

**SECOND AMENDMENT SOFTWARE SERVICES AGREEMENT
BETWEEN EDMENTUM INC.
AND POUFRE SCHOOL DISTRICT R-1**

This Second Amendment (“Second Amendment”) effective as of June 2, 2023, is attached to and forms part of the Centralized Products Agreement between and Poudre School District R-1 (the “District”) and Edmentum Inc. (the “Contractor”) executed May 7, 2021 and the First Amendment to the Agreement executed April 29, 2022 (“Agreement”), both of which are attached and made part of this Second Amendment. To the extent that any of the terms or conditions contained in this Second Amendment may contradict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this Second Amendment shall take precedence and supersede the attached Agreement. The parties agree to amend the Contract by adding the following language:


1. **Purpose of Amendment.** This Amendment shall constitute the Second Amendment to the Agreement between the District and the Contractor. The purpose of this Second Amendment is to amend the terms and deliverables between the District and Contractor.
2. **Term of Agreement.**
 - 2.1. At the conclusion of the term dated July 31, 2023, as outlined in section 1.1 of the Agreement, the District and Contractor elect to extend the term of the Agreement beginning on August 1, 2023 through July 31, 2024.
3. **Amended Responsibilities.**
 - 3.1. Exhibit B is deleted hereby in its entirety.
 - 3.2. Replace Exhibit B with Edmentum Product Offering and Pricing, hereby attached to this Second Amendment and made part of this Agreement.
4. **Special Provisions.**
 - 4.1. **Terms and Conditions.** With the exception of items explicitly delineated in this Second Amendment, all terms and conditions of the original Agreement between the District and Contractor shall remain unchanged and in full force and effect.
5. **General Provisions.**
 - 5.1. **Entire Agreement.** The original Agreement, the First Amendment and this Second Amendment, constitutes the entire Agreement of the parties regarding the subject matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.
 - 5.2. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes.

IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement as of the date first set forth above.

EDMENTUM INC.

POUDRE SCHOOL DISTRICT R-1

By: 
Name: Frank Jalufka
Title: Chief Financial Officer

By: 
R David Montoya (Jun 6, 2023 20:42 MDT)
R. David Montoya
Chief Finance Officer

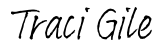
By: 
Traci Gile (Jun 6, 2023 20:13 MDT)
Traci Gile, PhD
Assistant Superintendent of Schools

Exhibit B



Response to Poudre School District

Edmentum Product Offerings and Pricing

Contact: Beck Simon-Burton, Regional Vice President

Phone: 952.465,6740

Email: beck.simon-burton@edmentum.com

edmentum[™]

A Partner In Your Mission. One Team. One Mission.



Your District Partner

Poudre School District Mission

Educate...Every Child, Every Day

Edmentum Mission

We create innovating, proven learning technology ,partnering with educators to ignite student potential.



February 23, 2023

Poudre School District

Tracy Stibitz | Contract Administrator

2407 LaPorte Avenue

Fort Collins, CO 80521

970.490.3564 | tstibitz@psdschools.org

RE: Edmentum Product Offerings and Pricing

Dear Tracy Stibitz:

Edmentum is pleased to submit the enclosed information for Poudre School District (PSD). **As a trusted provider to more than 14 million students worldwide**, we are proud of our commitment to being “Educator First” in all that we do. Our online learning programs are designed by experienced educators, curriculum experts, and researchers to individualize learning for every student. We stand with you, focused on building school around the student. We are excited for the opportunity and privilege to not only grow our relationship with PSD, but to impact student achievement in your district. We look forward to serving you.

Sincerely,

Beck Simon-Burton

Beck Simon-Burton Regional Vice President

Phone: 952.465.6740 | Email: beck.simon-burton@edmentum.com

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Executive Summary

Edmentum is pleased to provide Poudre School District with an overview of our company, product offerings, and pricing. **With more than 60 years of experience partnering with school districts nationwide,** Edmentum is well suited to partner with PSD to address a wide range of needs. Edmentum empowers educators to transform their approach, build school around the needs of each individual learner, and make personalized learning an achievable reality in every classroom. In conjunction with our powerful educational technology solutions, Edmentum offers implementation support and award-winning services to ensure your investment enhances student achievement.



Our curriculum, assessments, and services can help PSD:

- Implement assessment-driven individualized learning
- Focus instruction on essential knowledge and skills
- Address learning gaps and mitigate learning loss
- Integrate digital curriculum as the primary curricular resource
- Provide standards-based practice
- Launch and maintain a fully virtual learning program

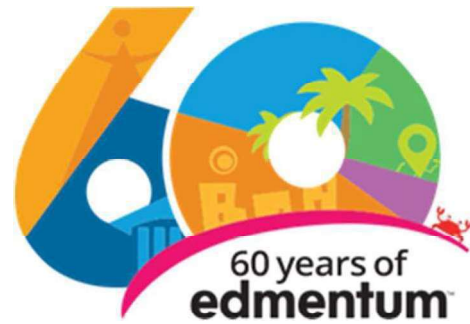
If you have questions about our products or services, please do not hesitate to contact us. We appreciate your time in reviewing our company information and look forward to hearing from you. Your local, dedicated contact during the review process is listed below:

Beck Simon-Burton Regional Vice President

Phone: 952.465.6740 | Email: beck.simon-burton@edmentum.com

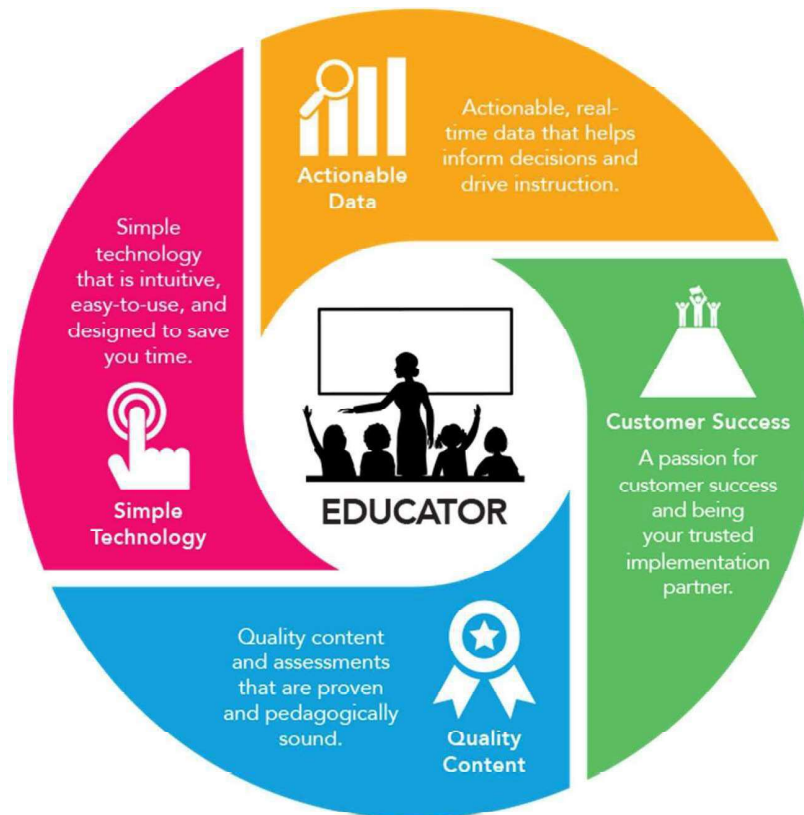
Who We Are

Edmentum delivers personalized teaching and learning programs to more than 14 million students, 8,000-plus districts, and over 80 countries. Our programs address pre-kindergarten to adult learners and allow educators to support a wide variety of learning needs, including intervention, blended learning, prescriptive learning, dropout prevention, social emotional learning, and college and career readiness. Edmentum has nearly 1,200 employees, with relationship teams dedicated to all 50 states and an international team based in the U.K.



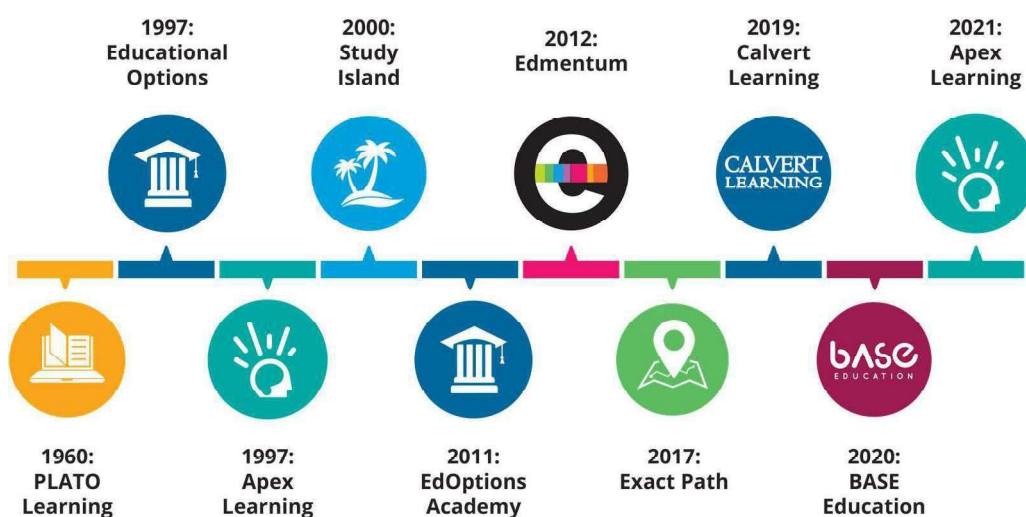
Our Commitments

We are committed to making it easy for educators to individualize learning for every student through simple technology, actionable data, quality content, and a passion for customer success.



Company History

Edmentum has been at the forefront of industry advancements for more than 60 years. We continue to expand our product portfolio to provide our customers with innovative, 21st-century learning programs. For more information on our company's history, please visit www.edmentum.com/about.



Online learning was invented in 1960 at the University of Illinois at Urbana–Champaign as PLATO Learning, which became the first computer-assisted learning system. In 1997, educators founded Educational Options to create web-based educational products that support students and teachers inside and outside the traditional classroom. Also in 1997, Microsoft cofounder Paul Allen founded Apex Learning. Study Island debuted in 2000 as a web-based standards mastery and test preparation product and grew into Archipelago Learning as it expanded its portfolio.

In 2011, PLATO Learning acquired EdOptions and launched EdOptions Academy. In 2012, PLATO Learning acquired Archipelago Learning, adding complementary online educational solutions. Together, they joined forces to become Edmentum. After launching Exact Path in 2017, Edmentum acquired Calvert Learning in 2019 and formed strong partnerships with FEV Tutor and BASE Education in 2019 and 2020, respectively. In 2021, Edmentum acquired Apex Learning, an industry leader in 6–12 digital curriculum, to broaden our blended and virtual learning offerings. Today, the breadth and depth of Edmentum's products embraces the same spirit of education first founded in 1960.

