

**EXHIBIT**  
**1**

**DATA SHARING AND CONFIDENTIALITY AGREEMENT**

INCLUDING  
PARENTS BILL OF RIGHTS FOR DATA SECURITY AND PRIVACY  
AND  
SUPPLEMENTAL INFORMATION ABOUT THE  
Agreement

1. **Purpose**

(a) This Exhibit supplements the Agreement between the Board of Cooperative Educational Services Agreement of Albany-Schoharie-Schenectady-Saratoga Counties (“BOCES” or “Albany-Schoharie-Schenectady-Saratoga BOCES”) and ProQuest LLC (“PROQUEST”) effective July 1, 2017 (“AGREEMENT”) to which it is incorporated, to ensure that the AGREEMENT conforms to the requirements of New York State Education Law Section 2-d and any implementing Regulations of the Commissioner of Education (collectively referred to as “Section 2-d”). This Exhibit consists of the terms of this Data Sharing and Confidentiality Agreement, a copy of BOCES Parents Bill of Rights for Data Security and Privacy signed by PROQUEST, and the Supplemental Information about the Agreement that is required to be posted on BOCES website.

(b) To the extent that any terms contained within the AGREEMENT, or any terms contained within any other Exhibits attached to and made a part of the AGREEMENT, conflict with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect. In the event that PROQUEST has online or written Terms of Service (“TOS”) that would otherwise be applicable to its customers or users of its Product that is the subject of the AGREEMENT, to the extent that any term of the TOS conflicts with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect.

2. **Definitions**

Any capitalized term used within this Exhibit that is also found in the AGREEMENT will have the same definition as contained within the AGREEMENT.

In addition, as used in this Exhibit:

(a) “Student Data” means personally identifiable information, as defined in Section 2-d, from student records that PROQUEST receives from a Participating Educational Agency pursuant to the AGREEMENT.

(b) “Teacher or Principal Data” means personally identifiable information relating to the

annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of New York Education Law Sections 3012-c or 3012-d, that PROQUEST receives from a Participating Educational Agency pursuant to the AGREEMENT.

(c) “Protected Data” means Student Data and/or Teacher or Principal Data to the extent applicable to PROQUEST’ Product.

(d) “Participating Educational Agency” means a school district within New York State that purchases certain shared instructional technology services and software through a Cooperative Educational Services Agreement with a BOCES, and as a result is licensed to use PROQUEST’S Product pursuant to the terms of the AGREEMENT.

### 3. **Confidentiality of Protected Data**

(a) PROQUEST acknowledges that the Protected Data it receives pursuant to the AGREEMENT may originate from several Participating Educational Agencies located across New York State, and that this Protected Data belongs to and is owned by the Participating Educational Agency from which it originates.

(b) PROQUEST will maintain the confidentiality of the Protected Data it receives in accordance with federal and state law (including but not limited to Section 2-d) and BOCES policy on data security and privacy. PROQUEST acknowledges that BOCES is obligated under Section 2-d to adopt a policy on data security and privacy, but that adoption may not occur until a date subsequent to the effective date of the AGREEMENT. BOCES will provide PROQUEST with a copy of its policy as soon as practicable following adoption, and PROQUEST and BOCES agree to engage in good faith negotiations to modify this Data Sharing Agreement to the extent necessary to ensure PROQUEST’S continued compliance with Section 2-d.

### 4. **Data Security and Privacy Plan**

PROQUEST agrees that it will protect the confidentiality, privacy and security of the Protected Data received from Participating Educational Agencies in accordance with BOCES Parents Bill of Rights for Data Privacy and Security, a copy of which has been signed by PROQUEST and is set forth below.

Additional elements of PROQUEST’S Data Security and Privacy Plan are as follows:

(a) In order to implement all state, federal, and local data security and privacy requirements, including those contained within this Data Sharing and Confidentiality Agreement, consistent with BOCES data security and privacy policy, PROQUEST will: Review its data security and privacy policy and practices to ensure they are in conformance with all applicable laws and the terms of this Data Sharing and Confidentiality Agreement. In the event PROQUEST’S policy and practices are not in conformance, PROQUEST will implement commercially reasonable efforts to ensure such compliance.

