract services provided by such personnel.

4.10 VENDOR'S REPRESENTATIONS

- a) Vendor warrants that qualified personnel shall provide services under this Contract in a professional manner. "Professional manner" means that the personnel performing the services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of Durham Public Schools under this Contract. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by Durham Public Schools. Names of any third party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).
- b) If any services, deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the service and deliverables under this Contract, or are an inherent part of or necessary sub-task included within such service, they will be deemed to be implied by and included within the scope of the contract to the same extent and in the same manner as if specifically described in the contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.
- c) Vendor warrants that it has the financial capacity to perform and to continue perform its obligations under the contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

5.0 SCOPE OF WORK/ACCEPTANCE OF WORK

In the event acceptance criteria for any work or deliverables is not described in contract documents or work orders hereunder, Durham Public Schools shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work or deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by Durham Public Schools shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation or testing, as applicable of the work or deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures. Should the work or deliverables fail to meet any requirements, acceptance criteria or otherwise fail to conform to the contract, Durham Public Schools may exercise any and all rights hereunder, including, for deliverables, such rights provided by the Uniform Commercial Code as adopted in North Carolina.

5.1 LIQUIDATED DAMAGES

The parties agree that calculation of actual damages resulting from failure to meet the following performance standards is extremely difficult, if not impossible, to calculate accurately, and the parties also agree that the compensation identified for such failures are a reasonable estimate of damages resulting from a failure to meet the performance standard described. Therefore, the parties agree that the Vendor shall be subject to amounts due as liquidated damages but not as a penalty, for each such failure, as follows:

Notwithstanding any other provision herein, liquidated damages shall not be subject to a limitation on damages or limit of liability for damages that otherwise may be applicable to recoverable damages.

5.2 DISPUTE RESOLUTION

The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to Durham Public Schools' Contract Lead for resolution. A claim by Durham Public Schools shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

5.3 CONTRACT CHANGES

Contract changes, if any, over the life of the contract shall be implemented by contract amendments agreed to in writing by Durham Public Schools and Vendor.

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RFP begins on the next page

6.0 PROPOSAL

INTRODUCTION:

Durham Public Schools is located in Durham, North Carolina. Durham Public Schools has 30,197 students and comprises of 58 schools; 12 High Schools, 2 Secondary Schools, 9 Middle Schools, 32 Elementary Schools, 1 Pre-Kindergarten School, and 1 Virtual School. The scope of this work for eLearning is focused on students in grades 6-12. DPS has approximately 6,309 in grades 6-8, and 10,482 in grades 9-12. The list of DPS secondary schools is in attachment G.

Purpose: Durham Public Schools (the “District”) is issuing this Request for Proposals (RFP) to procure a comprehensive online courseware platform for 6-12 students. This RFP is conducted under the authority of N.C. General Statute § 143-129.8, which allows the use of a competitive proposal process. The goal is to identify a qualified vendor who can deliver a high-quality eLearning solution that enhances student achievement, supports North Carolina’s educational standards, and provides strong value to the District. This RFP is based on the DPS Board of Education policy [3102 Online Instruction \(e-Learning\)](#).

Durham Public Schools wishes to purchase: a comprehensive, enterprise-level online instructional platform to deliver both credit recovery and first-time credit coursework for middle and high school students.

The purpose of this procurement is to secure a centralized, standards-aligned, secure, and instructionally rigorous online learning solution that supports student achievement, ensures compliance with North Carolina graduation requirements, and maintains the integrity of academic credit awarded.

The platform must provide the following criteria:

1. Standards Alignment and Curriculum Requirements

The proposed platform must:

- Provide a comprehensive curriculum aligned to the North Carolina Standard Course of Study (NCSCOS) for all applicable grade levels and subject areas.
- Ensure that all high school courses satisfy North Carolina graduation requirements, including appropriate course coding and credit eligibility under state policy.
- Offer courses that are current, standards-based, and designed to meet the instructional needs of diverse learners, including students requiring remediation, acceleration, or flexible scheduling.
- Maintain continuous curriculum updates to reflect revisions issued by the North Carolina Department of Public Instruction.
- All courses must reflect the new standards adopted by the North Carolina Department of Public Instruction.
- Support numeric grade calculation requirements mandated by State Board Policy CCRE-001.
- Vendor shall provide a full course catalog, including all courses that are offered via First-Time credit and Credit Recovery. This should include General, AP, Honors, CTE, World Languages, Health, Arts, Math, Science, English, Social Studies, Electives, Middle School, and other courses.

The District reserves the right to request documentation and evidence demonstrating alignment to state standards and graduation requirements.

2. Instructional Rigor and Academic Integrity

The online platform must ensure that course credit is earned through demonstrated mastery of content and authentic student work. The system shall include:

- Structured instructional pacing to prevent bypassing required content.
- Embedded formative and summative assessments aligned to learning objectives.
- Secure testing environments, including assessment controls such as randomized question banks, time controls, and restricted navigation.
- Mechanisms to prevent academic dishonesty, including plagiarism detection tools and monitoring capabilities.
- Reporting tools that allow administrators to verify student progress, time-on-task, mastery levels, and completion integrity.

The system must not allow students to accelerate through courses without meeting mastery thresholds established by the District.

3. Technology and Infrastructure Requirements

The vendor shall provide an enterprise-level system that includes:

- Minimum Technology Standards/Requirements, baseline specifications to meet compatibility and functional capability on our devices.
- Hosting within the Continental United States.
- Secure cloud-based infrastructure meeting industry-standard data security protocols.
- Compatibility with District-issued devices and major web browsers.
- Integration capabilities with student information systems (SIS) and learning management systems (LMS).
- Secure authentication protocols, including single sign-on compatibility where applicable.
- Detailed technical specifications addressing:
 - Network requirements
 - Software architecture
 - Database structure
 - Storage and backup procedures
 - Disaster recovery processes (DRP)
 - Upgrade and maintenance procedures
 - Security, authentication, and authorization controls
 - Service Level Agreement (SLA) for support

4. Implementation and Support Services

The selected vendor shall provide:

- A comprehensive implementation plan (Project Plan) with defined timelines and deliverables.
- Data migration services, if applicable.
- Ongoing technical support and customer service.
- Training for designated District staff on all system features and administrative functions.

- Itemized pricing that includes all implementation, training, licensing, and support costs.

5. Reporting and Data Management Requirements

Given the implementation of State Board Policy CCRE-001, the District requires a robust, auditable reporting system that supports numeric grade calculation, transcript accuracy, GPA impact, and long-term record retention.

6. Academic Progress Monitoring

- Real-time student progress monitoring dashboards.
- Time-on-task tracking.
- Mastery-based completion tracking.
- Assignment-level detail including:
 - Assignment name
 - Standard(s) addressed
 - Numeric score (not pass/fail only)
 - Date completed
 - Attempts made
- Course completion status.
- No-show / zero-activity reports identifying students who have not logged in or demonstrated progress within a defined timeframe.

7. Numeric Grade Calculation and Credit Award Tracking

The system must:

- Support entry and calculation of numeric grades for all credit recovery courses, including electives, consistent with District policy.
- Allow proportional grade calculation for partial-course credit recovery.
- Support inclusion of End-of-Course (EOC) exam scores as 20% of the final grade when applicable
- Distinguish between:
 - Earned credit
 - Awarded credit
 - Credit in progress
- Maintain audit trails of original grades, credit recovery grades, and adjusted transcript grades consistent with record retention expectations.

8. Data Export and Dashboard Integration

The system must:

- Allow secure extraction of all reporting data in CSV format.
- Support automated or scheduled data exports.
- Provide secure APIs or data feeds suitable for integration with District data dashboards.
- The proposed solution must provide a secure, documented, and fully supported Application Programming Interface (API) that enables the District to programmatically create, manage, and synchronize instructional elements and user data.

- Ensure role-based access control for all reporting tools.
- Maintain compliance with FERPA and all applicable state student data privacy laws.
- Encrypt data both in transit and at rest.

Reporting tools must allow District administrators, principals, counselors, and data managers to monitor compliance with credit recovery policy requirements and graduation eligibility.

9. Security and Confidentiality

All reporting and student performance data must:

Be stored securely within the Continental United States.

- Meet or exceed industry standards for encryption and access control.
- Maintain complete activity logs for audit purposes.
- Support multi-factor authentication for administrative users.

Mandatory Platform Requirements (Non-Negotiable)

The following requirements are mandatory. Proposals that fail to meet any of the requirements outlined in this section may be deemed non-responsive and disqualified from further consideration.

I. Instructional Program Requirements

The proposed solution must provide a comprehensive, fully online eLearning platform supporting:

- First-Time Credit
- Credit Recovery
- Test Preparation (ACT, SAT, and CTE assessments/WorkKeys)
- Flexible Assignments suitable for blended classroom instruction
- Meet all ADA Accessibility Guidelines

All coursework must be delivered entirely online. No printed textbooks or external instructional materials shall be required. If printed textbooks are required for a particular course, it must be noted on the formal bid response. Content deemed prior learning must be embedded within the platform and accessible digitally.

The platform must provide:

- Prescriptive credit recovery pathways driven by diagnostic pre-assessments.
- Adaptive learning and instructional scaffolding embedded across all courses.
- Embedded glossaries and literacy supports to promote reading comprehension.
- Text-to-speech functionality for all instructional content.
- Closed captioning for all video or multimedia content.
- Multilingual translation support for English Learners.
- The ability for students to pause modules and resume at the exact point of exit.
- Customized pacing at the individual student and course level.
- 24-hour, 7-day per week access to coursework.

Teachers and lab facilitators must have the ability to:

- Unlock assessments when appropriate.
- Monitor, review, and evaluate student work in real time.
- Assign flexible lessons within blended classroom settings.
- Access formative and summative assessment tools.
- Utilize a test question bank for classroom-based instruction.

II. Standards Alignment and Course Catalog

All courses must align with the North Carolina Standard Course of Study and meet North Carolina graduation requirements.

The vendor must provide:

- All core high school courses required for graduation.
- World Language offerings.
- Career and Technical Education (CTE) courses.
- Occupational Course of Study (OCS) courses.
- Elective courses aligned to state requirements.

High school first-time credit courses must meet NCAA Eligibility Center requirements where applicable.

All first-time credit courses must be taught by North Carolina certified teachers. The vendor shall provide documentation verifying current North Carolina licensure and teacher credentials upon request.

III. Enrollment and Access Management

The system must support:

- Online registration and course enrollment.
- Batch upload of student enrollments.
- Batch assignment of credit recovery settings.
- Automatic semester progression (Semester A to Semester B without re-enrollment).
- A minimum ten (10) school day grace period for course withdrawal.
- The ability to extend course access for students requiring additional time.
- Secure, role-based logins for administrators, facilitators, teachers, parents, and students.

IV. Grading and Transcript Integration

The platform must support:

- Numeric grade reporting consistent with State Board Policy CCRE-001.
- Assignment-level numeric scoring (not pass/fail only).
- Posting of both current and final course grades.
- School-level gradebook access.
- Secure, automated synchronization or transfer of grades into Infinite Campus SIS.

- Tracking of earned credit, awarded credit, and in-progress credit.

V. Reporting and Accountability

The system must provide robust and customizable reporting capabilities, including:

- Real-time grade reports.
- Time-on-task and activity monitoring.
- Idle time tracking.
- Progress monitoring dashboards.
- No-show / zero-activity reports.
- District-wide course utilization tracking.
- Historical multi-year usage reporting.
- Highly customizable, ad hoc reporting tools.
- Ability to save, schedule, auto-generate, and distribute reports.
- School-level access to school reports.
- District-level access to both district and school reports.

