

## Educational Data Privacy Agreement

This Agreement is entered into by and between Red Wing Public Schools (“the School District” and the Environmental Learning Center (“the Organization”).

### PREAMBLE

The School District and Organization have a common goal of increasing student achievement and well-being. It is the intent of the Organization to address a variety of student needs including, but not limited to, learning in classrooms, general academic support, social-emotional support, and classroom/after-school activities. The Organization may also conduct certain data analysis tasks on behalf of the School District. The ultimate goal of the Organization is to enhance student achievement and educational experience.

In order for the Organization to effectively serve students it will sometimes be necessary for the School District and Organization to share private education data. Private educational data pertaining to students will not be released to the Organization without the informed written consent of the Parent(s) and/or Student (if the student is 18 or over), unless the Organization is performing a discrete institutional service at the direction of the School District such that the Organization is a “school official” for purposes of that service. Members of the Organization receiving, maintaining, managing and sharing private educational data are required to comply with the requirements of this Agreement and all applicable Minnesota and federal laws pertaining to the receipt, disclosure and maintenance of educational records/data.

**THEREFORE**, the School District and Organization agree to the following terms with respect to the receipt, disclosure and maintenance of private educational data:

1. Definitions:

“Directory information” includes the student’s name, address, telephone listing, electronic mail address, photograph, date of birth, dates of attendance, grade level, enrollment status (i.e., full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, the most recent educational agency/institution attended, and the name, address, and telephone number of the student’s parent(s) in circumstances where the student or their parents have not expressly requested that the information be released only after prior informed written consent.

“Legitimate educational interest” means an interest directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, student health and welfare, and the ability to respond to a request for education data. It includes a person’s need to know in order to: (1) perform an administrative task required in the school or employee’s contract or position description approved by the school board;(2) perform a supervisory or instructional task directly related to the student’s education; or (3) perform a service or benefit for the student or the student’s family such as health care, counseling, student job placement, or student financial aid.

## 2. Treatment and Use of Private Data

All private educational data received by the Organization from the District and that is thereafter stored, used, maintained, or disseminated by a member of the Organization is subject to the requirements of the Minnesota Government Data Practices Act and all members of the Organization will comply with those requirements as if they were a government entity. Information or data related to a student that is designated as “Directory Information” pursuant to School Board policy and which would not generally be considered harmful or an invasion of privacy if disclosed is not covered by this agreement.

Members of the Organization receiving private data pursuant to this Agreement may only provide such data to employees or representatives of their organization who have a legitimate educational interest in the private educational data. Members of the Organization who are provided private educational data by the School District pursuant to this Agreement are not permitted to disclose such data to another third party, unless a parent (or student over age 18) provides the School District with express informed written consent for a student’s private data to be disclosed by the Organization to another person or entity.

The Organization understands that, solely for purpose of completing specific institutional tasks directed by the School District, it is acting as a party to whom the Red Wing Public School District has outsourced discrete institutional services or functions and for that limited purpose it is considered a “school official” under the Family Educational Rights and Privacy Act FERPA. The Organization acknowledges that all educational data/records obtained from the School District are subject to the direct control of the School District and that the Organization will abide by all lawful directives of the School District pertaining to the creation, collection, receipt, use, storage, dissemination and maintenance of educational data/records. The Organization acknowledges that it is subject to the requirements of 34 CFR § 99.33(a) governing the use and redisclosure of personally identifiable information from education records. Further, all of the data created, collected, received, stored, used, maintained, or disseminated by the Organization in performing its functions on behalf of the School District is subject to the requirements of the Minnesota Government Data Practices Act and that it will comply with the requirements Minnesota Government Data Practices Act as if it were a government entity.

When the Organization is not acting as a “school official” as described in the paragraph above, it may not access private educational data without the express informed written consent of a parent/guardian (or student over 18). Under no circumstances may the Organization use data received as a “school official” for any purpose other than the specific institutional service directed by the School District.

### 3. Confidentiality and Appropriate Safeguards

The Organization agrees to establish appropriate security safeguards for all private educational data received from the School District. Members of the Organization will maintain the confidentiality of any and all private educational data received from the School District. The confidentiality requirements under this paragraph shall survive the termination or expiration of this Agreement or Organization. To ensure the continued confidentiality and security of private educational data received, processed, stored, or transmitted under this Agreement, members of the Organization shall establish a system of safeguards that will, at minimum, include the following:

- a. Procedures and systems that ensure that all private educational data are kept in secured facilities and access to such records is limited to personnel who are authorized to have access to said data under this Agreement.
- b. All designated representatives and employees of the Organization involved in the handling, transmittal and/or processing of private educational data provided under Agreement will be informed of their obligation to comply with the requirements of State and Federal law related to educational data privacy and the requirements of this Agreement.
- c. Procedures and systems, such as good practices for assigning passwords, shall be developed and implemented to maintain the integrity of the systems used to secure computer data bases used to process, store, or transmit data provided under this Agreement.
- d. Procedures and systems shall be developed and implemented to ensure that all confidential student data processed, stored, an/or transmitted under the provisions of this MOU shall be maintained in a secure manner that prevents the interception, diversion, or other unauthorized access to said data. The procedures and systems must also ensure that any and all disclosures of private student data comply with all applicable laws and regulations, including, but not limited to, provisions of the Family Educational Rights and Privacy Act (“FERPA”) and the Minnesota Government Data Practices Act.

Members of the Organization may appropriately dispose of/destroy copies of government data provided to them by the School District. When private data is being disposed of/destroyed, the data must be disposed of/destroyed in a way that prevents its contents from being determined. Originals or official copies of any government data provided by the School District can only be disposed on in a manner consistent with the School District’s records retention policies.

Any member of the Organization who knows or has reason to believe that a security breach has occurred and an unauthorized person has gained access to private educational data must immediately notify the School District of this concern. Furthermore, the member of the Organization must take immediate, appropriate action to ensure that circumstances related to the breach of security is rectified and that the risk of further disclosure is eliminated or minimized.

### 4. Indemnification

The School District and Organization agree to defend, indemnify, and hold each other, and its officers, employees, and agents harmless from and against any liability, loss, expense (including attorneys’ fees), or claims of injury or damages arising out of the performance of the terms of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys’ fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying member, and/or its officers, employees or agents.

5. Entire Agreement

This document states the entire agreement between the educational institutions with respect to its subject matter and supersedes any previous and contemporaneous or oral representations, statements, negotiations, or agreements.

6. Execution

Each of the persons signing this Agreement on behalf of a party or entity other than a natural person represents that he or she has authority to sign on behalf and to bind such party.

7. Assignment

None of the signatories to this Agreement may assign their rights, duties, or obligations under this Agreement, either in whole or in part, without the prior informed written consent of the other signatories to this Agreement.

8. Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable. This Agreement shall remain in full force and effect unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this Agreement.

9. Term of this Agreement

This Agreement shall be in effect for the period commencing from the date of execution until August 31, 2023. Either the School District or Organization may terminate its participation in this Agreement by delivering written notice of its intent to terminate said participation to the chief executive officer of the other entity.

Signed By:

\_\_\_\_\_  
Jennifer Tift, Clerk  
Red Wing Public Schools

\_\_\_\_\_  
Jason Jech, Director  
Environmental Learning Center

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Date

\_\_\_\_\_  
Date