(b) In order to protect the security, confidentiality and integrity of the Protected Data that it receives under the AGREEMENT, PROQUEST will have the following reasonable administrative, technical, operational and physical safeguards and practices in place throughout the term of the AGREEMENT: PROQUEST will protect and use Protected Data consistent with its published privacy

statements and privacy policy (<https://www.proquest.com/about/Privacy-Home.html>) which reflect the requirements set out in the EU General Data Protection Regulation (**GDPR**), Family Educational Rights and Privacy Act (**FERPA**), 20 U.S.C. Section 1232[g], et seq, the Children's Online Privacy Protection Act (**COPPA**) and other applicable data protection and privacy laws.

(c) PROQUEST will comply with all obligations set forth in BOCES "Supplemental Information about the AGREEMENT" below.

(d) For any of its officers or employees (or officers or employees of any of its subcontractors or assignees) who have access to Protected Data, PROQUEST has provided or will provide training on the federal and state laws governing confidentiality of such data prior to their receiving access, as follows:

PROQUEST provides annual information security training to all employees to ensure that these individuals are aware of and familiar with PROQUEST security and privacy policies and required compliance with applicable laws. If applicable, PROQUEST will require that officers or employees of subcontractors or assignees comply with applicable laws and PROQUEST policies.

(e) PROQUEST [*check one*] \_\_\_\_ will X will not utilize sub-contractors for the purpose of fulfilling one or more of its obligations under the AGREEMENT. In the event that PROQUEST engages any subcontractors, assignees, or other authorized agents to perform its obligations under the AGREEMENT, it will require such subcontractors, assignees, or other authorized agents to execute written agreements as more fully described in BOCES "Supplemental Information about the AGREEMENT," below.

(f) PROQUEST will manage data security and privacy incidents that implicate Protected Data, including identify breaches and unauthorized disclosures, and PROQUEST will provide prompt notification of any breaches or unauthorized disclosures of Protected Data in accordance with Section 6 of this Data Sharing and Confidentiality Agreement.

(g) PROQUEST will implement procedures for the return, transition, deletion and/or destruction of Protected Data at such time that the AGREEMENT is terminated or expires, as more fully described in BOCES "Supplemental Information about the AGREEMENT," below.

## 5. **Additional Statutory and Regulatory Obligations**

PROQUEST acknowledges that it has the following additional obligations with respect to any Protected Data received from Participating Educational Agencies, and that any failure to fulfill one or more of these statutory or regulatory obligations shall be a breach of the AGREEMENT and the terms of this Data Sharing and Confidentiality Agreement:

(a) Limit internal access to education records to those individuals that are determined to have legitimate educational interests within the meaning of Section 2-d and the Family Educational Rights and Privacy Act (FERPA).

(b) Limit internal access to Protected Data to only those employees or subcontractors that need access in order to assist PROQUEST in fulfilling one or more of its obligations under the AGREEMENT.

(c) Not use education records for any purposes other than those explicitly authorized in

this Data Sharing and Confidentiality Agreement.

(d) Not disclose any personally identifiable information to any other party, except for authorized representatives of PROQUEST using the information to carry out PROQUEST's obligations under the AGREEMENT, unless:

- (i) the parent or eligible student has provided prior written consent; or
- (ii) the disclosure is required by statute or court order and notice of the disclosure is provided to Participating Educational Agency no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order.

(e) Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody;

(f) Use encryption technology that complies with Section 2-d, as more fully set forth in BOCES "Supplemental Information about the AGREEMENT," below.