All reports must be exportable in CSV format and suitable for secure integration into District data dashboards.

VI. Accessibility and Accommodations

The platform must comply with accessibility standards and accommodate students with IEPs and Section 504 plans.

All students must have full access to eLearning materials, including:

- Read-aloud functionality.
- Closed captioning.
- Compatibility with assistive technologies.

VII. Technical Compatibility and Hosting

The platform must operate without reliance on deprecated technologies (e.g., Flash) and must utilize modern web standards (HTML5 or equivalent).

The solution must be compatible with:

- Windows-based devices
- Chromebooks
- Chrome tablets
- Apple iOS devices
- Android devices
- MacOS devices

The system must function across modern web browsers, including Chrome, Safari, Firefox, Microsoft Edge, and other industry-standard browsers.

The enterprise solution must:

- Be externally hosted and managed by the vendor.
- Be hosted within the Continental United States.
- Meet or exceed client computing device standards commonly deployed in K-12 environments.

VIII. Data Integration and Security

The vendor must support:

- Initial and ongoing data migration.
- Secure sFTP data exchange capabilities.
- Learning Tools Interoperability (LTI).
- SAML 2.0 for Single Sign-On (SSO).
- Integration with NC Ed Cloud (Rapid Identity).
- Integration with Clever for SSO and rostering.
- Automated data synchronization with the District's systems.

The vendor must:

- Designate a data custodian responsible for student data security.
- Execute District Data Security Agreements.
- Report any data breach within one (1) business day of discovery.
- Maintain strict FERPA compliance.
- Ensure that all data remains the sole property of Durham Public Schools.

IX. Service Level Agreement (SLA)

The vendor must provide a comprehensive SLA that includes:

- Uptime guarantees and performance monitoring.
- Proactive notification of outages.
- Defined response and resolution times.
- Clear remedies for failure to meet service levels (credits, reimbursement, or termination).
- A documented Disaster Recovery Plan.

X. Help Desk and Support Services

The vendor must provide:

- 24/7/365 technical support via phone, chat, and email (excluding major holidays).
- Support for students, parents, teachers, facilitators, and district staff.
- Historical resolution reports for help desk interactions.
- Access to live instructional support for first-time credit courses.
- Student note-taking guides embedded within courses.

XI. Training and Implementation

The vendor must provide:

- A comprehensive project management plan.
- Implementation timeline aligned with traditional, year-round, and summer school calendars.
- Best-practice project management oversight.
- Detailed system design documentation and workflow diagrams.
- Mockups for District approval prior to implementation.
- Face-to-face and virtual training for district and school staff.
- Online training modules and procedure guides.
- Student orientation resources.

XII. Trial and Evaluation Access

The vendor must provide:

- Fully functional trial accounts for students, teachers, principals, district administrators, and parents.
- Defined role-based access permissions.
- Access to trial environments for a minimum of 180 business days following bid opening.
- Trial access credentials, including URL, user ID, and password.

XIII. User Interface Standards

The platform must feature:

- Age-appropriate, modern visual design.
- Engaging graphics and optional gamification elements.
- Intuitive, user-friendly navigation for both students and educators.

6.1 PROPOSAL SCHEDULE

Action	Responsibility	Date
Issue RFP	DPS	Tuesday, February 17, 2026
Deadline to submit written questions	Potential Vendors	Tuesday, February 24, 2026 (12:00 Noon)
Written Response to Questions/Addendum	DPS	Wednesday, February 25, 2026
Submit Proposals	Potential Vendors	Tuesday, March 3, 2026 (1:00 p.m.)
Bid Opening	DPS	Tuesday, March 3, 2026 (3:00 p.m.)
Selected Vendor Presentations	Potential Vendors	Tuesday, March 10, 2026

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Attachments to this RFP begin on the next page

ATTACHMENT A: INSTRUCTIONS TO VENDORS:

1. **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this RFP document.
2. **LATE PROPOSALS:** Late proposals, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Vendor's sole responsibility to ensure delivery at the designated office by the designated time.
3. **ACCEPTANCE AND REJECTION:** Durham Public Schools reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the Vendor, to accept any item in the proposal. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
4. **BASIS FOR REJECTION:** Pursuant to 01 NCAC 05B .0501, Durham Public Schools reserves the right to reject any and all offers, in whole or in part, by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to Durham Public Schools, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of Durham Public Schools.
5. **EXECUTION:** Failure to sign EXECUTION PAGE in the indicated space will render proposal non-responsive, and it shall be rejected.
6. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation or those in any resulting contract, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this RFP, including any negotiated terms; (2) requirements and specifications in Sections 4 and 5 of this RFP; (3) North Carolina General Contract Terms and Conditions in ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS; (4) Instructions in ATTACHMENT A: INSTRUCTIONS TO VENDORS; and (5) Vendor's Proposal.
7. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal or available elsewhere will not satisfy this provision. Proposals that do not comply with these requirements shall be subject to rejection without further consideration.
8. **SUSTAINABILITY:** To support the sustainability efforts of Durham Public Schools of North Carolina we solicit your cooperation in this effort. Pursuant to Executive Order 156 (1999), it is desirable that all responses meet the following:
 - All copies of the proposal are printed double sided.
 - All submittals and copies are printed on recycled paper with a minimum post-consumer content of 30%.

- Unless absolutely necessary, all proposals and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for easy removal, filing and/or recycling of paper and binder materials. Use of oversized paper is strongly discouraged unless necessary for clarity or legibility.

9. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150 (1999), Durham Public Schools invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
10. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference requirement to discourage other states from favoring their own resident Vendors by applying a percentage increase to the price of any proposal from a North Carolina resident Vendor. The “Principal Place of Business” is defined as that principal place from which the trade or business of the Vendor is directed or managed.
11. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the State will maintain confidential trade secrets that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as “CONFIDENTIAL” by the Vendor, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. 132-1.2. Any material labeled as confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. 132-1.2. Vendors are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.
12. **PROTEST PROCEDURES:** When a Vendor wishes to protest a Contract resulting from this solicitation that is awarded by the Division of Purchase and Contract, or awarded by an agency in an awarded amount of at least \$25,000, a Vendor shall submit a written request addressed to the Durham Public Schools, Office of Public Affairs, P. O. Box 30002, Durham, NC 27702. A protest request related to an award amount of less than \$25,000 shall be sent to the purchasing officer of the agency that issued the award. The protest request must be received in the proper office within thirty (30) consecutive calendar days from the date of the Contract award. Protest letters **shall** contain specific grounds and reasons for the protest, how the protesting party was harmed by the award made and any documentation providing support for the protesting party’s claims. **Note:** Contract award notices are sent only to the Vendor actually awarded the Contract, and not to every person or firm responding to a solicitation. Proposal status and Award notices are posted on the Internet at <https://eprocurement.nc.gov/training/vendor-training>. All protests will be handled pursuant to the North Carolina Administrative Code, 01 NCAC 05B .1519.
13. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.
14. **COMMUNICATIONS BY VENDORS:** In submitting its proposal, the Vendor agrees not to discuss or otherwise reveal the contents of its proposal to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this RFP. All Vendors are forbidden from having any communications with the using or issuing agency, or any other representative of Durham Public Schools concerning the solicitation, during the evaluation of the proposals (i.e., after the public opening of the proposals and before the award of the Contract), unless Durham Public Schools directly contacts the Vendor(s) for purposes of seeking clarification or another reason permitted by the solicitation. A Vendor shall not: (a) transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity; (b) identify defects, errors and/or omissions in any other Vendor’s proposal and/or prices at any time during the procurement process; and/or (c) engage in or attempt any other communication or conduct that could influence the evaluation and/or award of the Contract that is the subject of this RFP. Vendors not in

compliance with this provision may be disqualified, at the option of Durham Public Schools, from the Contract award. Only those communications with the using agency or issuing agency authorized by this RFP are permitted.

15. **TABULATIONS** Can be found in the Solicitations section of eVP for the individual solicitation. We encourage vendors to use the [Viewing and Responding to Solicitations in eVP \(https://eprocurement.nc.gov/viewing-and-responding-solicitations-evp/download?attachment\)](https://eprocurement.nc.gov/viewing-and-responding-solicitations-evp/download?attachment) Job Aid, see page 6 and 7, Section V. Viewing Bid Tabulations and Awards in eVP.
16. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows Vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services of potential interests to them available on the NCeVP, as well as notifications of status changes to those solicitations. Online registration and other purchasing information are available at the following website [Registration: please see the Registering in eVP job aid.](#)

[Solicitation notification: See the Selecting Commodity Codes in eVP job aid. Codes used are the United Nations Standard Products and Services Code \(UNSPSC\). Note that vendors now are able to choose commodity codes to show up in the public vendor search AND for bid notifications \(the codes selected can be different\).](#)

[See Section II Selecting Commodity Codes for Company Information in eVP Accounts on pages 1 – 3 for selecting the codes that will show up on the eVP Vendor Search.](#)

[See Section III Managing Commodity Codes for eVP Individual Contacts on pages 3 – 5 to select the codes that will lead to e-mails about new solicitations.](#)

17. **WITHDRAWAL OF PROPOSAL:** a Proposal may be withdrawn only in writing and actually received by the office issuing the RFP prior to the time for the opening of Proposals identified on the cover page of this RFP (or such later date included in an Addendum to the RFP). A withdrawal request must be on Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after the opening of Proposals shall be allowed only for good cause shown and in the sole discretion of the Division of Purchase and Contract.
18. **INFORMAL COMMENTS:** Durham Public Schools shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of Durham Public Schools during the competitive process or after award. Durham Public Schools is bound only by information provided in this RFP and in formal Addenda issued through NCeVP system: <https://eprocurement.nc.gov/training/vendor-training>.
19. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by Vendor in preparing or submitting offers are the Vendor's sole responsibility; Durham Public Schools of North Carolina will not reimburse any Vendor for any costs incurred prior to award.
20. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
21. **SUBCONTRACTING:** Unless expressly prohibited, a Vendor may propose to subcontract portions of the work to identified subcontractor(s), provided that its proposal clearly describes what work it plans to subcontract and that Vendor includes in its proposal all information regarding employees, business experience, and other information for each proposed subcontractor that is required to be provided for Vendor itself.
22. **INSPECTION AT VENDOR'S SITE:** Durham Public Schools reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary for Durham Public Schools determination that such equipment/item, plant

or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

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ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS & CONDITIONS

1. **PERFORMANCE AND DEFAULT:** If, through any cause, Vendor shall fail to fulfill in timely and proper manner the obligations under this contract, Durham Public Schools shall have the right to terminate this contract by giving written notice to the Vendor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Vendor shall, at the option of Durham Public Schools, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any acceptable work completed on such materials. Notwithstanding, Vendor shall not be relieved of liability to Durham Public Schools for damages sustained by Durham Public Schools by virtue of any breach of this contract, and Durham Public Schools may withhold any payment due the Vendor for the purpose of setoff until such time as the exact amount of damages due Durham Public Schools from such breach can be determined. Durham Public Schools reserves the right to require at any time a performance bond or other acceptable alternative performance guarantees from a Vendor without expense to Durham Public Schools.