Edmentum Products

Whether purchased individually or as a comprehensive solution suite, our flexible programs empower you with the tools to drive student learning and achievement.



Courseware

6–12 online courses and curriculum to enhance and expand student options



Apex Learning

6–12 digital curriculum, targeted tutorials, and virtual learning



EdOptions Academy

K–12 online courses and instructional services for effective virtual programs



Calvert Learning

K–5 online courses and project-based, standards-aligned curriculum built on proven pedagogy



Exact Path

K–12 assessment-driven online individualized learning paths to target instruction



Study Island

K–12 customizable online assessment and practice to reinforce learning



Reading Eggs

Pre-K–6 online literacy program to develop student reading and comprehension skills

Approvals and Efficacy

Edmentum is the leader in state course approvals among all online course providers. Our State Approvals Team is committed to putting the best resources in students' hands by providing research-based curriculum built from the ground up to align with state-specific academic standards. Please review our state and agency approvals at www.edmentum.com/resources/approvals.

The efficacy of our programs is critical because our commitment to student achievement is uncompromising. We invest in research and third-party studies to ensure effectiveness. Edmentum courses are certified by national third-party organizations, including Quality Matters, ISTE, Certica, EdCredible, and EdSurge. In addition, Edmentum is a premier participant in the WebbAlign® Depth of Knowledge Partner Program. We encourage PSD to ask other responding vendors about allotted approval resources and third-party approval lists.



Awards and Achievements

We are committed to developing breakthrough online educational programs to redefine today's classroom. Edmentum has received numerous awards for its products, including prestigious CODiE Awards, AEP Distinguished Achievement Awards, Tech Advocate Awards, Technology & Learning Awards of Excellence, and many more. Some of our most recent accolades include:

- Exact Path won a Tech Advocate Award for **Best Personalized/Adaptive Learning Tool**
- Apex Learning Districtwide Digital Curriculum received a Tech & Learning **Best Remote & Blended Learning Tools Award**
- Courseware and Exact Path were named winners of Tech & Learning's **Awards of Excellence for Remote Learning**
- Exact Path, Courseware, and EdOptions Academy were named winners of Tech & Learning's **Awards of Excellence for the Best Tools for Back to School**
- Tech & Learning named Apex Learning Courses a Best of 2020 winner
- Edmentum received an Edtech Breakthrough Award for K–12 **EdTech Deployment of the Year**

For a full listing of Edmentum's awards, please visit www.edmentum.com/about/awards.



Products and Services

Please see the following pages outlining Edmentum's products and services.

- Courseware – Page 12
- Apex Learning – Page 13
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- Calvert Learning – Page 15
- Exact Path – Page 16
- Study Island – Page 17
- Reading Eggs – Page 18
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Courseware

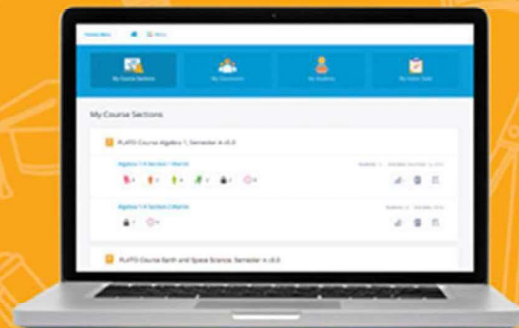
Grade Level: 6–12

With Courseware, educators can address every student’s needs in today’s evolving classroom with a robust collection of standards-based online curriculum. Our course offering includes core subjects, courses for use with Advanced Placement® (AP®) exams, career and technical education (CTE), electives, world languages, and ELL Foundations courses to help English language learners build proficiency. Whether students are at grade level, advanced, or behind, Courseware’s multimodal learning units featuring reading, writing, video, audio, and other interactive lessons keep students engaged, build mastery, and reinforce real-world application for lasting learning. Robust reporting options and powerful data dashboards allow educators to track progress in real time, respond to student needs, and ensure program goals are met.

To add access to 24/7 tutoring, Edmentum proudly partners with FEV Tutor. Our partnership offers customized, one-on-one live tutoring facilitated by dedicated, highly qualified educators.

Ideal For:

- Original credit and credit recovery
- Supplemental and extended learning
- College and career prep
- Virtual or blended learning





Apex Learning

Grade Level: 6–12

Apex Learning digital curriculum meets today's diverse learning needs with effective, efficient digital curriculum that fits seamlessly with existing edtech ecosystems and flexes with the needs of educators and students. Courses provide comprehensive content for original and credit recovery in core subject areas, Advanced Placement® (AP®), career and technical education (CTE), electives, and world languages. Tutorials quickly identify skill gaps, provide targeted remediation, and accelerate students to on-grade proficiency and high-stakes test success through standards-based instruction, practice, and review. In addition, Apex Learning Virtual School supports districts with instructional services from highly qualified teachers paired with Apex Courses. ESSA-level research studies demonstrate that Apex Courses and Tutorials positively impact graduation rates, increase state assessment scores, and prepare students for future classes.

Ideal For:

- Original credit and credit recovery
- Virtual & blended learning
- Personalized gap filling and acceleration
- Test readiness





EdOptions Academy

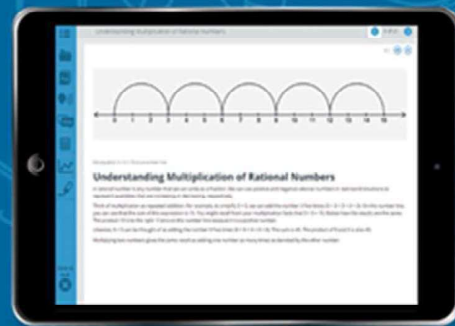
Grade Level: K–12

EdOptions Academy combines rigorous Edmentum curriculum with highly qualified, state-certified online teachers so you can enhance or extend K–12 course options to meet the unique needs of more students. Fully accredited by Cognia (formerly AdvancED®), EdOptions Academy is an NCAA®-approved program, is aligned to the most recent version of standards as outlined by Quality Matters, and has received the International Society for Technology in Education (ISTE) Seal of Alignment for Readiness. When you invest in EdOptions Academy, you take advantage of a flexible, cost-effective solution to keep your students and the corresponding funding in your district.

To add access to 24/7 tutoring, Edmentum proudly partners with FEV Tutor. Our partnership offers customized, one-on-one live tutoring facilitated by dedicated, highly qualified educators.

Ideal For:

- District-run virtual programs
- Credit recovery
- Summer school
- Extending course offerings
- Addressing teacher shortage





Calvert Learning

Grade Level: K–5

Students deserve a high-quality, impactful educational experience, whether learning occurs in a physical classroom or a virtual environment. Calvert Learning's project-based digital curriculum enhances blended and virtual learning through K–5 online courses in ELA, math, science, social studies, art, health, and PE. Calvert Learning courses are aligned to Common Core State Standards and NGSS and built on a proven, innovative pedagogy influenced by the National Research Council's landmark *How People Learn* study. Every course features both formative and summative assessments and fun, engaging projects that help students develop real-world skills. Teachers can easily access reports to view student progress, and parents and guardians are provided with their own portal to help guide their child's learning journey.

Ideal For:

- Students who need a completely virtual learning experience
- Districts that desire a digital elementary curriculum for blended learning
- International programs
- Districts that want to provide options for homeschool families





Exact Path

Grade Level: K–12

Exact Path makes learning personal by providing assessment-driven, individualized learning paths that target instructional needs for math, reading, and language arts. Students begin with an adaptive diagnostic that uses an algorithm to find each student’s precise strengths and weaknesses within each subject domain. We also offer integrations with NWEA® MAP® Growth™ assessments or Renaissance® Star® assessments to kick-start learning using your assessment results. Assessment results then automatically generate unique learning paths, aligned to learning readiness by domain. Content is available across a vertical K–12 learning progression, allowing students to work toward mastery while addressing areas of struggle.

Ideal For:

- Adaptive diagnostics
- Personalized instruction
- Targeted intervention
- Academic support for English language learners





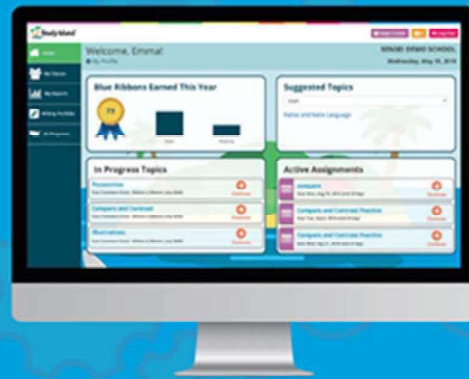
Study Island

Grade Level: K–12

Study Island delivers K–12 math, ELA, science, and social studies assessments and practice built from Colorado standards. Educators can use the program as a formative assessment tool throughout the lesson cycle to check understanding and make instruction more effective. Multiple-choice and technology-enhanced items designed based on state assessments prepare students for the state test at the end of year. Built-in games and competitive practice options keep students motivated to do their best, while detailed reporting and dashboards provide immediate, actionable data to teachers. Study Island is backed by both third-party and in-house research studies that demonstrate its effectiveness, and it meets the ESSA requirements of an evidence-based intervention. Educators trust Study Island to drive student achievement on grade-level standards and beyond.

Ideal For:

- Standards-based practice
- Formative assessment for data-driven instruction, intervention, and personalized learning
- State and end-of-course test preparation
- District- and school-level benchmarking





Reading Eggs

Grade Level: Pre-K–6

Reading Eggs, Reading Eggspress, and Fast Phonics, Edmentum’s dynamic 3-in-1 literacy solution, is designed to build and reinforce foundational skills in a rich, interactive online world aligned to the five essential pillars of reading. Reading Eggs begins at the emergent level, helping pre-K through 2nd grade students learn letters and sounds and read sight words and basic sentences. Reading Eggspress expands on fluency, vocabulary, and comprehension for students in 2nd through 6th grade. Fast Phonics helps students decipher words by focusing on synthetic phonics. Synthetic phonics involves identifying letter sounds, blending them through the word, and then segmenting sounds to spell the word. Combined, this literacy solution helps students crack the code on reading to unlock their academic potential.

Ideal For:

- Literacy initiatives
- Early learning
- Building foundational reading skills
- Reading remediation
- English language proficiency



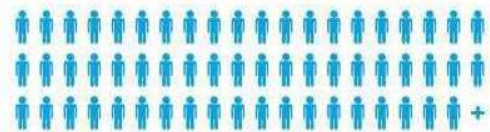


Professional Services

Edmentum consulting and professional learning services will help Poudre School District reach its goals. By utilizing an outcomes-focused approach to achieve successful program implementation, Edmentum ensures your educators can confidently use our solutions. Not only do we bring years of experience in classroom instruction and technology, but we also go beyond product training by focusing on how integrating Edmentum programs into current instruction enhances learning. Our team provides the tools needed to bridge the divide between implementation and student outcomes everywhere learning occurs.