(g) Provide notification to BOCES (and Participating Educational Agencies, to the extent required by, and in accordance with, Section 6 of this Data Sharing and Confidentiality Agreement) of any breach of security resulting in an unauthorized release of Protected Data by PROQUEST or its assignees or subcontractors in violation of state or federal law or other obligations relating to data privacy and security contained herein.

(h) Promptly reimburse BOCES, another BOCES, or a Participating School District for the full cost of notification, in the event they are required under Section 2-d to notify affected parents, students, teachers or principals of a breach or unauthorized release of Protected Data attributed to material breach of agreement by PROQUEST or its subcontractors or assignees.

## 6. **Notification of Breach and Unauthorized Release**

(a) PROQUEST shall promptly notify BOCES of any breach or unauthorized release of Protected Data in the most expedient way possible and without unreasonable delay, but no more than seven (7) calendar days after PROQUEST has discovered or been informed of the breach or unauthorized release.

(b) PROQUEST will provide such notification to BOCES by contacting Michele Jones directly by email at [Michele.jones@neric.org](mailto:Michele.jones@neric.org) or by calling (518) 464-5139 (office).

(c) PROQUEST will cooperate with BOCES and provide as much information as possible directly to the General Counsel or designee about the incident, including but not limited to: a description of the incident, the date of the incident, the date PROQUEST discovered or was informed of the incident, a description of the types of personally identifiable information involved, an estimate of the number of records affected, the Participating Educational Agencies affected, what the PROQUEST has done or plans to do to investigate the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data, and contact information for PROQUEST representatives who can assist affected individuals that may have additional questions.

(d) PROQUEST acknowledges that upon initial notification from PROQUEST, BOCES, as the educational agency with which PROQUEST contracts, has an obligation under Section 2-d to in turn notify the Chief Privacy Officer in the New York State Education Department ("CPO"). PROQUEST shall not provide this notification to the CPO directly. In the event the CPO contacts PROQUEST directly or requests more information from PROQUEST regarding the incident after having been initially informed of the incident by BOCES, PROQUEST will promptly inform General Counsel or designees.

(e) PROQUEST will consult directly with BOCES' General Counsel or designees prior to providing any further notice of the incident (written or otherwise) directly to any other BOCES or Regional Information Center, or any affected Participating Educational Agency.

**By BOCES:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**By PROQUEST:**

DocuSigned by:  
Signature: Dawn Branham

Name: Dawn Branham

Title: Dir, Cust Service and Govt Contracts

Date: 30 June 2020

**EXHIBIT 1**  
**(CONTINUED)**

PARENTS' BILL OF RIGHTS FOR DATA SECURITY AND PRIVACY

Albany-Schoharie-Schenectady-Saratoga BOCES (BOCES) is committed to protecting the privacy and security of personally identifiable information about students who attend BOCES instructional programs in accordance with applicable law, including New York State Education Law Section 2-d.

To further these goals, BOCES wishes to inform parents of the following:

(1) A student's personally identifiable information cannot be sold or released for any commercial purposes.

(2) Parents have the right to inspect and review the complete contents of their child's education record.

(3) State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

(4) A complete list of all student data elements collected by the State is available for public review at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>, or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.

(5) Parents have the right to have complaints about possible breaches of student data addressed. Complaints may be directed to the NYS Chief Privacy Officer by writing to the New York State Education Department, 89 Washington Avenue, Albany, New York 12234. Complaints may also be directed to the Chief Privacy Officer via email at: [CPO@mail.nysed.gov](mailto:CPO@mail.nysed.gov).

**BY PROQUEST:**

DocuSigned by:



Signature

Dir, Cust Service and Govt Contracts

**Title**

30 June 2020

**Date**

**EXHIBIT 1**  
**(CONTINUED)**

SUPPLEMENTAL INFORMATION

ABOUT THE AGREEMENT BETWEEN  
Albany-Schoharie-Schenectady-  
Saratoga BOCES AND PROQUEST

BOCES has entered into An Agreement (“AGREEMENT”) with PROQUEST (“PROQUEST”), which governs the availability to Participating Educational Agencies of the following Product(s):

Statistical Abstract of the United States Online Education  
ProQuest Research Companion  
eLibrary Curriculum Edition\*  
Culturegrams Online\*  
PQ Learning Literature  
SIRS Researcher\*  
SIRS Discoverer\*  
HNP New York Times  
HNP Hartford Courant

\* Product may be accessed through PROQUEST’s student interface. No personal information is collected from individual users when the products is accessed through the student interface.