In case of default by the Vendor, Durham Public Schools may procure the goods and services necessary to complete performance hereunder from other sources and hold the Vendor responsible for any excess cost occasioned thereby. In addition, in the event of default by the Vendor under this contract, or upon the Vendor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Vendor, Durham Public Schools may immediately cease doing business with the Vendor, immediately terminate this contract for cause, and may act to debar the Vendor from doing future business with Durham Public Schools.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the goods or services offered prior to their delivery, it shall be the responsibility of the Vendor to notify, in writing, the Contract Lead at once, indicating the specific regulation which required such alterations. Durham Public Schools reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the Vendor shall be dependent upon and subject to the availability of funds to the agency for the purpose set forth in this contract.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
 - a. G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors if the Vendor or its affiliates meet one of the conditions of G.S. 105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G.S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the Vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the Vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
 - b. All agencies participating in this Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the using agency.
 - c. Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
 - d. **Durham Public Schools is NOT tax exempt** unless otherwise indicated; tax must be computed and added to your bid as a separate line item. Any itemized shipping charges are also subject to tax. When invoiced, tax should be invoiced as a separate line item.

5. **SITUS**: The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS**: This Contract is made under and shall be governed, construed and enforced in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.
7. **PAYMENT TERMS**: Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Vendor under the Contract. Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, MasterCard, etc.) from other customers, and it shall be accepted by the Vendor for payment under the same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.
8. **AFFIRMATIVE ACTION**: The Vendor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
9. **INTELLECTUAL PROPERTY INDEMNITY**: Vendor shall hold and save Durham Public Schools, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.
10. **ADVERTISING**: Vendor agrees not to use the existence of this Contract or the name of Durham Public Schools of North Carolina as part of any commercial advertising or marketing of products or services. A Vendor may inquire whether Durham Public Schools is willing to act as a reference by providing factual information directly to other prospective customers.
11. **ACCESS TO PERSONS AND RECORDS**: During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. 143-49(9).
12. **ASSIGNMENT**: No assignment of the Vendor's obligations nor the Vendor's right to receive payment hereunder shall be permitted.

However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Vendor, Durham Public Schools may:

- a) Forward the Vendor's payment check directly to any person or entity designated by the Vendor, and
- b) Include any person or entity designated by Vendor as a joint payee on the Vendor's payment check.

In no event shall such approval and action obligate Durham Public Schools to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, Durham Public Schools, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Vendor's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

13. **INSURANCE:**

COVERAGE - During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

a. **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sub-contracted, the Vendor shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.

b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

REQUIREMENTS - Providing and maintaining adequate insurance coverage is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

14. **GENERAL INDEMNITY:** The Vendor shall hold and save Durham Public Schools, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Vendor in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Vendor provided that the Vendor is notified in writing within 30 days that Durham Public Schools has knowledge of such claims. The Vendor represents and warrants that it shall make no claim of any kind or nature against Durham Public Schools agents who are involved in the delivery or processing of Vendor goods or services to Durham Public Schools. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.

15. **INDEPENDENT CONTRACTOR:** Vendor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Vendor represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such employees shall not be employees of, or have any individual contractual relationship with Durham Public Schools.

16. **KEY PERSONNEL:** Vendor shall not substitute key personnel assigned to the performance of this contract without prior written approval by Durham Public Schools assigned Contract Lead. The individuals designated

as key personnel for purposes of this contract are those specified in the RFP and persons identified in Vendor's proposal.

17. **SUBCONTRACTING**: Work proposed to be performed under this contract by the Vendor or its employees shall not be subcontracted without prior written approval of the State's assigned Contract Administrator. Unless otherwise indicated, acceptance of a Vendor's proposal shall include approval to use the subcontractor(s) that have been specified therein in accordance with paragraph 20 of Attachment A: Instructions to Vendor.
18. **TERMINATION FOR CONVENIENCE**: Durham Public Schools may terminate this contract at any time by providing ___ days' notice in writing from Durham Public Schools to the Vendor. In that event, all finished or unfinished deliverable items prepared by the Vendor under this contract shall, at the option of Durham Public Schools, become its property. If the contract is terminated by Durham Public Schools as provided in this section, Durham Public Schools shall pay for services satisfactorily completed by the Vendor, less any payment or compensation previously made.
19. **CONFIDENTIALITY**: Any State information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Vendor under this contract shall be kept as confidential, used only for the purpose(s) required to perform this contract and not divulged or made available to any individual or organization without the prior written approval of Durham Public Schools.
20. **CARE OF PROPERTY**: The Vendor agrees that it shall be responsible for the proper custody and care of any property furnished it by Durham Public Schools for use in connection with the performance of this contract or purchased by or for Durham Public Schools for this contract, and Vendor will reimburse Durham Public Schools for loss or damage of such property while in Vendor's custody.
21. **PROPERTY RIGHTS**: All deliverable items and materials produced for or as a result of this contract shall become the property of Durham Public Schools, and Vendor hereby assigns all ownership rights in such deliverables, including all intellectual property rights, to Durham Public Schools; provided, however, that as to any preexisting works imbedded in such deliverables, Vendor hereby grants Durham Public Schools a fully-paid, perpetual license to copy, distribute and adapt the preexisting works.
22. **OUTSOURCING**: Any Vendor or subcontractor providing call or contact center services to Durham Public Schools of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the contractor wishes to relocate or outsource any portion of the work to a location outside the United States, or to contract with a subcontractor for the performance of any work, which subcontractor and nature of the work has not previously been disclosed to the State in writing, prior written approval must be obtained from the State agency responsible for the contract.

Vendor shall give notice to the using agency of any relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing services under a State contract to a location outside of the United States.
23. **COMPLIANCE WITH LAWS**: Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and its performance in accordance with this contract, including those of federal, state, and local agencies having jurisdiction and/or authority.
24. **ENTIRE AGREEMENT**: This RFP and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This RFP, any addenda thereto, and the Vendor's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

25. **AMENDMENTS**: This contract may be amended only by a written amendment duly executed by Durham Public Schools and the Vendor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
26. **WAIVER**: The failure to enforce or the waiver by Durham Public Schools of any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
27. **FORCE MAJEURE**: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
28. **SOVEREIGN IMMUNITY**: Notwithstanding any other term or provision in this contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity that otherwise would be available to Durham Public Schools under applicable law.

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ATTACHMENT C: PRICING/TOTAL COST

OFFICIAL BID PRICE SHEET	
Description	Cost
First Time Credit	
<i>Standard Core Curriculum: Cost per 1/2 Credit</i>	
<i>Standard Core Curriculum: Cost per Full Credit</i>	
<i>Advanced Core Curriculum: Cost per 1/2 Credit</i>	
<i>Advanced Core Curriculum: Cost per Full Credit</i>	
<i>Elective Curriculum: Cost per 1/2 Credit</i>	
<i>Elective Curriculum: Cost per Full Credit</i>	
<i>CTE Curriculum: Cost per 1/2 Credit</i>	
<i>CTE Curriculum: Cost per Full Credit</i>	
<i>World Languages Curriculum: Cost per 1/2 Credit</i>	
<i>World Language Curriculum: Cost per Full Credit</i>	
<i>ACT / SAT Test Prep: Cost per 1/2 Credit</i>	
<i>ACT / SAT Test Prep: Cost per Full Credit</i>	
<i>Summer School Curriculum: Cost per 1/2 Credit</i>	
<i>Summer School Curriculum: Cost per Full Credit</i>	

Extension Fees for First Time Credit	
<i>Extension Fee: Cost per 1/2 Credit</i>	
<i>Extension Fee: Cost per Full Credit</i>	
<i>Extension Fee: Cost per Summer Course</i>	
Credit Recovery Courses	
<i>Cost per 1/2 Credit per student</i>	
<i>Cost per Full Credit per student</i>	
Test Prep Courses	
<i>ACT Site License Cost</i>	
<i>ACT District License Cost</i>	
<i>SAT Site License Cost</i>	
<i>SAT District License Cost</i>	
<i>WorkKeys Site License Cost</i>	
<i>WorkKeys District License Cost</i>	

Lesson Modules for Classroom Use	
Site License Cost	
District License Cost	
Training/Professional Development	
Onsite: Full Day Session (8 Hours)	
Virtual: Half Day Session (4 Hours)	
System Integration	
Single Sign-On Cost	
Other	

**Bidders should show unit prices but are requested also to offer a lump sum price.*

GRAND TOTAL \$ _____

ATTACHMENT D: REFERENCES

Vendors shall provide at least five (5) references, for similar size and scope projects, for which comparable services and supplies have been provided. Three (3) of these references must be public school districts in North Carolina.

Reference #1:

Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			

Reference #2:

Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			
Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	

Contract Start Date		Contact Person Email Address	
Contract End Date			

Reference #3:

Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			
Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			

Reference #4:

Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	

Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			
Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			

Reference #5:

Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	
Contract Start Date		Contact Person Email Address	
Contract End Date			
Name of School District		Contact Person Name	
School District Size (Number of Students)		Contact Person Title	
Annual Contract Value		Contact Person Telephone Number	

Contract Start Date		Contact Person Email Address	
Contract End Date			

ATTACHMENT E: CERTIFICATION OF FINANCIAL CONDITION

Name of Vendor: _____

The undersigned hereby certifies that: [check all applicable boxes]

The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: _____

The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.

The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.

The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.

The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.

He or she is authorized to make the foregoing statements on behalf of the Vendor.

Note: This is a continuing certification and Vendor shall notify the Contract Lead within 15 days of any material change to any of the representations made herein.

If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason in the space below:

Signature _____ Date _____

Printed Name _____ Title _____

[This Certification must be signed by an individual authorized to speak for the Vendor]

ATTACHMENT F: SCHOOL CALENDARS

Vendors synchronous and asynchronous course offerings must align with Durham Public Schools' three (3) calendars (Year-Round, Specialty, and Traditional). Durham Public School Calendars can be found on our district's website:

<https://www.dpsnc.net/o/dps/page/district-calendars>

ATTACHMENT G: LIST OF SCHOOLS

Full list of schools posted here:

<https://drive.google.com/file/d/1OvxSw3JFpcBYmjs-GwLxtt1ObxA6cRs5/view?usp=sharing>

	School Name	Address	School Type
1	Brogden Middle School	1001 Leon St	Middle School
2	Carrington Middle School	227 Milton Rd	Middle School
3	Schools for Creative Studies	5001 Red Mill Rd	Secondary (6-12)
4	Durham School of the Arts	400 N Duke St	Secondary (6-12)
5	Githens Middle School	4800 Chapel Hill Rd	Middle School
6	J.D. Clement Early College HS	1801 Fayetteville St	High School
7	Jordan High School	6806 Garrett Rd	High School
8	Lakeview School	3507 Dearborn Dr	Secondary (6-12)
9	Lowes Grove Middle School	4418 S Alston Ave	Middle School
10	Neal Middle School	201 Baptist Rd	Middle School
11	Northern High School	117 Tom Wilkinson Rd	High School
12	Riverside High School	3218 Rose of Sharon Rd	High School
13	Rogers-Herr Middle School	911 Cornwallis Rd	Middle School
14	Shepard Middle School	2401 Dakota St	Middle School
15	Southern School of Energy and	800 Clayton Rd	High School

	Sustainability		
16	City of Medicine Academy	301 Crutchfield St	High School
17	Hillside High School	3727 Fayetteville St	High School
18	Durham School of Technology	3727 Fayetteville St	High School
19	Durham Performance Learning Center (including Holton Career and Resource Center)	401 N Drive St	High School
20	Lakewood Montessori Middle	2119 Chapel Hill Rd	Middle School
21	Durham Duke Hospital (including Hospital School – ADC)	DUMC PO Box 3039	Hospital School
22	Lucas Middle School	923 Snow Hill Rd	Middle School
23	Durham Early College of Health Sciences	41 Moore Drive	High School
24	Ignite Online Academy	5321 Ephesus Church Road	K-12 School

ATTACHMENT H: TRIAL ACCOUNT MATRIX

Vendor must provide pilot login credentials for the role-based accounts listed below. The vendor can provide this information in a different format, if preferred.