Partnering with over **8,000** school districts across the U.S.



Implementation Strategy

At Edmentum, customer success is not a one-time webinar at the beginning of a school year or a quick check-in halfway through. Rather, it is our commitment to do everything we can to help individualize learning for every student. Our goal is to fulfill each of Edmentum’s



commitments—provide easy-to-use technology, intuitive data, and quality content—and ensure your unique implementation shines. We are with you every step of the way. Edmentum’s team of expert consultants, developers, and support staff provide for your needs beyond the initial implementation. As your needs evolve, we work with you to ensure the program remains a fit. A devoted Edmentum Relationship Team

will monitor program success, provide ongoing training, and manage district and school-level accounts. Your success is ours, so we make sure you have everything you need to meet your goals. We do not simply administer a few hours of basic training on our solutions. We will

discuss your broader instructional strategies and work with you to determine how our programs can be built into your day-to-day activities to achieve your goals and unleash the full potential of your implementation. This type of holistic technology integration empowers you to create learning experiences that target individual student needs. Edmentum will partner with PSD to create a scalable implementation that provides support at the district and school levels.

The dedication, drive, and passion of our Edmentum Consulting team is integral to our broader commitment of making a positive impact on student achievement. We are dedicated to partnering with you to ensure your students' success.

Our Edmentum Professional Services and Consulting Catalog can be found at www.edmentum.com/resources/brochures/professional-services-and-consulting-catalog.

Ongoing Customer Support

From the moment you engage with us, we provide personal support to ensure you have the best experience possible. Full phone and email support for our programs is provided by our Customer Support Team to all users. Our live, US-based Customer Support Team offers superior technical support as well as high-value instructional support to help educators gain the full value of their Edmentum programs.



In fact, Edmentum Customer Support received Stevie Awards for Customer Service Department of the Year in 2018, 2019, and 2020. In April 2021, Edmentum won a Stevie Award for Most Valuable Corporate Response (a COVID-response category).

Pricing

Edmentum offers Poudre School District pricing options to fit your specific needs. Our flexible cost proposal includes the following:

- **Digital Curriculum** - Rigorously aligned to state standards and flexible for use in any learning environment, including first time credit and credit recovery
- **Assessments, Supplemental & Intervention** - Valid and reliable assessments used to benchmark learning needs, formatively assess learning, and support classroom practice.
- **Implementation Services and Professional Development** - Educational consulting, professional learning, technical services, and support to power successful implementations
- **Technical Support and Customer Support** – Included for all users (including parents and caregivers) at no additional cost
- **Updates** - Maintenance and seamless product enhancements at no additional cost

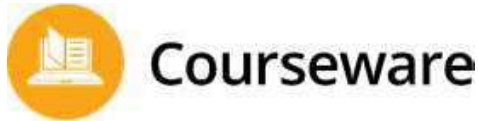
Edmentum's pricing proposal is based on a volume discount. Any changes in quantity may result in a change in price.

We want you to succeed in your project goals. If Poudre School District requires alternative pricing options to meet specific site and district goals, please reach out to your dedicated Edmentum contact:

Beck Simon-Burton, Regional Vice President

Phone: 952.465.6740 | Email: beck.simon-burton@edmentum.com

Please find Edmentum's pricing proposal on the following pages.



Grades: 6–12

Digital curriculum including core courses, electives, Advanced Placement® (AP®), Career and Technical Education (CTE), electives, world languages, health & fitness, and ACT/SAT test preparation

Item Description & Unit Cost	Per Student
Math	\$33.00
ELA/Reading	\$33.00
Social Studies	\$33.00
Science	\$33.00
Core Bundle	\$77.00
Health & Physical Education	\$5.50
World Languages	\$16.50
College & Career Readiness	\$49.50
Carone Health & Fitness	\$50.00
MS Electives	\$18.00
HS Electives	\$21.00
HS Career & Technical Education	\$65.00
ELL Foundations	\$25.00
Comprehensive (includes all above libraries except Carone)	\$130.00
Value Added Options	
On-demand (24/7) Tutoring through FEV Tutor: 10 hours – per student	\$250.00
On-demand (24/7) Tutoring through FEV Tutor: 1,000 hours – block of hours	\$29,000.00
On-demand (24/7) Tutoring through FEV Tutor: Annual Subscription	Upon Request
ClassLink and Clever integration	No charge
Technical Support - Online/phone/email	No charge
Teacher Support Resources & Guides	No charge
Teacher Access	No charge

Discount Percentage Table

Discounts* applied to volume # of student licenses—refer to table below:

Per-Student Volume Discount Tiers							
Number of Students	30–299	300–499	500–999	1,000–1,999	2,000–2,999	3,000–3,999	>4,000 Students
Percentage	5%	10%	15%	20%	30%	40%	50%

- Volume discounts do not apply to FEV Tutor. Discount limitations may apply to Comprehensive, HS CTE, MS Electives, HS Electives, and Carone Health and Fitness Libraries.
- Site licenses for Edmentum-owned libraries are available based on building enrollment.



Apex Learning

Grades: 6-12

Digital curriculum including core, AP®, CTE, electives, and world languages. Apex Tutorials offer targeted remediation using standards-based instruction, practice, and review for core, college entrance and high school equivalency exam preparation. May be paired with highly qualified Apex teachers.

Item Description & Unit Cost					
Discount Percentage Based on District Size (Total # of Students)					Unit Cost
<2,500	2,500-4,999	5,000-9,999	10,000-24,999	25,000+	
Apex Courses – Single Enrollment Subscriptions (SES)					Per SES
1-9	1-19	1-24	1-24	1-24	\$125.00
10-19	20-49	25-99	25-99	25-99	\$100.00
20-49	50-99	100-199	100-499	100-999	\$85.00
50-99	100-199	200-499	500-999	1,000-1,999	\$75.00
100-249	200-499	500-999	1,000-2,499	2,000-4,999	\$60.00
250+	500+	1,000+	2,500+	5,000+	\$50.00
Apex Courses – Unlimited Enrollment Subscriptions (UES)					Per UES
1-4	1-9	1-19	1-24	1-24	\$250.00
5-9	10-19	20-49	25-99	25-99	\$200.00
10-19	20-49	50-99	100-199	100-499	\$175.00
20-49	50-99	100-199	200-499	500-999	\$150.00
50-99	100-249	200-499	500-999	1,000-2,499	\$125.00
100+	250+	500+	1,000+	2,500+	\$100.00
Apex Tutorials -Individual Tutorial Subscriptions (ITS)					Per ITS
1-9	1-19	1-24	1-24	1-24	\$80.00
10-19	20-49	25-99	25-99	25-99	\$65.00
20-49	50-99	100-199	100-499	100-999	\$55.00
50-99	100-199	200-499	500-999	1,000-1,999	\$50.00
100+	200+	500+	1,000+	2,000+	\$40.00
Value Added Options					
ClassLink and Clever integration					No charge
Technical Support - Online/phone/email					No charge
Teacher Support Resources & Guides					No charge
Teacher Access					No charge



EdOptions Academy

Grades: K–12

Fully accredited virtual school solution with online courses and state certified teachers. Rolling enrollment available year-round.

Item Description & Unit Cost – Per Student		
Secondary (6-12) A la Carte Courses		
Core – ½ Credit Courses		\$295.00
eDynamic Electives – ½ Credit Courses		\$295.00
Carone Health & Fitness – ½ Credit Courses		\$295.00
World Language – ½ Credit Courses		\$325.00
Advanced Courses – ½ Credit Courses		\$325.00
9-week Courses		\$200.00
18 Week Courses – Test Prep		\$295.00
18 Week Courses – Remediation		\$295.00
Course Extension Fee (2-week)		\$25.00
Course Extension Fee (4-week)		\$50.00
Full Time Enrollments	Elementary (K-5)	Secondary (6-12)
Active Semester	\$2,100	\$1,600.00
Active Yearly	\$3,000	\$2,500.00
Career Pathways	N/A	\$1,800.00
College Pathways	N/A	\$2,500.00
Value Added Options		
On-demand (24/7) Tutoring through FEV Tutor: 10 hours – per student		\$250.00
On-demand (24/7) Tutoring through FEV Tutor: 1,000 hours – per block of hours		\$29,000.00
On-demand (24/7) Tutoring through FEV Tutor: Annual Subscription		Upon Request
Technical Support - Online/phone/email		No charge
Teacher Support Resources & Guides		No charge
Teacher Access		No charge

Discount Percentage Table

- Volume discounts do not apply EdOptions Academy and FEV Tutor
- Monthly course options are available by full-time student or by semester course per student
- Additional pricing is available for managed services for enrollment, marketing, Success Coaching, teacher mentorship, foundational skill instruction, and SPED/ELL support



Calvert Learning

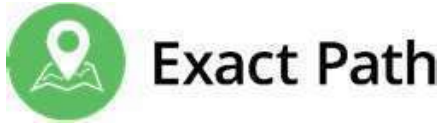
Grades: K-5

Online, project-based curriculum geared for the elementary learner, for virtual or blended environments

Item Description & Unit Cost – Per Student	
Calvert Digital Curriculum - Yearly	\$650.00
Calvert Digital Curriculum – Semester	\$345.00
Curriculum + Grading Services – Yearly	\$1,449.00
Curriculum + Grading Services – Semester	\$1,024.00
Print Add-On	\$695.00
Grading Services – Yearly (without content)	\$799.00
Grading Services – Semester (without content)	\$400.00
Item Description & Unit Cost – Per Subject (Course)	
Calvert Digital Curriculum – Yearly	\$299.00
Calvert Digital Curriculum – Semester	\$160.00
Curriculum + Grading Services – Semester	\$424.00
Print Add-On	\$250.00
Grading Services – Semester (without content)	\$199.00
Value Added Options	
Technical Support - Online/phone/email	No charge
Teacher Support Resources & Guides	No charge
Teacher Access	No charge

Discount Percentage Table

- *Volume discounts do not apply to Calvert Learning*



Grades: Pre-K-12

Assessment-driven, individualized learning paths that dynamically target instruction where students are ready to learn

Item Description & Unit Cost – Per Student	
Math	\$27.50
ELA/Reading	\$27.50
Core Bundle	\$38.00
Math Learning Path utilizing NWEA MAP or Renaissance Star Assessment	\$22.00
ELA/Reading Learning Path utilizing NWEA MAP or Renaissance Star Assessment	\$22.00
Core Bundle Learning Paths utilizing NWEA MAP or Renaissance Star Assessment	\$38.00
Value Added Options	
Clever/Renaissance/NWEA MAP integrations	No charge
Technical Support - Online/phone/email	No Charge
Teacher Support Resources & Guides	No Charge
Teacher Access	No Charge

