

MOUNT DIABLO UNIFIED SCHOOL DISTRICT ADDENDUM TO INDEPENDENT SERVICE AGREEMENT REGARDING STUDENT DATA

This Addendum to the Service Agreement between Mt. Diablo Unified School District (“District”) and Focus Care, Inc. dba FEV Tutor, Inc. (“Contractor”) dated January 15, 2021, is agreed to on _____ . The parties agree to the terms as stated herein.

RECITALS

Whereas, the Contractor has agreed to provide the District with certain digital educational services (“Services”) pursuant to the Service Agreement described above;

Whereas in order to provide the services described in the Agreement, the Contractor may receive or create, and the District may provide documents or data related to students (“Student Data”) that are covered by several statutes, among them, the Family Educational Rights and Privacy Act (FERPA) at 20 U.S.C. 1232g, the Children’s Online Privacy Protection Act (COPPA) at 15 U.S.C. 6501, the Health Information Privacy Act (HIPAA) at Pub.L 104, and the Protection of Pupil Rights Amendment (PPRA) at 20 U.S.C. 1232;

Whereas the documents and data transferred from the District and created by the Contractor’s Services are also subject to California state privacy laws, including California Education Code section 49703.1 and the Student Online Personal Information Protection Act (SOPIPA) found at California Business and Professions Code section 22584;

Whereas, for purposes of this Addendum, Contractor is a school official with legitimate educational interests in accessing educational records;

Whereas, the parties wish to ensure that the Service Agreement conform to the requirements of the privacy laws referred to above, and to establish implementing procedures and duties;

Now therefore, for valuable consideration, the District and Contractor agree as follows:


1. All student data transmitted to the Contractor or created pursuant to the Service Agreement will continue to be the property of and under control of the District.
2. The Contractor shall comply with all applicable state and federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, SOPIPA and

other applicable privacy statutes. For purposes of FERPA, the Contractor shall be considered a School Official, under the control and direction of the District as it pertains to the use of Student Data.

3. The Contractor agrees that upon expiration or termination of services to the District any and all data in any form will be returned to the District upon request and any data, files, and backups in any form shall not be retained and shall be destroyed.
4. The Contractor agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect Student Data from unauthorized disclosure or acquisition by an unauthorized person.
5. In the event that student data is accessed or obtained by an unauthorized individual, the Contractor shall provide notification of the District within a reasonable amount of time of the incident, not to exceed forty-eight hours, and shall present the information under the following headings: "What Happened," "What Information was Involved," "What We are Doing," "What You Can Do," and "For More Information."
6. Contractor shall require all employees and agents who have access to Student Data to comply with all applicable provisions of this Addendum with respect to the data shared under the Service Agreement.
7. Contractor is prohibited from selling Student Data to third parties for any purpose.
8. All other terms and conditions of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto, affix their signatures to this Addendum at Concord, California as of the date stated above.

THE MT. DIABLO UNIFIED SCHOOL DISTRICT

By:  _____ CONTRACTOR 1/20/2021
Ryan Patenaude - Sr. Vice President

By: _____ MDUSD Representative