Name	Role Description	Permissions	URL	Username	Password
Student					
Parent					
Teacher					
Principal					
School Counselor					
District Administrator					
Superintendent					

ATTACHMENT I: CERTIFICATION FOR HISTORICALLY UNDERUTILIZED BUSINESS (HUB)

[This Certification must be signed by an individual authorized to speak for the Vendor]

According to the N.C. General Statutes, North Carolina school systems must report purchases made from Historically Underutilized Business (HUB). Please check applicable categories below:

HUB Category:

- Minority Owned; Woman Owned; Disabled Owned; Black; Hispanic; Asian American;
- American Indian; Disadvantaged; Female; Disabled Business; Other _____
- None of the Above

HISTORICALLY UNDERUTILIZED BUSINESSES: Pursuant to General Statute 143-48 and Executive Order #150, DPS invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.

According to IRS regulations, the school system is required to file a 1099-Misc form with the firm if:

We made payment to someone who is not our employee.

We made payment for services rendered in the course of our business.

We made payment to someone other than a corporation (i.e. an individual or a partnership).

We made payment to you for at least \$600.00 during the year.

Please submit copy of Taxpayer Identification Number and Certification – IRS Tax Form W-9

NON-APPROPRIATION/CANCELLATION

Lessee's operations are funded under appropriations or budgetary approvals made by Durham Public Schools, on a fiscal year basis. For the fiscal year, Lessee has received all necessary approvals for the lease of the equipment subject to this Lease and for the payment of the rentals required under this Lease. While similar approvals are expected for each of the future fiscal years during the term of this Lease, such approvals cannot be assured. If, for any such fiscal year, necessary approvals are not received for the continuation of this Lease, then the Lessee shall have the right, exercisable by written notice delivered twenty (20) days prior to the expiration of the then current fiscal year, to terminate this Lease as of the last day of such current fiscal year, subject to the requirements that (a) all obligations of the Lessee under the Lease for the then current fiscal year shall be satisfied in full, (b) the Lessee shall package and return the equipment as directed by Lessor, with all costs of packaging, freight and insurance borne by Lessee and (c) if, within two (2) years after the effective date of termination, necessary approvals are received for the purchase or lease of equipment performing functions similar to those performed by the equipment subject to this lease, then the lessor, at its election, may (I) reinstate this Lease for a term equal to the unexpired term of this Lease as of the date of cancellation by providing like equipment or (II) have a right of refusal to be the seller or lessor in the Lessee's acquisition of like kind equipment. If Lessee purports to cancel this Lease under this Section, then Lessor, as a condition to acceptance of such cancellation, may require the written opinion of Lessee's counsel detailing specifically the circumstances giving rise to the right of cancellation and such counsel's affirmative opinion as to the existence of that right.

Durham Public Schools

By: _____



Durham Public Schools
Data Confidentiality and Security Agreement for Online Service Providers
(Student Data)

[REDACTED] (“Provider”) hereby agrees to the terms of this Data Confidentiality and Security Agreement (“Security Agreement”) for the purpose of sharing confidential student information between Durham Public Schools (“DPS” or “District”) and Provider in a manner consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and its implementing regulations at 34 CFR part 99; the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. 1232h and its implementing regulations at 34 CFR part 98; the Children’s Online Privacy Protection Act (COPPA), 15 U.S.C. 6501-6506 and its implementing regulations at 16 CFR part 312; N.C. Gen. Stat. §§ 115C-401.1, 115C-401.2, and 115C-402; DPS Board Policies 4200 to 4209 and their accompanying regulations and procedures; and other applicable laws and policies.

- 1. Purpose.** DPS is a local education agency that maintains student educational records under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and its implementing regulations at 34 CFR part 99; N.C. Gen. Stat. §§ 115C-401.1, 115C-401.2, and 115C-402; DPS Board Policies 4200 to 4209; and other applicable law. Provider is requesting access to certain student data maintained by DPS for the purpose of providing online educational services and/or instructional technology products to DPS, as described herein. The purpose of this Security Agreement is to set forth the terms and conditions upon which Provider may be granted access to such student data in order to ensure that the student data is used and stored appropriately and in compliance with all applicable federal, state, and local laws, regulations, and policies.
- 2. Student Records and Information.** Provider acknowledges that any data shared and released to Provider by DPS (the “Shared Data”) is for the sole purpose of providing educational services to enhance, supplement, and improve instruction for students within DPS. The Shared Data is defined as any data or information shared with Provider pursuant to this Agreement, including but not limited to any de-identified data, aggregated data sets, personally identifiable information (PII) about students, and other student information, including, but not limited to, student data, metadata, and user content. The Shared Data will be used by Provider for the sole purpose of populating student data into instructional systems subscribed to by DPS, and for improving services under this Agreement. The parties agree that the Shared Data and all rights to the Shared Data, including all intellectual property rights, shall remain the exclusive property of DPS, and that Provider has a limited, nonexclusive, license solely for the purpose of performing its obligations as outlined in this Agreement.
- 3. Compliance with Applicable Laws, Policies, and Procedures.** To become or remain a recipient of the Shared Data, Provider agrees to comply with the provisions of FERPA, PPRA, COPPA, N.C. Gen. Stat. § 115C-401.2, and all other applicable laws and regulations in all respects. For purposes of this Security Agreement, FERPA includes 20 U.S.C. 1232g, Chapter 99 of Title 34 of the Code of Federal Regulations, and any Durham Public Schools Board of Education policies and procedures implementing these

federal laws. PPRA includes 20 U.S.C 1232h, Chapter 98 of Title 34 of the Code of Federal Regulations, and any state law and Durham Public Schools Board of Education policies implementing these federal laws. COPPA includes 5 U.S.C. 6501-6505, Chapter 312 of Title 16 of the Code of Federal Regulations, and any state law and Durham Public Schools Board of Education policies implementing these federal laws. Nothing in this Security Agreement may be construed to allow Provider to maintain, use, or disclose any Shared Data in a manner inconsistent with any applicable law, regulation, or policy.

- 4. Authorized Use of Shared Data.** All services provided by Provider shall at all times be limited to institutional functions of DPS that could otherwise be provided by a school official and which DPS is “outsourcing” to Provider pursuant to 34 CFR 99.31(a)(1)(B). Provider agrees to use the Shared Data for no other purpose other than those identified in Paragraph 2 of this Agreement. Provider understands that the Security Agreement does not convey ownership of Shared Data to Provider. Provider specifically acknowledges that Provider’s marketing activities are not an authorized use of the Shared Data.
- 5. Procedures for the Maintenance and Security of Shared Data.** While in the possession, custody, or control of Provider, all Shared Data shall be stored in a secure environment with access limited to the least number of staff needed to complete the work requested by DPS. Provider shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted data received from, or on behalf of, DPS. Such measures shall include processes for transmission and storage of such data.

 - a. Provider agrees that it will protect the Shared Data against loss, destruction, and unauthorized uses or disclosures according to industry best practices and no less rigorously than it protects its own confidential information. Specifically, Provider agrees that all student records and PII obtained in the course of providing services to DPS shall be subject to the confidentiality and disclosure provisions of applicable federal and state statutes and regulations, and Durham Public Schools policies, including but not limited to the laws and policies described in Paragraph 3 of this Security Agreement.
 - b. For the purposes of ensuring Provider ’s compliance with this Security Agreement and all applicable state and federal laws, Provider shall designate one or more individuals as the primary data custodian(s) of the data that DPS shares with Provider and shall notify DPS of the name(s) and title(s) of such individual(s) prior to any data being shared. DPS will release all data and information for this project to the named primary data custodian(s). The primary data custodian(s) shall ensure that the project shall be conducted in a manner that does not permit personal identification of DPS students by anyone other than representatives of Provider who need such information for the purposes described in Paragraphs 1 and 2 of this Security Agreement. The primary data custodian(s) shall also be responsible for maintaining a log of all data received pursuant to this Security Agreement and ensuring the timely destruction or return of the Shared Data as required by this Security Agreement.
 - c. Provider shall use industry best practices to protect DPS data from unauthorized physical and electronic access no less rigorously than it protects its own confidential information. All DPS data shall be kept in a secure location preventing access by unauthorized individuals. Provider shall not forward to any person or entity other than DPS any student record or PII, including, but not limited to, the student’s identity, without the advance written consent of DPS.

Provider agrees to handle any and all Shared Data using appropriate access control and security, including password-protection and encryption in transport and electronic storage, and periodic auditing of data at rest. Data subject to FERPA shall not be emailed in plain text or used for marketing campaigns. Provider will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.

- d. Provider will maintain an access log delineating the date, time, and identity of any person or entity given access to any Shared Data student records who is not in the direct employ of Provider. No such access shall be granted except in strict compliance with the terms and conditions of this Agreement and applicable law.

6. Prohibition on Unauthorized Use or Disclosure of Shared Data.

- a. Provider agrees to hold all Shared Data in strict confidence. Provider shall not use or disclose such data received from or on behalf of DPS except as authorized in writing by DPS or as required by law. Provider agrees not disclose any data obtained from DPS in a manner that could identify any individual student to any other entity, attempt to infer or deduce the identity of any individual student based on data provided by DPS, or claim to have identified or deduced the identity of any student based on data provided by DPS.
- b. Provider is prohibited from mining Shared Data for any purposes other than those agreed to in advance writing by DPS. Data mining or scanning of user content for the purpose of advertising and/or marketing to students or their parents is strictly prohibited.
- c. In no event will Provider use any of the Shared Data for its own commercial marketing or advertising purposes, or for the commercial marketing or advertising purposes of any third-party. Provider will not use any Shared Data to advertise or market to DPS students or their parents.
- d. In the event of any unauthorized use or disclosure, Provider shall report the incident to DPS no less than one (1) business day after Provider learns of such use or disclosure. Such report shall identify:
 - i. The nature of the unauthorized use or disclosure,
 - ii. The data used or disclosed,
 - iii. Who made the unauthorized use or received the unauthorized disclosure,
 - iv. What Provider has done or shall do to mitigate the effects of the unauthorized use or disclosure, and
 - v. What corrective action Provider has taken or shall take to prevent future similar unauthorized use or disclosure.

Provider shall also provide such other information related to the unauthorized use or disclosure that may be reasonably requested by DPS. DPS also may require that Provider provide a written notice of the breach or disclosure, as well as a description of the corrective actions taken, to any DPS student, parent, or employee directly impacted by the breach or disclosure. Any such notice shall be subject to review and approval by DPS.