Discount Percentage Table

Discounts* applied to volume # of student licenses—refer to table below:

Per-Student Volume Discount Tiers							
Number of Students	30–299	300–499	500–999	1,000–1,999	2,000–2,999	3,000–3,999	>4,000 Students
Percentage	5%	10%	15%	20%	30%	40%	50%



Grades: Pre-K-12

Standards-based practice and formative assessments with embedded state test preparation

Item Description & Unit Cost – Per Student	
Math	\$5.50
ELA/Reading	\$5.50
Social Studies	\$5.50
Science	\$5.50
Core Bundle	\$19.00
College and Career Readiness	\$5.50
Benchmark Assessments – Math*	\$2.75
Benchmark Assessments – ELA/Reading*	\$2.75
Benchmark Assessments – Social Studies*	\$2.75
Benchmark Assessments – Science*	\$2.75
Benchmark Assessments – Core Bundle*	\$9.00
Value Added Options	
NWEA MAP integration – price per building	\$350.00
Clever integration	No charge
Technical Support - Online/phone/email	No charge
Teacher Support Resources & Guides	No charge
Teacher Access	No charge

Discount Percentage Table

Discounts* applied to volume # of student licenses—refer to table below:

Per-Student Volume Discount Tiers							
Number of Students	30–299	300–499	500–999	1,000–1,999	2,000–2,999	3,000–3,999	>4,000 Students
Percentage	5%	10%	15%	20%	30%	40%	50%

**Study Island Benchmark Assessments must be purchased with a Study Island subscription and cannot be sold separately*



Reading Eggs

Grades: Pre-K-6

Online literacy solution, aligned to the five essential pillars of reading, to build and reinforce foundational skills

Item Description & Unit Cost – Per Student	
3-in-1 literacy solution: Reading Eggs, Reading Eggspress and Fast Phonics	\$8.00
Value Added Options	
Clever integration	No charge
Technical Support - Online/phone/email	No charge
Teacher Support Resources & Guides	No charge
Teacher Access	No charge

Discount Percentage Table

Discounts* applied to volume # of student licenses—refer to table below:

Per-Student Volume Discount Tiers							
Number of Students	30–299	300–499	500–999	1,000–1,999	2,000–2,999	3,000–3,999	>4,000 Students
Percentage	5%	10%	15%	20%	30%	40%	40%



Professional Services

Edmentum is committed to going beyond product training by focusing on how integrating Edmentum programs into current instruction enhances learning. Our team of customer success managers partner with district and building level personnel, providing the tools needed to bridge the divide between implementation and student outcomes everywhere learning occurs.

Education consulting and professional learning services are delivered with a five-phased approach in mind: Plan, Learn, Develop, Evaluate, Optimize.

All services offer:

- Professional learning aligned to your program needs
- Hands-on activities to demonstrate program integration into classroom practice
- Collaboration and best practices that enhance the learning experience
- Recommendations to align to student outcomes


Furthermore, detailed descriptions of our training services are as follows:

- **On-Site Experiences.** Offer an engaging, in-person experience designed to prepare district and school staff to leverage Edmentum programs, make instructional decisions, maximize the learning experience, and improve student outcomes.
- **Virtual Experiences.** Provide a collaborative and interactive environment that allows participants to join in real time from any location. Edmentum leverages familiar online technology to provide remote engagements with collaborative tools to enhance the participant experience.
- **On-Demand Resources.** Deliver just-in-time opportunities to enhance the use of Edmentum programs. These resources target specific features or practices to improve outcomes. Getting-started guides, videos, and recorded webinars provide additional opportunities for educators to access the information they need when they need it.
- **Edmentum Learning Communities.** Give educators the opportunity to collaborate with other program users from around the country. ELCs allow educators to develop their program knowledge to further their implementations, creating the perfect forum for sharing creative ideas, success stories, and best practices.

In addition to the professional learning outlined above, you can directly link to our Getting Started Resources page from Edmentum's Support Center. This page includes a wealth of helpful information, such as step-by-step instructions to using our solution. Exact Path also includes comprehensive training tools, including two key in-product help areas. First, the purple "Help Center" button brings new and updated resources to the forefront and offers a series of How-To Tours. Our Learn and Support Page affords access to a help area with numerous resources to further support educators. This combination of facilitated learning and independent resources ensures educators have comprehensive access to the tools needed for successful Exact Path implementation.

[Customer Success Consulting services cost will be 15% of the total program purchase.](#)





edmentum™

Digital Curriculum | Assessments Educational Consulting


www.edmentum.com

800.447.5286

info@edmentum.com

5600 West 83rd Street
Suite 300 / 8200 Tower
Bloomington, MN 55437

2150 Lakeside Blvd
Suite 200
Richardson, TX 75082



**FIRST AMENDMENT TO SOFTWARE SERVICES AGREEMENT
BETWEEN APEX LEARNING INC.
AND POUFRE SCHOOL DISTRICT R-1**

This First Amendment (“Amendment”) dated the 29th day of April 2022, is attached to and forms part of the Software Services Agreement between Poudre School District R-1 (the “District”) and Apex Learning INC. (the “Contractor”) executed May 7, 2021 (“Agreement”), hereby attached and made part of this Amendment. To the extent that any of the terms or conditions contained in this Amendment may contradict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this Amendment shall take precedence and supersede the attached Agreement. The parties agree to amend the Contract by adding the following language:

1. **Purpose of Amendment.** This Amendment shall constitute the First Amendment to the Agreement between the District and the Contractor. The purpose of this Amendment is to amend the terms and deliverables between the District and Contractor.

2. **Entity Name Change.**
 - 2.1. Effective July 26, 2021, Apex Learning Inc. was acquired by Edmentum, Inc., as identified in the attached Exhibit D, a copy of which is attached and hereby made part of this Agreement.

 - 2.2. Effective as of April 28, 2022, Edmentum, Inc. shall be further responsible for all terms and conditions as the Contractor of this Agreement and subsequent Amendments, including this First Amendment.

3. **Term of Agreement.**
 - 3.1. Within section 1.1, delete the following language which has a strikethrough and add the language which is underlined:

This Agreement shall commence on July 1, 2021 and continue through and including June 30, 2022, unless earlier terminated as provided herein. ~~The Agreement, at the option of the District, may be extended for up to four (4) additional one-year terms upon separate written notice addendum to the Contractor for each one-year term.~~

 - 3.2. At the conclusion of the term dated June 30, 2022, as outlined in section 1.1 of the Agreement, the District and Contractor elect to extend the term of the Agreement beginning on July 1, 2022 through July 31, 2023.

4. **Amended Responsibilities.**
 - 4.1. Exhibit B is deleted hereby in its entirety.

- 4.2. Replace Exhibit B with Contractor’s Edmentum Product Offering and Pricing and the APEX Digital Curriculum Catalog, hereby attached to this First Amendment and made part of this Agreement.
- 4.3. Within section 2.2, delete the following language which has a strikethrough and add the language which is underlined:

The total cost for Services as set forth on the attached Exhibit B shall not exceed ~~Twenty Three Thousand, One Hundred and Fifty Dollars and Zero Cents (\$23,150.00)~~ the pricing in Exhibit B. Payments by the District are due and payable ~~by the District~~ within thirty (30) days of from receipt of Contractor’s invoice.

5. Special Provisions.

5.1. **Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement between the District and Contractor shall remain unchanged and in full force and effect.

6. General Provisions.

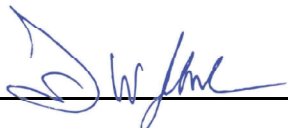
6.1. **Entire Agreement.** The original Agreement and this First Amendment constitutes the entire Agreement of the parties regarding the subject matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.

6.2. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes.

IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement as of the date first set forth above.

EDMENTUM, INC.

POUDRE SCHOOL DISTRICT R-1

By:  _____

By: *R. David Montoya* _____

Name: Frank Jalufka
 Title: Chief Financial Officer

R. David Montoya
 Executive Director of Finance

By: *Marlena Gross Taylor*
Marlena Gross Taylor (Apr 29, 2022 15:52 MDT) _____

Marlena Gross-Taylor
 Chief Equity and Academic Officer

Exhibit B



Date: 4/22/2022
 Order Number: Q-434396
 Revision: 3
 Order Form Expiration Date: 6/30/2022

ORDER FORM

Please fax all pages to 1.877.519.9555 or email to orders@edmentum.com
 Orders Under \$25,000.00 may pay by Credit Card:
 Call 214.294.9901 or e-mail creditcardprocessing@edmentum.com

Customer and Billing Address

Customer No.: 106602
 Customer Name: Poudre School District R-1
 Billing Address: 2407 Laporte Ave
 Fort Collins, CO 80521-2297

Products and Services

Poudre School District R-1

Products	Qty	License Start Date	License End Date	License Term (Months)
Apex Learning Courses: Unlimited enrollment subscription	300	7/1/2022	7/31/2023	13
Professional Services; Half day; Online	2	7/1/2022	6/30/2023	12
Poudre School District R-1 Subtotal:				\$58,074.00

Zach Elementary School

Products	Qty	License Start Date	License End Date	License Term (Months)
Reading Eggs - Program License	160	10/18/2022	7/31/2023	9
Zach Elementary School Subtotal:				\$1,009.60

Subtotal:	USD 59,083.60
Estimated Tax:	USD 0.00
Total US Funds:	USD 59,083.60

** Unless otherwise specified in this Order Form, the Start Date for your license(s) will be one of the following: (a) the day immediately following the expiration date of the prior license term or (b) the date in which we have accepted your order and have issued log-in credentials for your software license.

*** Services purchased are valid for an annual term. Any service offering that is not used during the applicable term will expire and cannot be carried over or used in subsequent periods.

Invoicing and Payment Terms

The full amount of Your Order will be invoiced when accepted by Us. Payment is due 15 days after invoice date.

Terms and Conditions

For the purposes of this Order Form, "you" and "your" refer to Customer, and "we", "us" and "our" refer to edmentum Inc. and affiliates. This Order Form and any documents it incorporates (including the Standard Purchase and License Terms located at <http://www.edmentum.com/standardterms> and the documents it references) form the entire agreement between you and us ("Agreement"). You acknowledge that any terms and conditions in

Edmentum | P.O. Box 776725 | Chicago, IL 60677-6725 | www.edmentum.com





Date: 4/22/2022
 Order Number: Q-434396
 Revision: 3
 Order Form Expiration Date: 6/30/2022

ORDER FORM

Please fax all pages to 1.877.519.9555 or email to orders@edmentum.com
 Orders Under \$25,000.00 may pay by Credit Card:
 Call 214.294.9901 or e-mail creditcardprocessing@edmentum.com

your purchase order or any other documents you provide that enhance our obligations or restrictions or contradict the Agreement do not have force and effect.