Pursuant to the AGREEMENT, Participating Educational Agencies may provide to PROQUEST, and PROQUEST may receive, personally identifiable information about students, or teachers and principals, that is protected by Section 2-d of the New York State Education Law (“Protected Data”).

**Exclusive Purpose for which Protected Data will be Used:**

**To be completed by PROQUEST:**

The exclusive purpose for which PROQUEST is being provided access to Protected Data is to provide Participating Educational Agencies with the functionality of the Product(s) listed above. PROQUEST agrees that it will not use the Protected Data for any other purposes not explicitly authorized in the AGREEMENT. Protected Data received by PROQUEST, or any of PROQUEST’s subcontractors, assignees, or other authorized agents, will not be sold, or released or used for any commercial or marketing purposes.

**Oversight of Subcontractors:** In the event that PROQUEST engages subcontractors, assignees, or other authorized agents to perform one or more of its obligations under the AGREEMENT (including any hosting service provider), it will require those to whom it discloses Protected Data to comply with the same data security and privacy standards required of PROQUEST under the AGREEMENT and applicable state and federal law. PROQUEST will ensure that such subcontractors, assignees, or other authorized agents abide by the provisions of these agreements by: Any entity acting on behalf of PROQUEST shall be required to comply with applicable law, PROQUEST policies, business code of conduct and (if applicable) contract obligations.

**Duration of AGREEMENT and Protected Data Upon Expiration:**

- The AGREEMENT commences on July 1, 2017 and expires on June 30, 2021. Upon expiration of the AGREEMENT without renewal, or upon termination of the AGREEMENT prior to expiration, and upon subscribing entity request and subject to PROQUEST's privacy policy, PROQUEST will securely delete or otherwise destroy any and all Protected Data remaining in the possession of PROQUEST or its assignees or subcontractors. If requested by a Participating Educational Agency, PROQUEST will assist that entity in exporting all Protected Data previously received for its own use, prior to deletion.
- At BOCES request, PROQUEST will cooperate with BOCES as necessary in order to transition Protected Data to any successor PROQUEST(s) prior to deletion.
- Subject to PROQUEST's privacy policy, PROQUEST agrees that neither it nor its subcontractors, assignees, or other authorized agents will retain any copy, summary or extract of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, PROQUEST and/or its subcontractors, assignees, or other authorized agents will provide a certification from an appropriate officer that these requirements have been satisfied in full.

**Challenging Accuracy of Protected Data:** Parents or eligible students can challenge the accuracy of any Protected Data provided by a Participating Educational Agency to PROQUEST, by contacting the student's district of residence regarding procedures for requesting amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Teachers or principals may be able to challenge the accuracy of APPR data provided to PROQUEST by following the appeal process in their employing school district's applicable APPR Plan.

**Data Storage and Security Protections:** Any Protected Data PROQUEST receives will be stored on systems maintained by PROQUEST, or by a subcontractor under the direct control of PROQUEST, in a secure data center facility located within the United States. The measures that PROQUEST will take to protect Protected Data include adoption of technologies, safeguards and practices that align with the NIST Cybersecurity Framework and industry best practices including, but not necessarily limited to, disk encryption, file encryption, firewalls, and password protection.

**Encryption of Protected Data:** PROQUEST (or, if applicable, its subcontractors) will protect Protected Data in its custody from unauthorized disclosure while in motion or at rest, using a technology or methodology specified by the secretary of the U.S. Department of HHS in guidance issued under Section 13402(H)(2) of P.L. 111-5.