- e. Provider may use de-identified, aggregated Shared Data for product development and research purposes only as specifically authorized and consented to in advance in writing by DPS. Any such de-identified data will have all direct and indirect personal identifiers removed, including, but not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Provider agrees not to attempt to re-identify any de-identified data and not to transfer de-identified data to any other party without DPS express written consent.
 - f. Provider will not release any research or publications pertaining to DPS's data without DPS's advance written consent.
- 7. Employees, Contractors, and Agents.** Provider may share any of the Shared Data with any of its subcontractors only with the advance written permission of DPS. Any such request from Provider shall be in writing and shall identify the person(s) or entit(ies) to whom disclosures will be made and the purposes of the disclosures. Should DPS, in its sole discretion, approve any such request, Provider shall ensure that each approved subcontractor is contractually bound to adhere to all of the terms of this Security Agreement with respect to its possession and use of any Shared Data and is aware of its obligations under applicable law with regard to the possession, use and re-disclosure of any PII. Any such agreement between Provider and its subcontractor(s) shall be subject to review and approval by DPS before any Shared Data is disclosed to the subcontractor(s). Nothing in this paragraph shall relieve Provider of any its obligations under this Agreement, including its responsibilities to ensure the security of any Shared Data provided by DPS pursuant to this Agreement.
- 8. Monitoring and Auditing.** Any Shared Data held by Provider will be made available to DPS for review and inspection upon request of DPS. Provider shall cooperate with DPS or with any other person or agency as directed by DPS, in monitoring, auditing, or investigating activities related to Provider's use and safeguarding of the Shared Data, including but not limited to allowing inspection of the data logs described in Paragraph 5.b and 5.d of this Agreement. DPS and its auditors will maintain the confidentiality of any trade secrets of Provider that may be accessed during an audit conducted under this Security Agreement.
- 9. Term; Post-Termination.** This Security Agreement takes effect upon the date of full execution and continues in full force and effect for so long as Provider has possession, custody, or control of any of the Shared Data. Upon the termination of the subscription to the instructional system provided by Provider and/or any other contract, purchase order, agreement or terms of service between DPS and Provider, all Shared Data shall be destroyed. No other entity, including any subcontractors of Provider, shall be authorized to continue possessing or using any Shared Data. Any data remaining on any computers, servers, or other technological devices of Provider or its employees, agents, or subcontractors, shall be permanently deleted. Provider shall complete such destruction as promptly as possible, but not less than thirty (30) days after the effective date of the conclusion of this Agreement. Within such thirty (30) day period, Provider shall certify in writing to Durham Public Schools that such destruction has been completed. This section shall survive the expiration or earlier termination of this Agreement.
- 10. Breach and Default; Indemnification; Remedies.**
- a. In the event of a material data or security breach, or, if DPS determines, in its sole discretion, that student information has been mishandled or disclosed in a manner inconsistent with this

Security Agreement, DPS may demand the immediate return or destruction of any and all of the Shared Data.

- b. Provider shall fully indemnify and hold harmless the Durham Public Schools Board of Education and its past, current and future members, agents, and employees from and against all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from any material data breach of this Security Agreement or any unauthorized use or disclosure of the Shared Data by Provider or its subcontractor(s). The parties agree that this indemnification clause is an “evidence of indebtedness” for purpose of N. C. Gen. Stat. § 6-21.2. This section shall survive the expiration or earlier termination of this Security Agreement.
- c. Nothing in this Agreement shall restrict DPS from seeking any other rights or remedies to which it may be entitled at law or equity.

11. No Right or Entitlement to Student Data. This Security Agreement sets out the terms and conditions, under which DPS may, in its sole discretion, provide Shared Data to Provider. Nothing in this Security Agreement creates any right, title, or interest in Provider to receive any such information.

12. Miscellaneous.

- a. Governing Law. This Security Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.
- b. Relationship of Parties. The parties shall be independent contractors, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of either party be construed as employees, agents, or principals of any other party hereto.
- c. No Third Party Beneficiaries. Nothing in this Security Agreement shall confer upon any person other than the parties any rights, remedies, obligations, or liabilities whatsoever.
- d. Counterparts. This Security Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- e. Headings. The headings and other captions in this Security Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Security Agreement.
- f. Execution. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- g. Assignment of Rights. Neither this Security Agreement, nor any rights, duties, nor obligations described herein shall be assigned by Provider without the prior express written consent of DPS.

- h. Severability. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- i. Authority to Enter Agreement. The person(s) executing this Agreement on behalf of Recipient has authority to do so as an official, binding act of Recipient.
- j. Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties and supersedes any previous agreements and proposals, oral or written, related to the subject matter hereof. Any modification or amendments to this Agreement shall be effective only if made in writing and signed by both parties.
- k. Conflicts. In the event of any conflict between this Security Agreement and any existing or future contract, purchase order, agreement or terms of service between DPS and Provider, the terms and conditions of this Security Agreement shall control.

IN WITNESS THEREOF, the parties to this Agreement have set their hands and seals on the dates indicated below.

[PROVIDER'S NAME]

Signature

Date

[Printed Name, Title]

DURHAM PUBLIC SCHOOLS

Signature

Date



Durham Public Schools
Data Confidentiality and Security Agreement for Online Service Providers
(Personnel Data)

[REDACTED] (“Provider”) hereby agrees to the terms of this Data Confidentiality and Security Agreement (“Security Agreement”) for the purpose of sharing confidential personnel information between Durham Public Schools (“DPS” or “District”) and Provider in a manner consistent with N.C. Gen. Stat. §§ 115C-319 through 321 and DPS Board Policy 5235, and any accompanying regulations and procedures.

- 1. Purpose.** DPS is a local education agency that maintains personnel information in accordance with N.C. Gen. Stat. §§ 115C-319 through 321 and DPS Board Policy 5235. Provider is requesting access to certain personnel information maintained by DPS for the purpose of providing online human resources services and/or technology products to DPS, as described herein. The purpose of this Security Agreement is to set forth the terms and conditions upon which Provider may be granted access to such personnel information order to ensure that the personnel information is used and stored appropriately and in compliance with all applicable state laws and DPS policies.
- 2. Personnel Records and Information.** Provider acknowledges that any data shared and released to Provider by DPS (the “Shared Data”) is for the sole purpose of providing services to DPS. The Shared Data is defined as any data or information shared with Provider pursuant to this Agreement, including but not limited to any personally identifiable information (PII) about employees, and other employee information. The parties agree that the Shared Data and all rights to the Shared Data, including all intellectual property rights, shall remain the exclusive property of DPS, and that Provider has a limited, nonexclusive, license solely for the purpose of performing its obligations as outlined in this Agreement.
- 3. Compliance with Applicable Laws, Policies, and Procedures.** To become or remain a recipient of the Shared Data, Provider agrees to comply with the provisions of N.C. Gen. Stat. §§ 115C-319 through 321 and DPS Board Policy 5235, and any accompanying regulations and procedures. Nothing in this Security Agreement may be construed to allow Provider to maintain, use, or disclose any Shared Data in a manner inconsistent with any applicable law, regulation, or policy. Provider and its sub-contractors understand and acknowledge that under N.C.G.S. § 115-321, the unauthorized examination, removal, and/or copying of any portion of a personnel file record of an employee of the DPS may constitute a Class 3 misdemeanor.
- 4. Authorized Use of Shared Data.** Provider agrees to use the Shared Data for no other purpose other than those identified in Paragraph 2 of this Agreement. Provider understands that the Security Agreement does not convey ownership of Shared Data to Provider. Provider specifically acknowledges that Provider’s marketing activities are not an authorized use of the Shared Data.
- 5. Procedures for the Maintenance and Security of Shared Data.** While in the possession, custody, or control of Provider, all Shared Data shall be stored in a secure environment with access limited to the least number of staff needed to complete the work requested by DPS. Provider shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted data received

from, or on behalf of, DPS. Such measures shall include processes for transmission and storage of such data.

- a. Provider agrees that it will protect the Shared Data against loss, destruction, and unauthorized uses or disclosures according to industry best practices and no less rigorously than it protects its own confidential information. Specifically, Provider agrees that all employee records and PII obtained in the course of providing services to DPS shall be subject to the confidentiality and disclosure provisions of applicable state statutes and regulations, and Durham Public Schools policies, including but not limited to the laws and policies described in Paragraph 3 of this Security Agreement.
- b. For the purposes of ensuring Provider 's compliance with this Security Agreement and all applicable state laws, Provider shall designate one or more individuals as the primary data custodian(s) of the data that DPS shares with Provider and shall notify DPS of the name(s) and title(s) of such individual(s) prior to any data being shared. DPS will release all data and information for this project to the named primary data custodian(s). The primary data custodian(s) shall ensure that the project shall be conducted in a manner that does not permit personal identification of DPS employees by anyone other than representatives of Provider who need such information for the purposes described in Paragraphs 1 and 2 of this Security Agreement. The primary data custodian(s) shall also be responsible for maintaining a log of all data received pursuant to this Security Agreement and ensuring the timely destruction or return of the Shared Data as required by this Security Agreement.
- c. Provider shall use industry best practices to protect DPS data from unauthorized physical and electronic access no less rigorously than it protects its own confidential information. All DPS data shall be kept in a secure location preventing access by unauthorized individuals. Provider shall not forward to any person or entity other than DPS any employee record or PII, including, but not limited to, the employee's identity, without the advance written consent of DPS. Provider agrees to handle any and all Shared Data using appropriate access control and security, including password-protection and encryption in transport and electronic storage, and periodic auditing of data at rest. Data shall not be emailed in plain text or used for marketing campaigns. Provider will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner.
- d. Provider will maintain an access log delineating the date, time, and identity of any person or entity given access to any Shared Data who is not in the direct employ of Provider. No such access shall be granted except in strict compliance with the terms and conditions of this Agreement and applicable law.

6. Prohibition on Unauthorized Use or Disclosure of Shared Data.

- a. Provider agrees to hold all Shared Data in strict confidence. Provider shall not use or disclose such data received from or on behalf of DPS except as authorized in writing by DPS or as required by law. Provider agrees not disclose any data obtained from DPS in a manner that could identify any individual employee to any other entity, attempt to infer or deduce the identity of any individual employee based on data provided by DPS, or claim to have identified or deduced the identity of any employee based on data provided by DPS.

- b. Provider is prohibited from mining Shared Data for any purposes other than those agreed to in advance writing by DPS. Data mining or scanning of user content for the purpose of advertising and/or marketing employees is strictly prohibited.
- c. In no event will Provider use any of the Shared Data for its own commercial marketing or advertising purposes, or for the commercial marketing or advertising purposes of any third-party. Provider will not use any Shared Data to advertise or market to DPS employees.
- d. In the event of any unauthorized use or disclosure, Provider shall report the incident to DPS no less than one (1) business day after Provider learns of such use or disclosure. Such report shall identify:
 - i. The nature of the unauthorized use or disclosure,
 - ii. The data used or disclosed,
 - iii. Who made the unauthorized use or received the unauthorized disclosure,
 - iv. What Provider has done or shall do to mitigate the effects of the unauthorized use or disclosure, and
 - v. What corrective action Provider has taken or shall take to prevent future similar unauthorized use or disclosure.

Provider shall also provide such other information related to the unauthorized use or disclosure that may be reasonably requested by DPS. DPS also may require that Provider provide a written notice of the breach or disclosure, as well as a description of the corrective actions taken, to any DPS employee directly impacted by the breach or disclosure. Any such corrective action and notice shall be subject to review and approval by DPS.

- e. Provider will not release any research or publications pertaining to DPS's data without DPS's advance written consent.
- 7. Employees, Contractors, and Agents.** Provider may share any of the Shared Data with any of its subcontractors only with the advance written permission of DPS. Any such request from Provider shall be in writing and shall identify the person(s) or entit(ies) to whom disclosures will be made and the purposes of the disclosures. Should DPS, in its sole discretion, approve any such request, Provider shall ensure that each approved subcontractor is contractually bound to adhere to all of the terms of this Security Agreement with respect to its possession and use of any Shared Data and is aware of its obligations under applicable law with regard to the possession, use and re-disclosure of any PII. Any such agreement between Provider and its subcontractor(s) shall be subject to review and approval by DPS before any Shared Data is disclosed to the subcontractor(s). Nothing in this paragraph shall relieve Provider of any its obligations under this Agreement, including its responsibilities to ensure the security of any Shared Data provided by DPS pursuant to this Agreement.
- 8. Monitoring and Auditing.** Any Shared Data held by Provider will be made available to DPS for review and inspection upon request of DPS. Provider shall cooperate with DPS or with any other person or agency as directed by DPS, in monitoring, auditing, or investigating activities related to Provider's use and safeguarding of the Shared Data, including but not limited to allowing inspection of the data logs described in Paragraph 5.b and 5.d of this Agreement. DPS and its auditors will maintain the confidentiality of any trade secrets of Provider that may be accessed during an audit conducted under this Security Agreement.
- 9. Term; Post-Termination.** This Security Agreement takes effect upon the date of full execution and continues in full force and effect for so long as Provider has possession, custody, or control of any of the

Shared Data. Upon the termination of the subscription to the instructional system provided by Provider and/or any other contract, purchase order, agreement or terms of service between DPS and Provider, all Shared Data shall be destroyed. No other entity, including any subcontractors of Provider, shall be authorized to continue possessing or using any Shared Data. Any data remaining on any computers, servers, or other technological devices of Provider or its employees, agents, or subcontractors, shall be permanently deleted. Provider shall complete such destruction as promptly as possible, but not less than thirty (30) days after the effective date of the conclusion of this Agreement. Within such thirty (30) day period, Provider shall certify in writing to Durham Public Schools that such destruction has been completed. This section shall survive the expiration or earlier termination of this Agreement.