Purchase Order

You acknowledge that this Agreement is non-cancellable and you will submit a purchase order for the full amount of this Order Form. Your order will not be scheduled for delivery until you have submitted a purchase order referencing and conforming to this Order Form.

Acceptance

This offer will expire on the Order Form Expiration Date noted above unless we earlier withdraw or extend the offer in writing. I represent that I have read the terms and conditions included in this Agreement, that I am authorized to accept this offer and the Agreement's terms and conditions on behalf of the customer identified above and that I do accept this offer on behalf of the customer who agrees to adhere to the Agreement's terms and conditions. To the extent that either parties process does not require that I execute this Order Form, I accept, acknowledge and agree to the terms and conditions identified in and referenced in this Agreement as signified by my receipt, use or access of the products and/or services identified. Please fax all pages to 1.877.519.9555 or email to orders@edmentum.com.

Customer Signature:

 Name (Printed or Typed):

 Title:

 Date:



Exhibit D



March 9, 2022

RE: Edmentum's Acquisition of Apex Learning Inc.

Dear Valued Customer,

We are providing this letter to certify that Edmentum, Inc. ("Edmentum"), a global leader in education, acquired Apex Learning Inc. ("Apex") via an equity purchase July 26, 2021. The combined organization has retained the Edmentum company name.

Under this partnership we are committed to being educators' most trusted partner in creating successful student outcomes everywhere learning occurs. For more information, please visit edmentum.com or <http://www.apexlearning.com>.

We hope this information clarifies the relationship and why your invoices are now issued by Edmentum. To ensure a smooth transition, please update your records to include the following payment remittance changes:

ACH or Wire Payments:

Bank Name & Address: PNC Bank, 500 First Avenue, Pittsburgh, PA 15219

Account Name: Edmentum Inc. Operating Account

Account Number: 1069957147

ACH Domestic Routing: 043000096 (ACH Domestic)

Wire Domestic/International Routing: 043000096

SWIFT Code: PNCCUS33 (International Wires)

Please contact AR@Edmentum.com for questions or to submit ACH/Wire remittances

Checks should be remitted to:

Edmentum

PO Box 776725

Chicago, IL 60677-6725

Thank you for the opportunity to serve you!

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Jalufka".

Frank Jalufka
Chief Financial Officer

**SOFTWARE SERVICES AGREEMENT
BETWEEN APEX LEARNING INC.
AND POUFRE SCHOOL DISTRICT R-1**

This Software Services Agreement (“Agreement”) is effective as of the 7th day of May 2021, by and between Poudre School District R-1 (“District”) and Apex Learning Inc. (“Contractor”). The District and the Contractor are collectively referenced herein as the “parties.” In consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Term of Agreement.**

1.1. This Agreement shall commence on July 1, 2021 and continue through and including June 30, 2022, unless earlier terminated as provided herein.

1.2. Notwithstanding any other term or provision of this Agreement, the District’s obligations hereunder are expressly subject to its budgeting and appropriation of sufficient funds for each fiscal year (July 1 - June 30) an Agreement is in effect. In no event, shall the District’s obligations in an Agreement constitute a multiple-fiscal year direct or indirect debt or other financial obligation under Article X, Section 20(4)(b) of the Colorado Constitution.

1.3. Notwithstanding the planned term of an Agreement and/or any extensions thereof as provided in section 1.1 and 1.2 above, the District may terminate an Agreement at any time in its sole discretion for any reason, with or without cause, upon written notice served on the Contractor no less than thirty (30) days prior to the date of termination. In the event of such early termination by the District, the Contractor shall be paid up to the date of termination for services performed under and in accordance with this Agreement.

2. **Deliverables and Purchase Price.**

2.1. The Contractor shall make its learning courses for credit and recovery credit for grades sixth through twelfth for grade advancement and high school graduation, with professional development offerings for staff for use in the District’s schools, in accordance with the scope of work in Exhibit A, the Contractor’s Client Agreement set forth in the attached Exhibit B and incorporated herein by reference, and the terms of this Agreement (hereinafter the “Services”).

2.2. The total cost for Services as set forth on the attached Exhibit B shall not exceed Twenty-Three Thousand, One Hundred and Fifty Dollars and Zero Cents (\$23,150.00), due and payable by the District within thirty (30) days of receipt of Contractor’s invoice.

2.3. Additional District schools may participate in Services under all terms and conditions specified within this Agreement. This Agreement in no way binds the District or District Schools to exclusive use of Contractor’s Services. Discretion to utilize Services is under the direction of each District School Principal or Principal designee. District Principals or Principal designee will adhere to applicable laws, regulations, and District policies.

2.4. Contractor may not extend Services beyond the length of the Agreement or request payment to extend Services beyond the length of the Agreement, without a mutually written District Agreement signed and executed by both parties.

2.5. District schools shall request a quote from Contractor, reflecting the costs set forth in Exhibit B, issuance of a purchase order to Contractor implies acceptance of amount due.

2.5.1. Fulfillment of Services under the terms and conditions set forth in this Agreement shall be exclusively through the issuance of a District purchase order.

2.5.2. Site-based credit cards and/or site-based restricted checks shall not be permitted for payment.

2.6. Contractor shall assure compliance with the District Policy DJG/DJGA, attached as Exhibit C and hereby made part of this Agreement, direct communication with schools or sales must be approved by contact in section 10 of this agreement.

2.7. The District shall access and use the Services solely for non-commercial instructional and administrative purposes within the District. Further, the District shall not, except as expressly authorized or directed by the Contractor: (a) copy, modify, translate, distribute, disclose or create derivative works based on the contents of, or sell, the Services, or any part thereof; (b) decompile, disassemble or otherwise reverse engineer Services or otherwise use the Services to develop functionally similar products or services; (c) modify, alter or delete any of the copyright, trademark, or other proprietary notices in or on the Services; (d) rent, lease or lend the Services or use the Services for the benefit of any third party; (e) avoid, circumvent or disable any security or digital rights management device, procedure, protocol or mechanism in the Services; or (f) permit any authorized user or third party to do any of the foregoing. The District also agrees that any works created in violation of this section 2.7 are derivative works, and, as such, the District agrees to assign, and hereby assigns, all right, title and interest therein to the Contractor.

2.8. The District agrees, subject to the limited rights expressly granted hereunder, that all rights, title and interest in and to all Services, including all related IP Rights, are and shall remain the sole and exclusive property of Contractor or its third-party licensors. "IP Rights" means, collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide. The District shall notify Contractor of any violation of Contractor's IP Rights in the Services, and shall reasonably assist Contractor as necessary to remedy any such violation. Contractor Services are protected by patents.

2.9. The District understands and agrees that its students' access to and use of the Contractor's web-based system under this Agreement requires that it disclose confidential student records and information, as that term is defined below, to the Contractor. The Contractor understands and agrees that if it fails to comply with any of the requirements under sections 4, 5, 6 or 7 below at any time during or after the term of this Agreement the District may, as

applicable, terminate the Agreement and/or disqualify the Contractor from future agreements with the District.

3. **Definitions.**

3.1. As used in this Agreement, “personally identifiable information” is defined as information (including metadata) that, alone or in combination, is linked or linkable to a specific student so as to allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. Personally identifiable information includes but is not limited to: (a) the student’s name; (b) the name of the student’s parent or other family members; (c) the address or phone number of the student or student’s family; (d) personal identifiers such as the student’s social security number, student number or biometric record; and (e) indirect identifiers such as the student’s date of birth, place of birth or mother’s maiden name.

3.2. As used in this Agreement, “education records” is defined as records, files, documents and other materials that: (a) contain information directly related to a student; and (b) are maintained by the District, or by a party acting for the District such as the Contractor.

3.3. As used in this Agreement, “confidential student records and information” is defined as education records and personally identifiable information concerning District students, including but not limited to confidential student records and information disclosed to, collected by and/or generated by the Contractor. Confidential student records and information does not include “de-identified confidential student records and information,” as defined in section 3.5 below.

3.4. As used in this Agreement, “collect” is defined as the gathering of data and other information by any means, including but not limited to the use of logs, cookies, tracking pixels, etc.

3.5. As used in this Agreement, “de-identified confidential student records and information” is defined as confidential student records and information from which all personally identifiable information, and the ability to determine any personally identifiable information, is removed.

3.6. As used in this Agreement, “securely destroy” is defined as removing confidential student records and information from the Contractor’s systems, paper files, hard-copy and electronic records, databases and any other media regardless of format, in accordance with the standard detailed in the National Institute of Standards and Technology (“NIST”) SP 800-88 Guidelines for Media Sanitization, so that the confidential student records and information are permanently irretrievable in the Contractor’s normal course of business.

3.7. As used in this Agreement, “eligible student” is defined as a student who is at least 18 years of age or who is legally emancipated.

4. **Ownership of Confidential Student Records and Information.** All confidential student records and information shall remain the exclusive property of the District and all rights, title and interest in the confidential student records and information, including but

not limited to intellectual property rights in the confidential student records and information, belong to and are retained solely by the District. The District hereby grants to the Contractor a limited, nonexclusive license to access, view, collect, generate and use confidential student records and information solely for the purpose of performing its obligations under this Agreement.

5. **Security of Confidential Student Records and Information.**

5.1. The Contractor shall store and process confidential student records and information in accordance with commercial best practices, including implementing appropriate administrative, physical and technical safeguards that are no less rigorous than those outlined in CIS Top 20 Security Controls, as amended, to secure such confidential student records and information from unauthorized access, disclosure, alteration and use. The Contractor shall ensure that all such safeguards, including the manner in which confidential student records and information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with all applicable federal and state data protection and privacy laws, regulations and directives, including but not limited to Colorado's Student Data Transparency and Security Act, C.R.S. §§ 22-16-101 *et seq.* Without limiting the foregoing, and unless expressly agreed to the contrary in writing, the Contractor warrants that all electronic confidential student records and information will be encrypted in transmission and at rest in accordance with NIST Special Publication 800-57, as amended.

5.2. The Contractor shall conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. The Contractor shall promptly notify the District in the event of: (a) any security or privacy breach concerning confidential student records and information; and/or (b) any use or disclosure of student personally identifiable information not authorized under this Agreement.

6. **Use of Confidential Student Records and Information.**

6.1. Under the Agreement, Contractor may access, view, collect, generate and/or use confidential student records and information only under the following terms and conditions: (a) except as provided in section 6.2 below, Contractor shall not disclose confidential student records and information, in whole or in part, to any other party; (b) Contractor shall not use any confidential student records or information to advertise or market to students or their parents/guardians; (c) Contractor shall access, view, collect, generate and use confidential student records and information only to the extent necessary to perform its obligations under the Agreement; and (d) at the conclusion of the term of the Agreement the Contractor shall, as directed in writing by the District, initiate the process to either securely destroy all confidential student records and information in its possession, custody or control, or return such confidential student records and information to the District.