10. Breach and Default; Indemnification; Remedies.

- a. In the event of a material data or security breach, or, if DPS determines, in its sole discretion, that employee information has been mishandled or disclosed in a manner inconsistent with this Security Agreement, DPS may demand the immediate return or destruction of any and all of the Shared Data.
- b. Provider shall fully indemnify and hold harmless the Durham Public Schools Board of Education and its past, current and future members, agents, and employees from and against all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from any material data breach of this Security Agreement or any unauthorized use or disclosure of the Shared Data by Provider or its subcontractor(s). The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N. C. Gen. Stat. § 6-21.2. This section shall survive the expiration or earlier termination of this Security Agreement.
- c. Nothing in this Agreement shall restrict DPS from seeking any other rights or remedies to which it may be entitled at law or equity.

11. No Right or Entitlement to Data. This Security Agreement sets out the terms and conditions, under which DPS may, in its sole discretion, provide Shared Data to Provider. Nothing in this Security Agreement creates any right, title, or interest in Provider to receive any such information.

12. Miscellaneous.

- a. Governing Law. This Security Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.
- b. Relationship of Parties. The parties shall be independent contractors, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of either party be construed as employees, agents, or principals of any other party hereto.
- c. No Third Party Beneficiaries. Nothing in this Security Agreement shall confer upon any person other than the parties any rights, remedies, obligations, or liabilities whatsoever.
- d. Counterparts. This Security Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

- e. Headings. The headings and other captions in this Security Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Security Agreement.
- f. Execution. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- g. Assignment of Rights. Neither this Security Agreement, nor any rights, duties, nor obligations described herein shall be assigned by Provider without the prior express written consent of DPS.
- h. Severability. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- i. Authority to Enter Agreement. The person(s) executing this Agreement on behalf of Recipient has authority to do so as an official, binding act of Recipient.
- j. Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties and supersedes any previous agreements and proposals, oral or written, related to the subject matter hereof. Any modification or amendments to this Agreement shall be effective only if made in writing and signed by both parties.
- k. Conflicts. In the event of any conflict between this Security Agreement and any existing or future contract, purchase order, agreement or terms of service between DPS and Provider, the terms and conditions of this Security Agreement shall control.

IN WITNESS THEREOF, the parties to this Agreement have set their hands and seals on the dates indicated below.

[PROVIDER’S NAME]

Signature

Date

[Printed Name, Title]

DURHAM PUBLIC SCHOOLS

Signature

Date

Third Party Vendor Integration Checklist

In order to make sure that the vendor is able to properly and safely integrate into the statewide applications, the PSU and vendor must meet the following requirements based on the security level of the shared data.

Public School Unit:

Vendor Name:

Product:

Does the system share, send or receive data?

- No (Further action not required)
 Yes

Phase I: Vendor Selection

- The vendor, if software as a service, has been told by the PSU they will need to provide the security documents to the PSU initially and on an annual basis.

Phase II: Evaluation

The vendor has provided the PSU the following information about the data they will be collecting in the *Data Sharing Worksheet*.

- The statewide systems they will be connecting to (PowerSchool SIS, ECATS, Amplify mClass, or any state system containing student information);
 The method of integration (API, AutoComm, SFTP, etc.);
 Specific data fields requested and the rationale for their inclusion in the request, including how the data will be used in the target system;
 A description of how data will be restricted to the users who have a legitimate business need to see the data;

The vendor has provided the the PSU the following security documentation:

- The NC Vendor Readiness Assessment Report (VRAR) to capture the baseline security controls in accordance with NIST 800-53, the framework for NC state security policies.

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- A third-party conducted assessment reports such as the Federal Risk and Authorization Management Program (FedRAMP) authorization, SOC 2 Type 2 audit, ISO 27001 certification, or HITRUST certification to the Department of Public Instruction initially and then annually.

Does the vendor have gaps indicated in their internal controls (from the VRAR)?

- No
- Yes, and we have requested the following additional documentation and mitigating controls:
 - A credentialed vulnerability scan to be provided at execution of the contract and annually thereafter, showing no medium or above vulnerabilities.
 - A third party penetration test to be provided at execution of the contract and annually thereafter, showing no medium or above findings.
- Other:
 -
 -
 -
 -

Phase III: Contract Award

- The PSU has executed the Data Sharing Agreement for Public School Units.
- The PSU has collected any additional security documentation requested.
- The PSU has uploaded all information to the DPI Application Portal.

Phase IV: Contract Amendments and Renewals

- The Vendor has provided any updates on data requirements and the VRAR.
- The Vendor has provided new security scans (if required), and an updated third-party assessment.
- The PSU has uploaded all information to the DPI Application Portal.

If the vendor is unable to provide or agree to any of the above the vendor will not be able to the integration cannot proceed.



Data Confidentiality and Security Agreement for Online Service Providers and Public School Units

(Student Data)

_____ (“Provider”) hereby agrees to the terms of this Data Confidentiality and Security Agreement (“Security Agreement”) for the purpose of sharing confidential student information between _____ (“Public School Unit” or “PSU” as defined by N.C. Gen. Stat. 115C-5(7a)) and Provider in a manner consistent with any applicable laws and policies, including, but not limited to, the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and its implementing regulations at 34 CFR part 99; the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. 1232h and its implementing regulations at 34 CFR part 98; the Children’s Online Privacy Protection Act (COPPA), 15 U.S.C. 6501-6506 and its implementing regulations at 16 CFR part 312; N.C. Gen. Stat. §§ 115C-401.1, 115C-401.2, and 115C-402.

- 1. Purpose.** The North Carolina Department of Public Instruction is charged with maintaining statewide student data systems and protecting student data under North Carolina General Statute 115C, Article 29. Provider is requesting access to certain student data maintained by NCDPI and Public School Unit for services rendered by the Provider. The purpose of this Security Agreement is to set forth the terms and conditions upon which Provider may be granted access to such student data in order to ensure that the student data is used and stored appropriately and in compliance with all applicable federal, state, and local laws, regulations, and policies. The Provider shall receive fields and data described in Attachment A.
- 2. Student Records and Information.** Provider acknowledges that any data shared and released to Provider by the Public School Unit (the “Shared Data”) is for the purpose of providing the goods and services purchased by the PSU. The Shared Data is defined as any data or information shared by the PSU with Provider pursuant to this Agreement, including but not limited to any de-identified data, aggregated data sets, personally identifiable information (PII) about students, and other student information, including, but not limited to, student data and user content. The Shared Data will be used by Provider for the purpose of populating student data into systems subscribed to by the Public School Unit. Provider system generated data such as log files would not be considered Shared Data. The parties agree that the Shared Data and all rights to the Shared Data shall remain the exclusive property of NCDPI and the Public School Unit, and that Provider has a limited, nonexclusive, license solely for the purpose of performing its obligations under agreements with the PSU.
- 3. Compliance with Applicable Laws, Policies, and Procedures.** To become or remain a recipient of the

Shared Data, Provider agrees to comply with all applicable laws and regulations in all respects. For purposes of this Security Agreement, FERPA includes 20 U.S.C. 1232g, Chapter 99 of Title 34 of the Code of Federal Regulations, and any North Carolina State Board of Education policies, local Public School Unit Board of Education policies and procedures implementing these federal laws. PPRPA includes 20 U.S.C 1232h, Chapter 98 of Title 34 of the Code of Federal Regulations, and any state law, State Board of Education or Public School Unit policies implementing these federal laws. COPPA includes 5 U.S.C. 6501-6505, Chapter 312 of Title 16 of the Code of Federal Regulations, and any state law and PSU Board of Education policies implementing these federal laws. Nothing in this Security Agreement may be construed to allow the Provider to maintain, use, or disclose any Shared Data in a manner inconsistent with any applicable law, regulation, or policy.

4. **Authorized Use of Shared Data.** All services provided by Provider shall at all times be limited to functions of the Public School Unit that could otherwise be provided by a school official and which the Public School Unit is “outsourcing” to Provider pursuant to 34 CFR 99.31(a)(1)(B). Provider agrees to use the Shared Data for no other purpose other than those identified in Paragraph 2 of this Agreement. The Security Agreement does not convey ownership of Shared Data to Provider.
5. **Procedures for the Maintenance and Security of Shared Data.** While in the possession, custody, or control of the Provider, or any authorized subcontractor, all Shared Data shall be stored in a secure environment, within the continental United States, with access limited to the least number of staff needed to complete the work requested by the PSU. Access to Shared Data from outside the continental United States may be permitted if limited to a secure virtual desktop or similar method and provided that Shared Data is not stored or transmitted outside the continental United States. The provider shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted data received from, or on behalf of the PSU. Such measures shall include processes for the transmission and storage of such data.
 - a. Provider agrees that it will protect the Shared Data against loss, unauthorized destruction, erasure and unauthorized uses or disclosures. Specifically, Provider agrees that all Shared Data received or accessed in the course of providing services to the PSU shall be subject to the confidentiality and disclosure provisions of the NC Public Records Act and other applicable federal and state statutes and regulations, and PSU policies, including but not limited to the laws and policies described in Paragraph 3 of this Security Agreement.
 - b. For the purposes of ensuring Provider’s compliance with this Security Agreement and all applicable state and federal laws, Provider shall designate one or more individuals as the primary data custodian(s) of the data that the PSU shares with Provider and shall notify the PSU of the name(s) and title(s) of such individual(s) prior to any disclosure of any Shared Data to such persons, and in the event of any changes to the named individuals. The PSU will release all Shared Data for this project to the named primary data custodian(s). The primary data custodian(s) shall ensure that the project shall be conducted in a manner that does not permit personal identification of PSU students by anyone other than representatives of Provider who need such information for the purposes described in Paragraphs 1 and 2 of this Security Agreement. The primary data custodian(s) shall also be responsible for maintaining a log of all Shared Data received pursuant to this Security Agreement and ensuring the timely destruction or return of the Shared Data as required by this Security Agreement.
 - c. Provider shall protect Shared Data from unauthorized physical and electronic access. All Shared Data shall be kept in a secure location, within the continental United States, preventing unauthorized access. Provider shall not forward to any person or entity other than the contracted PSU any student record or PII, including, but not limited to, the student’s identity, without the advance written consent of the PSU.

- d. Provider agrees to handle any and all Shared Data using appropriate access control and security, including password-protection and encryption in transport and electronic storage, and periodic auditing of such Data at rest. Data subject to FERPA shall not be emailed in plain text or used for marketing campaigns.
- e. Provider will maintain an access log delineating the date, time, and identity of any person or entity given access to any Shared Data student records who is not in the direct employ of Provider. No such access shall be granted except in strict compliance with the terms and conditions of this Agreement and applicable law.

6. Required Documentation

- a. Provider agrees to provide the PSU with a completed self-assessment using an approved self-assessment toolkit prior to the execution of the contract. **The list of approved self-assessment toolkits are listed at: <https://www.dpi.nc.gov/about-dpi/technology-services/third-party-data-integration>.**
- b. Provider agrees to provide the PSU, at the execution of the contract and annually thereafter, a third-party conducted assessment public report or executive summary that does not include confidential information. The list of approved third-party conducted assessments are listed at: <https://www.dpi.nc.gov/about-dpi/technology-services/third-party-data-integration>.

7. Additional Security Measures and Documentation.

The PSU, at their sole discretion, may request additional documentation including:

- a. The provider shall securely share any documentation provided to PSU with the North Carolina Department of Public Instruction for evaluation and review at the request of the Department of Public Instruction.
- b. The provider also agrees to abide by local policies included by the PSU as an addendum to this agreement.

8. Prohibition on Unauthorized Use or Disclosure of Shared Data.

- a. Provider agrees to hold all Shared Data in strict confidence. Provider shall not use or disclose such data received from or on behalf of the contracted PSU except as authorized in writing by the contracted PSU or as required by law. Provider agrees not to disclose any data obtained from the contracted PSU in a manner that could identify any individual student to any other entity, attempt to infer or deduce the identity of any individual student based on data provided by the PSU, or claim to have identified or deduced the identity of any student based on data provided by the PSU.
- b. Provider agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.
- c. Provider is prohibited from mining Shared Data for any purposes other than those agreed to in writing by DPI and the Public School Unit. Data mining or scanning of user content for the purpose of advertising and/or marketing to students or their parents is strictly prohibited by NCGS § 115C-401.2.
- d. In no event will Provider use any of the Shared Data for its own commercial marketing or advertising purposes, or for the commercial marketing or advertising purposes of any third

party. Provider also agrees to not market additional or add-on services to parents or students within the Public School Unit, without the express written consent of the PSU.

- e. In the event of any unauthorized use or disclosure of Shared Data, Provider shall report the existence of an incident to the PSU within twenty-four (24) hours after Provider learns of such use or disclosure and shall cooperate with any investigations conducted by Law Enforcement, the PSU, the North Carolina Department of Public Instruction, the North Carolina Department of Information Technology, and any affiliated parties. As used herein, incident includes a Cybersecurity Incident or Significant Cybersecurity Incident as defined in NC General Statute 143B-1320. Unauthorized disclosure shall include, but is not limited to, technical breaches, misconfigurations, invalid permissions, and any other access which results in a user of the system or public receiving access to Shared Data they would not otherwise be entitled to.
- f. Provider shall provide a report upon PSU request within seventy-two (72) hours of the request the current state of the incident. Provider will also provide an incident postmortem report within two (2) business days of incident resolution. Such report shall identify the following if known:
 - i. The nature of the unauthorized use or disclosure,
 - ii. The Shared Data used or disclosed,
 - iii. Who made the unauthorized use or received the unauthorized disclosure,
 - iv. What Provider has done or shall do to mitigate the effects of the unauthorized use or disclosure, and
 - v. What corrective action Provider has taken or shall take to prevent future similar unauthorized use or disclosure.
- g. Provider shall also provide such other information related to the unauthorized use or disclosure that may be reasonably requested by NCDPI and the PSU within no more than seventy-two (72) hours of the request. NCDPI and/or the PSU may also require that Provider provide a written notice of the breach or disclosure, as well as a description of the corrective actions taken, to any student, parent, or employee directly impacted by the breach or disclosure. Any such notice shall be subject to review and approval by NCDPI and the PSU.
- h. Provider will not release any research or publications pertaining to the Public School Unit's data without the PSU's advance written consent
- i. NCDPI acknowledges that Provider may consider certain information reported pursuant to e and f above as confidential and not subject to disclosure under the NC Public Records Act. Provider may mark such information as exempt from disclosure upon consultation with Provider's legal counsel, however such determination shall not preclude delivery of the information to NCDPI.

9. Employees, Contractors, and Agents. Provider shall ensure that all subcontractors are contractually bound to adhere to all of the terms of this Security Agreement with respect to its possession and use of any Shared Data and is aware of its obligations under applicable law with regard to the possession, use and re-disclosure of any Shared Data. The provider upon request by the PSU or NCDPI shall provide a list of subcontractors with access to Shared Data and any agreements between the Provider and subcontractor that is specifically related to Shared Data.

Nothing in this paragraph shall relieve the Provider of its obligations under this Agreement, including its responsibilities to ensure the security of any Shared Data provided by the PSU pursuant to this Agreement.

10. **Investigations.** A list of PSU data fields and types held by Provider will be made available to PSU for review and inspection upon request of the PSU. In the event of an Incident, Provider shall cooperate with the PSU or with any other person or agency as directed by the PSU with investigating activities related to Provider's use and safeguarding of the Shared Data, including but not limited to allowing inspection of the data logs described in Paragraph 5.b and 5.d of this Agreement. The Public School Unit will maintain the confidentiality of any trade secrets of Provider that may be accessed during an audit conducted under this Security Agreement. The PSU reserves the right to terminate this Security Agreement at any time if the Provider does not comply with the terms and conditions set forth herein.
11. **Term; Post-Termination.** This Security Agreement takes effect upon the date of full execution and continues in full force and effect while Provider has possession, custody, or control of any of the Shared Data. Within 90 days of the expiration of the Subscription, Purchase Order, or Terms between the PSU and the Provider - or upon notice of termination of this agreement - the Provider shall assist the PSU, upon written request, in extracting and/or transitioning all Data collected by the Provider in the format determined by the PSU. The Transition Period may be modified in writing by the parties in a contract amendment. Upon termination and after providing the Data to the PSU, the Provider shall permanently destroy or render inaccessible any Shared Data and provide the state notice in writing. All plugins and data sharing of PSU data to the Provider will terminate immediately. No other entity, including any subcontractors of Provider, shall be authorized to continue possessing or using any Shared Data. Any Shared Data remaining on any computers, servers, or other technological devices of Provider or its employees, agents, or subcontractors, shall be permanently deleted. Provider shall complete such destruction as promptly as possible, but not less than thirty (30) days after the effective date of the termination or expiration of this Agreement. Within such thirty (30) day period, Provider shall certify in writing to PSU that such destruction has been completed. This section shall survive the expiration or earlier termination of this Agreement.
12. **Breach and Default; Indemnification; Remedies.**
 - a. In the event of a material data or security breach, or, if the PSU determines, in their sole discretion, that student information has been mishandled or disclosed in a manner inconsistent with this Security Agreement, the PSU may demand the immediate return or destruction of any and all of the Shared Data.
 - b. Provider shall fully indemnify and hold harmless the State Board of Education, the Department of Public Instruction, and the District and its past, current and future members of Boards of Education, elected officials, agents, and employees from and against all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from any material data breach of this Security Agreement or any unauthorized use or disclosure of the Shared Data by Provider or its subcontractor(s).
 - c. In the event of an incident, outage, or data corruption in the North Carolina Student Information System (NCSIS) determined to be caused by the actions of the Provider, the provider shall cover any costs imposed by the NCSIS vendor for a return to normal operations.
 - d. Nothing in this Agreement shall restrict the PSU from seeking any other rights or remedies to which it may be entitled at law or equity.

13. No Right or Entitlement to Student Data. This Security Agreement sets out the terms and conditions, under which the PSU may, in their sole discretion, provide Shared Data to Provider. Nothing in this Security Agreement creates any right, title, or interest in Provider to receive any such information.

14. **Miscellaneous.**

- a. Governing Law. This Security Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.
- b. Relationship of Parties. The parties shall be independent contractors, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of either party be construed as employees, agents, or principals of any other party hereto.
- c. No Third Party Beneficiaries. Nothing in this Security Agreement shall confer upon any person other than the parties any rights, remedies, obligations, or liabilities whatsoever.
- d. Headings. The headings and other captions in this Security Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Security Agreement.
- e. Assignment of Rights. Neither this Security Agreement, nor any rights, duties, nor obligations described herein shall be assigned by Provider without the prior express written consent of the PSU.
- f. Severability. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
- g. Authority to Enter Agreement. The person(s) executing this Agreement on behalf of Recipient has authority to do so as an official, binding act of Recipient.
- h. Conflicts. In the event of any conflict between this Security Agreement and any existing contract, purchase order, agreement or terms of service between the PSU, and Provider, the terms and conditions of this Security Agreement shall control.

SIGNATURE PAGE FOLLOWS

IN WITNESS THEREOF, the parties to this Agreement have set their hands and seals on the dates indicated below.

Provider:

[Signature, Date]

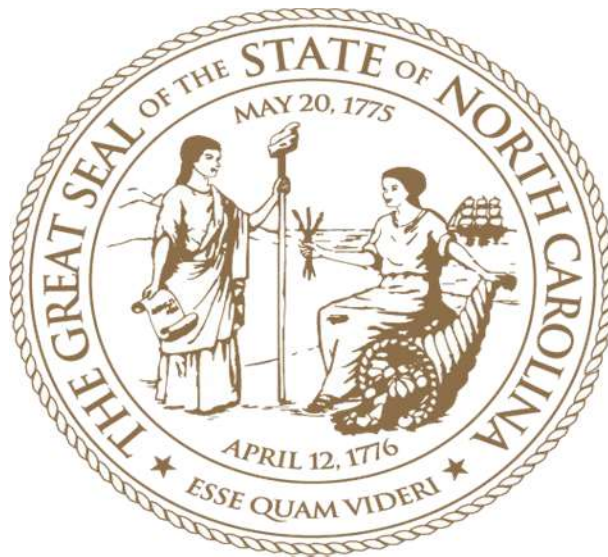
[Printed Name, Title]

Public School Unit:

[Signature, Date]

[Printed Name, Title]

ENTERPRISE SECURITY & RISK MANAGEMENT OFFICE (ESRMO)



Vendor Readiness Assessment Report (VRAR) for Solutions Hosted on State Infrastructure

Executive Summary

The State of NC requires all systems that are connected to the State network or that process State data meet an acceptable level of security compliance. The State of NC has adopted the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53 as the foundation for identifying and implementing information technology security controls. These controls are described in the State of NC Statewide Information Security Manual (SISM).

The following is a high-level view of specific security requirements for a solution that is hosted on the State network to meet compliance. The control references (e.g., AC-2) refer to the specific NIST 800-53 control as listed in the SISM, which may be found at the following link: <https://it.nc.gov/statewide-information-security-policies>.

Note: There may be additional requirements depending on the sensitivity of the data, other Federal and State mandates, or agency specific requirements.

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1. Introduction

1.1. Purpose

This report and its underlying assessment are intended to enable State agencies to reach a state-ready decision for a specific solution that will be hosted on the State network based on organizational processes and the security capabilities of the Moderate/low-impact information system.

1.2. Outcomes

Submission of this report by the Vendor does not guarantee a state-ready designation, nor does it guarantee that the State will procure products/services from the vendor.

1.3. State Approach and Use of This Document

The VRAR identifies clear and objective security capability requirements, where possible, while also allowing for the presentation of more subjective information. The clear and objective requirements enable the Vendor to concisely identify whether an application or vendor is achieving the most important State Moderate or low baseline requirements. The combination of objective requirements and subjective information enables the State to render a readiness decision based on a more complete understanding of the vendor's security capabilities.