6.2. Contractor may to the extent necessary to perform its obligations under the Agreement disclose confidential student records and information to subcontractors as identified in Exhibit A ("Subcontractors") pursuant to written subcontracts specifying the purpose of the disclosure and providing that: (a) Subcontractors shall not disclose confidential student records and information, in whole or in part, to any other party; (b) Subcontractors shall not use any confidential student records or information to advertise or market to students or their

parents/guardians; (c) Subcontractors shall access, view, collect, generate and use confidential student records and information only to the extent necessary to assist Contractor in performing its obligations under the Agreement; and (d) at the conclusion of their work under their subcontracts Subcontractors shall, as directed by the District through the Contractor, either securely destroy all confidential student records and information in their possession, custody or control, or return such confidential student records and information to the District.

6.3. Contractor and Subcontractors may use de-identified confidential student records and information for purposes of research, the improvement of its products and services, and/or the development of new products and services. In no event shall the Contractor or Subcontractors re-identify or attempt to re-identify any de-identified confidential student records and information.

6.4. Contractor and Subcontractors shall promptly furnish to the District upon request all confidential student records and information they have collected and/or generated and not in the District's possession. Such requests may include but shall not be limited to those made in order to respond to parent/guardian and eligible student requests to inspect and review education records as authorized under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA") and/or under the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 *et seq.* ("CORA"). The District, not the Contractor or Subcontractors, shall respond to all parent/guardian and eligible student requests to inspect and review records, data and other information.

7. **School Service Contract Provider.** Contractor is a "school service contract provider" under the Colorado Student Data Transparency and Security Act (the "Act"). Under the Act, a "school service contract provider" is defined as an entity (other than the Colorado Department of Education, a K-12 public education entity or an institution of higher education) that enters into a formal, negotiated contract with the District to provide a "school service." Under the Act, a "school service" is defined as an Internet website, online service, online application or mobile application that: (a) is designed and marketed primarily for use in a preschool, elementary school or secondary school; (b) is used at the direction of District teachers or other District employees; and (c) collects, maintains or uses confidential student records and information.

7.1. As a school service contract provider under the Act, the Contractor has provided the following information attached Exhibit A: (a) the data elements of confidential student records and information that Contractor collects under the Agreement, regardless of whether the data elements are initially collected or ultimately held individually or in the aggregate using protocols that are effective for preserving the anonymity of each student included in the data; (b) the learning purpose for which Contractor collects the confidential student records and information; and (c) how the Contractor uses and shares the confidential student records and information. Contractor shall update this information as necessary to maintain accuracy.

7.2. Contractor shall facilitate the District's access to and correction of any factually inaccurate confidential student records and information as required in response to correction requests from parents/guardians and eligible students.

8. **Access to District Server.** If access to any District server is necessary for the functionality of the Contractor's services. Upon written approval by the Executive Director of Information Technology or designee, the District grants the Contractor limited access to the District server for the sole purpose of providing Services

8.1. The Contractor agrees to protect the confidentiality, integrity and availability of all electronic District or student information at all times.

8.2. The Contractor agrees to take proper steps to ensure the security of the device in which they connect to the District's systems remotely. The Contractor agrees not to copy information accessed remotely to local devices and or portable devices. Printing information is not permitted unless specific authorization has been granted.

8.3. The Contractor shall not share passwords, codes, credentials or user accounts with others.

8.4. The Contractor shall have a valid and up-to-date antivirus agent installed to ensure protection against malware and viruses upon connection to the District network.

8.5. The Contractor acknowledges that if the District determines in its discretion that remote access has been compromised by unauthorized parties, or that remote access has been misused, the Contractor's access will be disabled or terminated immediately.

9. **Remedies.** If Contractor or Subcontractors fail to comply with any of the foregoing requirements in sections 4, 5, 6 or 7 at any time during or after the term of the Agreement the District may, as applicable, terminate the Agreement and/or disqualify Contractor and any one or more of Subcontractors from future contracts and subcontracts with the District. Excluding any data breach, the District may allow an opportunity to cure a breach within thirty (30) days of written notice.

10. **Notices and Communications.** All notices and communications required or permitted under this Agreement shall be in writing and shall be: (a) sent via certified mail, return receipt requested and postage prepaid, to the address of the other party set forth below; or (b) sent via e-mail to the other party via the e-mail address set forth below.

Poudre School District R-1
Attn: Tracy Stibitz
2407 LaPorte Avenue
Fort Collins, CO 80521
E-mail: tstibitz@psdschools.org

Apex Learning Inc.
Attn: Manager, Contracts
1214 4th Avenue, Suite 1500
Seattle, WA 98161
Email: salesdocs@apexlearning.com

10.1. Communication notices for the Information Technology Department shall be sent to:

Poudre School District R-1
Attn: Software Engineers
E-mail: softwareeng@psdschools.org

11. **General Provisions.**

11.1. **No Assignment.** Except with respect to its affiliates or a successor entity that may result from corporate merger, the Contractor shall not assign this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the District, which consent may be withheld for any reason or no reason as determined by the District in its sole discretion.

11.2. **No Waiver.** The parties agree that no assent or waiver, express or implied, to any breach of any one or more of the covenants of this Agreement shall be construed as or deemed to be an assent to or a waiver of any subsequent breach.

11.3. **Amendment or Modification.** No amendment or modification of this Agreement shall be valid unless set forth in writing and executed by the District and the Contractor in the same manner and with the same formality as was done for this Agreement.

11.4. **Conflict of Terms.** In the event of any conflict of terms found between this Agreement or any other terms and conditions, end user license agreements, exhibits or privacy policies, the terms of this Agreement shall prevail.

11.5. **Governing Law and Venue.** All issues regarding the formation, performance and/or legal enforcement of the Contract shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for the resolution of any disputes arising out of or relating to the Contract shall be in Larimer County, Colorado.

11.6. **Insurance.** Contractor shall procure and maintain the required insurance specified below for the duration of this Agreement, which insurance shall be written for not less than the amounts specified or greater if required by law. The District's receipt of a Certificate of Insurance from the Contractor with limits and or coverages that do not meet the requirements does not waive the requirements and the Contractor shall still be responsible for the limits and coverages stated in this Agreement. Specified coverages and amounts may be provided by a combination of a primary policy plus an umbrella or following form excess policy. All insurance shall be with a carrier licensed in the state of Colorado and shall have a minimum A.M. Best rating of A- VII. Contractor shall furnish the District's Director of Records and Risk Management with certificates of the required insurance prior to the District's approval and signing of this Agreement, and with renewal certificates prior to the expiration of any required insurance that expires during the term of this Agreement. Memorandums of Insurance will not be accepted. Certificates of Insurance and all communication regarding insurance shall be addressed to:

Poudre School District
Attention: Risk Management
2407 Laporte Ave
Ft. Collins, CO 80521
Please Email Certificates to: risk@psdschools.org

Any insurance and/or self-insurance carried by the District is excess of the coverage extended to the District by Contractor. Contractor shall provide at least thirty (30) days' advance written

notice to the District prior to cancellation, change of coverage, or non-renewal. The insurance requirements specified in this section 11.6, shall not reduce the indemnification liability that Contractor has assumed in section 11.7.

Commercial General Liability

Minimum Limits

- | | |
|--|-------------|
| a. Each Occurrence Bodily Injury & Property Damage | \$2,000,000 |
| b. General Aggregate | \$3,000,000 |
| c. Products/Completed Operations Aggregate | \$2,000,000 |
| d. Personal/Advertising Injury | \$2,000,000 |
| e. Coverage must be written on an “occurrence” basis. | |
| f. Poudre School District R-1 and its elected officials, employees, agents, and volunteers shall be named as an additional insured or covered as an additional insured by way of a blanket endorsement and shall be insured to the full limits of liability purchased by the Provider even if those limits of liability are in excess of those required by this Agreement. | |

Technology Errors and Omissions Liability

Minimum Limits

- | | |
|--|-------------|
| a. Per Loss | \$1,000,000 |
| b. Aggregate | \$3,000,000 |
| c. Liability extends for a period of three (3) years beginning at the time work under this Agreement is completed. Supplier shall maintain continuous coverage, as required by the Agreement, for this period. | |

The insurance shall provide coverage for:

- a. Liability arising from theft, dissemination and/or use of confidential information (defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.
- b. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party to gain access to Supplier’s services including denial of service, unless caused by a mechanical or electrical failure.
- c. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a District or third person’s computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

11.7. **Indemnification.** The Contractor shall indemnify and hold harmless the District and the District’s Board members, employees, representatives and agents from and against any and all liability arising from any suit, action, third party claims, grievance, or proceeding, including all attorneys’ fees, costs and expenses, incurred as a result of any negligent or intentional act or omission by Contractor, or its employees, agents, Subcontractors, or

assignees related to the terms of this Agreement and any Services provided under this Agreement. Nothing in this section 11.7 or otherwise in this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Constitution or the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., as amended.

11.8. **Governmental Immunity.** It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the District of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq*, as now or hereafter amended.

11.9. **No Third-Party Beneficiary.** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the District and the Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any third person other than the District or the Contractor. It is the express intent of the parties that any third person receiving services or benefits pursuant to this Agreement shall be deemed an incidental beneficiary only.

11.10. **Attorney Fees and Costs.** In the event it becomes necessary for either party to institute litigation or mutually agreed-upon arbitration proceedings to enforce any provision of this Agreement, the substantially prevailing party in such litigation or arbitration shall receive, as part of any judgment or award entered, its reasonable attorney fees and costs, including expert witness fees.

11.11. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and permitted assigns.

11.12. **Headings.** The headings used in this Agreement are for convenience only and shall have no effect upon the construction or interpretation of this Agreement.

11.13. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties regarding the subject matter addressed herein and supersedes all prior agreements, whether oral or written, pertaining to said subject matter.

11.14. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes.

11.15. **Warranty of Authority.** The individuals signing below represent and warrant that they have the authority to execute this Agreement on behalf of their respective organizations and bind their respective organizations to the terms of this Agreement.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement as of the date first set forth above.

APEX LEARNING INC.

POUDRE SCHOOL DISTRICT R-1

By: _____

Chuck Lanphier
Vice President, Client Services

By: *R. David Montoya*_____

R. David Montoya
Executive Director of Finance

By: _____ snielsen@psdschools.org (May 28, 2021 16:52 MDT)

Scott Nielsen
Assistant Superintendent
of Secondary Schools

Exhibit A

Product and scope of work to be completed

Poudre School District is purchasing Apex Learning Courses and Professional Development Services for credit recovery and/or original credit and the training to use Apex Learning in these programs. Students in grades 6-12 can take Courses online for original credit or for credit recovery toward grade-level advancement or high school graduation.