Section 3, Capability Readiness, is organized into three sections:

- **Section 3.1, State Mandates**, identifies a small set of the state mandates a vendor must satisfy. The State **will not** waive any of these requirements.
- **Section 3.2, State Requirements**, identifies an excerpt of the most compelling requirements from the National Institute of Science and Technology (NIST) Special Publication (SP) 800 document series and State guidance. A VENDOR is unlikely to achieve approval if any of these requirements are not met.
- **Section 3.3, Additional Capability Information**, identifies additional information that is not tied to specific requirements, yet has typically reflected strongly on a VENDOR's ability to achieve approval.

2. VENDOR System Information

Provide and validate the information below. The VRAR template is intended for systems categorized at the Moderate security impact level, in accordance with the FIPS Publication 199 Security Categorization.

Table 2-1. System Information

VENDOR Name:
Solution/System Name:
FIPS PUB 199 System Security Level: (e.g., Moderate)
Fully Operational/Available as of: Enter the date the system became fully operational.
Number of Customers (State/Others): Enter # of customers / # of other customers
System Functionality: Briefly describe the functionality of the system and service being provided.

2.1. Data Flow Diagrams

Insert Vendor-validated data flow diagram(s), and provide a written description of the data flows. The diagram(s) must:

- *clearly identify anywhere State data is to be processed, stored, or transmitted;*
- *clearly delineate how data comes into and out of the system boundary;*
- *clearly identify data flows for privileged, non-privileged and customers access; and*
- *depict how **all ports, protocols, and services** of all inbound and outbound traffic are represented and managed.*

2.2. Separation Measures [AC-4, SC-2, SC-7]

Assess and describe the strength of the physical and/or logical separation measures that are inherent in the solution, or that should be configured to provide segmentation and isolation of system components and functions, addressing user-to-system; admin-to-system; and system-to-system relationships, as applicable.

The Vendor must base the assessment of separation measures on very strong evidence, such as an expert review of the products, architecture, and configurations involved. The Vendor must describe how the methods used to verify the strength of separation measures.

3. Capability Readiness

3.1. State Mandates

This section identifies State requirements applicable to all State approved systems. All requirements in this section **must be met**. Some of these topics are also covered in greater detail in Section 3.2, *State Requirements*, below.

Only answer “Yes” if the requirement is fully and strictly met. The Vendor must answer “No” if an alternative implementation is in place.

Table 3-1. State Mandates

#	Compliance Topic	Fully Compliant?	
		Yes	No
1	Data at Rest, Authentication: Are FIPS 140-2/-3 Validated or National Security Agency (NSA)-Approved cryptographic modules only used where cryptography is required?		
2	Transmission, Remote Access: Are FIPS 140-2/-3 Validated or National Security Agency (NSA)-Approved cryptographic modules consistently used where cryptography is required?		
3	Does the VENDOR have the ability to consistently remediate High vulnerabilities within 30 days and Moderate vulnerabilities within 90 days?		
4	All operating systems (OS) <u>AND</u> major application software components (e.g., Microsoft SQL, Apache Tomcat, Oracle Weblogic, etc.), must NOT be past N-1. Applications which are not operating on the most recent platform MUST have a roadmap to upgrade with a State approved timeline. Does the application support the N-1 requirement?		

3.2. State Requirements

This section identifies additional State Readiness requirements. All requirements in this section **must be met**; however, alternative implementations and non-applicability justifications may be considered on a limited basis.

3.2.1. Approved Cryptographic Modules [SC-13]

*The Vendor must ensure FIPS 140-2, or 140-3 where available, **Validated** or NSA-Approved algorithms are used for all encryption modules. FIPS 140-2 **Compliant** is **not** sufficient. The Vendor may add rows to the table if appropriate, but must not remove the original rows. The Vendor must identify all non-compliant cryptographic modules in use.*

Table 3-2a. Data at Rest & Authentication

	Cryptographic Module Type	FIPS 140-2 Validated?		NSA Approved?		Describe Any Alternative Implementations (if applicable)	Describe Missing Elements or N/A Justification
		Yes	No	Yes	No		
1	Data at Rest [SC-28]						
2	Authentication [IA-5, IA-7]						

3.2.2. Transport Layer Security [NIST SP 800-52, Revision 2]

The Vendor must ensure FIPS 140-2, or 140-3 where available, Validated or NSA-Approved algorithms are used for all encryption modules relating to block ciphers, digital signatures and hash functions. Full FIPS mode is not required unless other regulatory requirements must be met. The Vendor may add rows to the table if appropriate but must not remove the original rows. The Vendor must identify all non-compliant cryptographic modules in use.

Table 3-2b. Transport Encryption

	Cryptographic Module Type	FIPS 140-2 Validated?		NSA Approved?		Describe Any Alternative Implementations (if applicable)	Describe Missing Elements or N/A Justification
		Yes	No	Yes	No		
1	Transmission [SC-8 (1), SC-12, SC-12 (2, 3)]						
2	Remote Access [AC-17 (2)]						

Table 3-3. Transport Protocol

#	The Cryptographic Module Type	Protocol in Use?		If “yes,” please describe use for both internal and external communications
		Yes	No	
1	SSL (Non-Compliant)			
2	TLS 1.0 (Non-Compliant)			
3	TLS 1.1 (Non-Compliant)			
4	TLS 1.2 (Compliant)			
5	TLS 1.3 (Compliant)			

3.2.3. Identification and Authentication, Authorization, and Access Control

Only answer “yes” if the answer is consistently “yes.” For partially implemented areas, answer “no” and describe what is missing to achieve a “yes” answer. If inherited, please indicate partial or full inheritance in the “Describe Capability” column. Any non-inherited capabilities must be described.

Table 3-4. Identification and Authentication, Authorization, and Access Control

#	Question	Yes	No	Describe capability, supporting evidence, and any missing elements
1	Does the system uniquely identify and authorize organizational users (or processes acting on behalf of organizational users) in a manner that cannot be repudiated, and which sufficiently reduces the risk of impersonation? [IA-2, IA-4]			
2	Does the system allow for multi-factor authentication (MFA) for administrative accounts and functions? [IA-2, IA-2 (1), IA-2 (2)]			
3	Is role-based access used, managed and monitored? [IA-4, IA-5]			
4	Does the system restrict non-authorized personnel’s access to resources? [AC-6, AC-6 (1), AC-6 (2)]			

#	Question	Yes	No	Describe capability, supporting evidence, and any missing elements
5	Does the system restrict non-privileged users from performing privileged function? [AC-6, AC-6 (1), AC-6 (2), AC-6 (10)]			
6	Does the system restrict access of administrative personnel in a way that limits the capability of individuals to compromise the security of the information system? [AC-2]			<i>The capability description is not required here, but must be included in Section 2.2, Separation Measures.</i>
7	Does the solution enforce the State's password policy? State requires minimum 14-character complex passwords (Upper, Lower, Special Character and Numerical), including minimum password life? [IA-5]			
8	Does the solution require a non-user service account to function? [IA-5]			
9	Does the solution obscure feedback of authentication information? [IA-6]			
10	Does the solution limit unsuccessful login attempts? [AC-7]			
11	Does the solution support a fail-safe function to deny access if the system is not functioning properly? [AC-17]			<i>If yes, what is the limit? Can it be configured?</i>
12	Does the solution store and forward passwords in encrypted form? [SC-8]			

3.2.4. Audit, Alerting, Malware, and Incident Response

Only answer "yes" if the answer is consistently "yes." For partially implemented areas, answer "no" and describe what is missing to achieve a "yes" answer. If inherited, please indicate partial or full inheritance in the "Describe Capability" column. Any non-inherited capabilities must be described.

Table 3-5. Audit, Alerting, Malware, and Incident Response

#	Question	Yes	No	Describe capability, supporting evidence, and any missing elements
1	Does the system store audit data in a tamper-resistant manner which meets chain of custody and any e-discovery requirements? [AU-4, AU-9]			
2	Does the solution log and monitor access to it? [SI-4]			
3	Does the VENDOR have a plan and capability to perform security code analysis and assess code for security flaws, as well as identify, track, and remediate security flaws? [SA-11]			

#	Question	Yes	No	Describe capability, supporting evidence, and any missing elements
4	Does the VENDOR have the capability to retain online audit records for at least 90 days to provide support for after-the-fact investigations of security incidents and offline for at least one year to meet regulatory and organizational information retention requirements? [AU-11]			

3.2.5. Configuration and Risk Management

Only answer “yes” if the answer is consistently “yes.” For partially implemented areas, answer “no” and describe what is missing to achieve a “yes” answer. If inherited, please indicate partial or full inheritance in the “Describe Capability” column. Any non-inherited capabilities must be described.

Table 3-6. Configuration and Risk Management

#	Question	Yes	No	Describe capability, supporting evidence, and any missing elements
1	Does the VENDOR follow a formal change control process that includes a security impact assessment? [CM-3, CM-4, CM-4 (2)]			
2	Does the solution support the ability to prevent unauthorized changes to the system? [CM-5]			<i>If “yes,” describe how this is accomplished.</i>
3	Does the VENDOR support configuration settings for products employed that reflect the most restrictive mode consistent with operational requirements? [CM-6, CM-7]			<i>If “yes,” describe if the configuration settings are based on Center for Internet Security (CIS) Benchmarks or United States Government Configuration Baseline (USGCB), or “most restrictive consistent with operational requirements.”</i>
4	Does the VENDOR demonstrate the capability to remediate High vulnerabilities within 30 days and Moderate vulnerabilities within 90 days? [RA-5]			<i>Describe how the Vendor validated that the VENDOR remediates High vulnerabilities within 30 days and Moderate vulnerabilities within 90 days.</i>
5	When a High vulnerability is identified as part of continuous monitoring activities, does the VENDOR consistently check audit logs for evidence of exploitation? [RA-5]			

3.3. Additional Capability Information

State will evaluate the responses in this section on a case-by-case basis relative to a State-Ready designation decision.

3.3.1. Change Management Maturity

While the following change management capabilities are not required, they indicate a more mature change management capability and may influence a State Readiness decision, especially for larger systems.

The Vendor must answer the questions below.

Table 3-7. Change Management

#	Question	Yes	No	If "no", please describe how this is accomplished.
1	Does the VENDOR's change management capability include a fully functioning Change Control Board (CCB)?			
2	Does the VENDOR have and use development and/or test environments to verify changes before implementing them in the production environment?			

3.3.2. Vendor Dependencies and Agreements

The Vendor must answer the questions below.

Table 3-8. Vendor Dependencies and Agreements

#	Question	Yes	No	Instructions
1	Does the system have any dependencies on other vendors such as a leveraged service offering, hypervisor and operating system patches, physical security and/or software and hardware support?			If "yes," please complete Table 3-9. Vendor Dependencies below.
2	Within the system, are all products still actively supported by their respective vendors?			If any are not supported, answer, "No."
3	Does the VENDOR have a formal agreement with a vendor, such as for maintenance of a leveraged service offering?			If "yes," please complete Table 3-10. Formal Agreements Details below.

If there are vendor dependencies, please list each in the table below, using one row per dependency. For example, if using another vendor's operating system, list the operating system, version, and vendor name in the first column, briefly indicate the VENDOR's reliance on that vendor for patches, and indicate whether the vendor still develops and issues patches for that product. If there are no vendor dependencies, please type "None" in the first row.

Table 3-9. Vendor Dependency Details

#	Product and Vendor Name	Nature of Dependency	Still Supported?	
			Yes	No
1				
2				

If there are formal vendor agreements in place, please list each in the table below, using one row per agreement. If there are no formal agreements, please type "None" in the first row.

Table 3-10. Formal Agreements Details

#	Organization Name	Nature of Agreement
1		
2		

Organization's Security Representative or designee

PLEASE PRINT NAME

SIGNATURE

Date