- An unlimited courses subscription provides access for one student enrolled in any number of Courses at the same time. If a student completes or withdraws from all Courses in which he or she is enrolled, the subscription may be reused to enroll another student in any number of Courses. The number of students enrolled at the same time may not exceed the number of subscriptions purchased.
- Professional Services include three 3-hour web conference sessions to be delivered by an Apex Learning Success Manager.
- The period of access is May 28, 2020 through June 30, 2021.

What Student Data is collected through the use of the system?

Category of Student Data	Student Data Collected	Purpose for Collecting Data
Student identifiers	<ul style="list-style-type: none"> - Student First Name - Student Last Name - Student Username - Student Password - Student District-assigned ID (optional) - Student's School Name 	<ul style="list-style-type: none"> - Required for product functionality - Required to meet customer's data and reporting obligations
School or District Information	<ul style="list-style-type: none"> - District Name (optional) - School Name (optional) - Classroom Name - Teacher Name 	<ul style="list-style-type: none"> - Required for product functionality - Required to meet customer's data and reporting obligations
Student's Parent or Guardian	<ul style="list-style-type: none"> - Email address (optional) 	<ul style="list-style-type: none"> - Required for delivery of student progress and performance data for parents or guardians
Student-Generated Work	<ul style="list-style-type: none"> - Student answers lesson questions - Essays - Projects - Discussion threads - Photos - Audio clips 	<ul style="list-style-type: none"> - Required for teachers to assess student knowledge, comprehension, and overall learning

Other Student-Generated Communications	<ul style="list-style-type: none"> - Student emails sent to Apex Support (by the student directly or otherwise forwarded) 	<ul style="list-style-type: none"> - Optional for user support
Student Grades and Scores	<ul style="list-style-type: none"> - Scores and or grades for each attempted item within a lesson - Unit Scores and or grades - Course Scores and or grades 	<ul style="list-style-type: none"> - Required for teachers to assess student knowledge, comprehension, and overall learning - Required to meet customer's data and reporting obligations
Student Activity	<ul style="list-style-type: none"> - Student log in time - Student log out time - Activities accessed - Time spent on each activity - Place within last activity accessed 	<ul style="list-style-type: none"> - Required for user support - Required to meet customer's data and reporting obligations
Student Technology	<ul style="list-style-type: none"> - IP address - Web browser version - Operating system version - Cookies 	<ul style="list-style-type: none"> - Required for user support - Required to improve user experience

Third Party Vendors

Vendor Name	Vendor Purpose
Amazon Web Services	Cloud-based hosting
Microsoft Corp	Cloud-based storage, business productivity applications
Salesforce.com, Inc	CRM
SolarWinds Worldwide, LLC	Performance and management tools
Threat Stack, Inc	Security and monitoring

Exhibit B



1215 Fourth Ave, Suite 1500
Seattle, WA 98161

Quote Number 00012899

4/19/2021

Poudre School District
2407 LaPorte Ave
Fort Collins, CO 80521-2211
United States

Prices below include a 30% Volume Discount for a total of 122 Unlimited Enrollment Subscriptions. Volume Discounts are dependent upon the order volume. If all quoted subscriptions above are not purchased, the Volume Discount will be adjusted accordingly.

Product Description	Quantity	List Price	Volume Discount (%)	Sales Price	Total Price
Professional Services; Half day; Online *Fossil Ridge High School	3.00	\$600.00		\$600.00	\$1,800.00
Courses: Unlimited enrollment subscription *Fossil Ridge High School	100.00	\$250.00	30.00	\$175.00	\$17,500.00
Courses: Unlimited enrollment subscription *Rocky Mountain High School	22.00	\$250.00	30.00	\$175.00	\$3,850.00

Grand Total \$23,150.00

Order Period

Order Start Date 7/1/2021 Order End Date 6/30/2022

Prices above do not include any applicable sales or other taxes. Additional purchases after the order end date may be subject to an annual price increase.

The purchase of the digital curriculum solution in this quote is subject to the Apex Learning Terms & Conditions available at: <https://www.apexlearning.com/ClientAT>.

Please email the signed quote and a purchase order to salesdocs@apexlearning.com or fax to (206) 381-5601. Thank you for your consideration of an Apex Learning digital learning solution.

Regards,
Jon Castillo

Quote Acceptance

Signature: _____ Date: _____

Printed Name: _____ Title: _____

**Exhibit A Vendor
Products**

A. Courses

Poudre School District schools may purchase unlimited enrollment subscriptions¹ to Apex Learning Courses via Volume Pricing or Add On Pricing.

Volume Pricing

The subscription price is based on the total number of subscriptions included on any given order.

- The number of subscriptions is not aggregated across multiple orders.
- Subscriptions provide access for 12 months.
- All subscriptions on an order will have the same order start date and order end date.

# Subscriptions	Volume Price Per Subscription
1 - 24	\$250.00
25 - 99	\$200.00
100 - 499	\$175.00
500 - 999	\$150.00
1,000 – 2,499	\$125.00
2,500+	\$100.00

Add On Pricing

Additional subscriptions purchased during the year may be added on to an existing order.

- Subscriptions purchased in an Add On order will have the same order end date as the end date of the original order. Pricing is per month, for each month remaining in the original order.
- Partial months are counted as a full month

Price Per Month
\$20

¹ Each unlimited enrollment subscription provides access for one student enrolled in any number of Courses at the same time. If a student completes or withdraws from all courses in which he or she is enrolled, the subscription may be used to enroll another student in any number of Courses. The number of students enrolled at one time may not exceed the number of unlimited enrollment subscriptions purchased. Table 1 below specifies the volume discount tiers and pricing for unlimited enrollment subscriptions.

B. Tutorials

Poudre School District schools may purchase unlimited enrollment subscriptions² to Apex Learning Tutorials via Volume Pricing or Add On Pricing.

Volume Pricing

The subscription price is based on the total number of subscriptions included on any given order.

- The number of subscriptions is not aggregated across multiple orders.
- Subscriptions provide access for 12 months.
- All subscriptions on an order will have the same order start date and order end date.

# Subscriptions	Volume Price Per Subscription
1 – 24	\$80.00
25 – 99	\$65.00
100 – 999	\$55.00
1,000 – 1,999	\$50.00
2,000 +	\$40.00

Add On Pricing

Additional subscriptions purchased during the year may be added on to an existing order.

- Subscriptions purchased in an Add On order will have the same order end date as the end date of the original order. Pricing is per month, for each month remaining in the original order.
- Partial months are counted as a full month

Price Per Month
\$15

² A tutorials subscription provides access for one student enrolled in any number of tutorials at the same time. If a student completes or withdraws from all tutorials in which he or she is enrolled, the subscription may be reused to enroll another student in any number of tutorials. The number of students enrolled at the same time may not exceed the number of tutorials subscriptions purchased.

C. Apex Learning Virtual School (ALVS)

ALVS Enrollments

An ALVS enrollment is for one student enrolled in a one-semester ALVS course.

Price: \$300.00 per enrollment (Price does not include any course materials.)

Expiration: ALVS enrollments must be used within 12 months of the order start date.

Withdrawal policy:

- If a student is withdrawn from a course prior to the course start date, the client will receive a credit equal to 100% of the purchase price for the enrollment.
- If a student is withdrawn from a course 1–28 days after the course start date, the client will receive a credit equal to the purchase price for the enrollment less a non-refundable administration fee of \$75.
- If a student is withdrawn from a course more than 28 days after the course start date, the client will not receive any credit.

ALVS 10-week Credit Recovery Enrollments

An ALVS 10-week credit recovery enrollment is for one student enrolled in a one-semester prescriptive course for up to 10 weeks.

Price: \$175.00 per enrollment (Price does not include any course materials.)

Expiration: ALVS 10-week credit recovery enrollments must be used within 12 months of the order start date.

Withdrawal policy:

- If a student is withdrawn from a course prior to the course start date, the client will receive a credit equal to 100% of the purchase price for the enrollment.
- If a student is withdrawn from a course on or after the course start date, the client will not receive any credit.

Any credit balance for ALVS or ALVS 10-week credit recovery enrollments must be used within 12 months of the date the credit is issued and may be applied to the purchase of any Apex Learning products or services. There are no refunds.

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CLIENT AGREEMENT
for
APEX LEARNING DIGITAL CURRICULUM SOLUTIONS

This Client Agreement for Apex Learning Digital Curriculum Solutions (“Agreement”) is effective on July 1, 2021 (“Effective Date”) and is made by and between Apex Learning Inc., a Washington corporation with its principal place of business at 1215 Fourth Avenue, Suite 1500, Seattle, WA 98161 (“Apex Learning”) and Poudre School District R-1, with its principal place of business at 2407 LaPorte Avenue, Fort Collins, CO 80521-2211 (“Client”).

RECITALS

Apex Learning provides digital curriculum solutions for secondary education.

Client desires to purchase the digital curriculum solutions described in Exhibit A and have its students, teachers, administrators, and staff access and use the Apex Curriculum (as defined below), all pursuant to the terms and conditions set forth below.

In consideration of the covenants and conditions set forth below and for other good and valuable consideration, the adequacy of which the parties hereby acknowledge, the parties agree as follows:

AGREEMENT

1. **Definitions.** Each of the following initially capitalized terms has the meaning set forth below. All other initially capitalized terms have the meanings assigned in this Agreement.
 - 1.1. “*Apex Curriculum*” means the Apex Learning digital curriculum described in Exhibit A. The Apex Curriculum does not include any Course Materials that may be required.
 - 1.2. “*Client User*” means each Client teacher, administrator, and student, as well as each student parent/guardian, who registers with Apex Learning and establishes a password to access the Apex Curriculum made available under this Agreement.
 - 1.3. “*Course Materials*” mean items or materials separate from the Apex Curriculum that are identified as either required or optional for the Apex Curriculum (e.g., calculators, microphones/headsets, textbooks, literature, and lab materials).
 - 1.4. “*Student Data Privacy and Protection Addendum*” means the addendum attached as Exhibit D.
 - 1.5. “*Term*” will have the meaning set forth in Section 9.1.
 - 1.6. “*User Support*” means the Apex Learning support services described in Exhibit C.
2. **Apex Learning Obligations.**
 - 2.1. **Digital Curriculum Solutions.** Apex Learning will provide the digital curriculum solutions described in Exhibit A, including hosting the Apex Curriculum and making it available for access and use by Client Users.
 - 2.2. **User Support.** Apex Learning will provide Client Users with User Support throughout the Term.
 - 2.3. **Uptime.** Apex Learning will use commercially reasonable efforts to make the Apex Curriculum available for access by Client Users ninety-nine percent (99%) of the time, measured on a monthly basis, excluding Planned Outages. “**Planned Outages**” means the installation of upgrades, routine application, server, or network configuration changes, and other reasonable maintenance activities. Planned Outages will be conducted during

off-peak Apex Curriculum utilization times. Apex Learning will post an advance announcement of any Planned Outage on the Apex Learning website through which Client Users access the Apex Curriculum.

- 2.4. **All Rights Reserved.** Apex Learning and its suppliers own all right, title and interest in and to the Apex Curriculum. Other than granting Client Users the right to access and use the Apex Curriculum as described in this Agreement, Apex Learning expressly reserves all right, title, and interest therein.

3. **Client Obligations.**

- 3.1. **Hardware/Software.** The Apex Curriculum is made available to Client Users over the Internet through a web-browser interface. To access the Apex Curriculum, therefore, Client Users must have a suitable Internet connection and access to an appropriately configured computer, as well as an appropriately configured computer network (where applicable) in accordance with the system recommendations posted at <http://www.apexlearning.com/systemrequirements/systemrecommendations.pdf>.
- 3.2. **Terms of Use.** All Client Users who access the Apex Curriculum must comply with the Apex Learning Terms of Use for Customer Websites (“**Terms of Use**”). The current version of such Terms of Use is posted at www.apexvs.com through which Client Users access the Apex Curriculum. Apex Learning reserves the right to suspend or discontinue a Client User from accessing the Apex Curriculum at any time if the Client User violates the Terms of Use. To the extent it has knowledge, Client will notify Apex Learning of any activity by its Client Users in violation of the Terms of Use. For the purpose of clarification, the Terms of Use are not part of this Agreement and do not modify or supplement the Agreement.
- 3.3. **Laboratory Activities.** If hands-on laboratory activities included in the Apex Curriculum are implemented by Client Users, Client is responsible for all such hands-on laboratory activities, including ensuring that qualified personnel are available to supervise such hands-on laboratory activities. Apex Learning will have no liability whatsoever regarding any hands-on laboratory activities.
- 3.4. **No Resale Rights.** Client will not resell to any third party the right to access or use the Apex Curriculum or provide any third party who is not a Client User with access to, or the ability to use, the Apex Curriculum.

4. **Payment.**

- 4.1. **General.** In consideration for the rights granted and services provided under this Agreement, Client will pay Apex Learning the amounts set forth in Exhibit A. Apex Learning will issue invoices for such amounts pursuant to the invoice schedule in Exhibit B.
- 4.2. **Payment Terms.** Client will pay all Apex Learning invoices properly issued under this Agreement within thirty (30) days of the invoice date. If payment is made via credit card Apex Learning will assess a processing fee equal to three percent (3%) of the amount charged to such card.
- 4.3. **Taxes.** Amounts stated under Section 4.1 do not include any applicable sales, use, gross income, occupational, or similar taxes; import or export fees; duties, imports, or tariffs; or any other taxes, duties, charges, or fees of any kind which may be levied in connection with the transactions covered under this Agreement. Any such taxes (if any are due) are the responsibility of Client. Client will indemnify and hold Apex Learning harmless from any liability with respect to such taxes. Apex Learning is solely responsible for Apex Learning’s income and payroll taxes.

5. **Confidentiality.**

- 5.1. **Student Data Privacy and Protection.** Apex Learning and Client agree to comply with their respective obligations under the Student Data Privacy and Protection Addendum attached as Exhibit D.
- 5.2. **Protection of Other Confidential Information.** In addition to the parties’ respective obligations under Section 5.1 above, each party agrees that it will not disclose to any third party any Confidential Information of

the other party, except to the extent required by law or as otherwise expressly authorized herein. The term “**Confidential Information**” means all non-public information that either party designates as being confidential, or which, under the circumstances of disclosure ought to be treated as confidential. Apex Learning’s Confidential Information includes, without limitation pricing for the Apex Curriculum. Confidential Information does not include information that was known to the receiving party prior to the disclosing party’s disclosure to the receiving party, or information that becomes publicly available through no fault of the receiving party. Nothing in this Section 5 precludes either party from disclosing Confidential Information when and as required by law. Further, if there is a conflict between this Section 5.2 and the Student Data Privacy and Protection Addendum, the Student Data Privacy and Protection Addendum will control with respect to that conflict.

6. **Representations and Warranties.**

- 6.1. ***By Both Parties.*** Each party hereby represents and warrants to the other party that it: (a) has the power and authority to enter into this Agreement and is permitted by applicable law and regulations to enter into this Agreement; and (b) will comply with all applicable laws in the performance of its obligations under this Agreement, including those laws identified in the Student Data Privacy and Protection Addendum.
- 6.2. ***By Apex Learning.*** Apex Learning further represents and warrants that Client Users’ access to and use of the Apex Curriculum as described in this Agreement will not infringe any third-party copyright.
- 6.3. **WARRANTY DISCLAIMER.** EXCEPT AS SET FORTH IN SECTION 6.2, APEX LEARNING DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, AND DUTIES OF ANY KIND (IF ANY), EXPRESS, IMPLIED, OR STATUTORY WITH RESPECT TO THE APEX CURRICULUM, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, OF FITNESS FOR ANY PARTICULAR PURPOSE. EXCEPT AS SET FORTH IN SECTION 6.2, THERE IS NO WARRANTY OF NON-INFRINGEMENT OR TITLE.

7. **Indemnity.**

- 7.1. ***Duty to Indemnify.*** Subject, in the case of Client, to any applicable laws restricting Client’s ability to provide the indemnification described in this Section 7, each party will indemnify, defend, and hold the other party and its officers, employees, and agents harmless from any and all actions, causes of action, claims, demands, costs, liabilities, expenses and damages arising out of or in connection with any breach or alleged breach of any representation or warranty set forth in Section 6.
- 7.2. ***Procedure.*** If an action is brought for which indemnity is sought under this Section 7, the party seeking indemnity will send reasonably prompt written notice to the other party specifying the nature of the action and the total damages or other relief sought and will permit the indemnifying party to answer and defend such claim. The party seeking indemnity will provide the indemnifying party with such information and assistance as is reasonably necessary to assist the indemnifying party, at the indemnifying party’s expense, in defending any such action. The party seeking indemnity reserves the right to employ separate counsel and participate in the defense at its expense. The indemnifying party will not be responsible for any settlement made by the party seeking indemnity without the indemnifying party’s written consent, which will not be unreasonably withheld or delayed, nor will the indemnifying party settle any claim under this Section 7 without first obtaining the written consent of the party seeking indemnity, which will not be unreasonably withheld or delayed.

8. **EXCLUSION OF CERTAIN DAMAGES & LIMITATION ON LIABILITY.**

- 8.1. **EXCLUSION OF CERTAIN DAMAGES.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE.

8.2. **LIMITATION ON LIABILITY.** IN NO EVENT WILL APEX LEARNING’S TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNTS ACTUALLY PAID BY CLIENT TO APEX LEARNING UNDER THIS AGREEMENT.

8.3. **APPLICATION.** THE EXCLUSION OF DAMAGES AND LIMITATION ON LIABILITY IN THIS SECTION 8 SHALL APPLY REGARDLESS OF THE FORM OR CAUSE OF ACTION OR THE ALLEGED BASIS OF ANY CLAIM AND EVEN IF THE REMEDIES OTHERWISE PROVIDED UNDER THIS AGREEMENT AT LAW OR IN EQUITY FAIL OF THEIR ESSENTIAL PURPOSE.

9. **Term and Termination.**

9.1. **Term.** This Agreement shall commence on the Effective Date and continue through June 30, 2022, unless earlier terminated as provided in this Section 9.

9.2. **Termination.** Either party may suspend performance or terminate this Agreement immediately upon written notice to the other party at any time if the other party is in material breach of any provision of this Agreement and has failed to cure that breach within thirty (30) days after receipt of written notice thereof. Without limiting the foregoing, Apex Learning may suspend performance or terminate this Agreement immediately upon written notice to Client if Client is thirty (30) days overdue on any payment due to Apex Learning under this Agreement.

9.3. **Effect of Expiration/Termination.** Upon the expiration or termination of this Agreement, all access to the Apex Curriculum will promptly cease, and Client will immediately pay all amounts due to Apex Learning up to the date of expiration/termination. The following Sections will survive the expiration or termination of this Agreement: Sections 4 (with respect to amounts due and owing upon expiration/termination), 5, 6, 7, 8, 9.3, and 10, as well as applicable provisions of Exhibit D.

10. **Miscellaneous.**

10.1. **Relationship of Parties.** Client and Apex Learning are independent contractors with respect to one another, and nothing in this Agreement will be interpreted to create any agency, joint venture, employment or partnership relationship.

10.2. **Force Majeure.** For a reasonable time period, Apex Learning will be excused from delay, breach of this Agreement, or failure in performance under this Agreement due to causes beyond Apex Learning’s reasonable control including without limitation, acts of God, government action, strikes, acts of public enemies, civil disturbance or riots, war, national emergency, floods, power outages, telecommunications failures, fires, earthquakes, storms, or other similar causes.

10.3. **Notices.** Any notices given under this Agreement shall be delivered in writing either by messenger or overnight delivery service, with a confirmation of delivery, and addressed to Apex Learning or Client at the address stated in the table below, and shall be deemed to have been given on the day when received by the party to whom the notice is given.

	Apex Learning Contact	Client Contact
Individual Name and/or Title	Manager, Contracts	Kathy Mackay
Organization	Apex Learning Inc.	Poudre School District R-1
Address	1215 Fourth Avenue, Suite 1500	2407 LaPorte Avenue
City, State, Zip	Seattle, WA 98161	Fort Collins, CO 80521-2211
Phone	206-381-5600	970-482-7420

10.4. **Assignment.** Neither party will assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the immediately preceding sentence, either party may assign this Agreement without the other party’s prior written consent as part of a merger, acquisition or a sale or

transfer of a majority of the assigning party's assets. This Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their respective successors and permitted assignees.

- 10.5. ***Waiver/Severability.*** No provision of this Agreement will be deemed waived unless the waiver is in writing and signed by the waiving party, and no such waiver will constitute a waiver of any other provision(s) or of the same provision on another occasion. If any term of this Agreement is found by a court of competent jurisdiction to be in whole or in part unenforceable, then such unenforceable term or portion thereof will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the allocation of risk among the parties reflected in the original provision, and the remainder of this Agreement shall continue in effect.
- 10.6. ***Governing Law/Attorneys' Fees.*** This Agreement will be governed by and construed under the laws of the State of Colorado (except to the extent federal law is controlling on the subject matter), without regard to its conflict of laws provisions. In any action to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party will be entitled to recover its costs, including reasonable attorneys' fees.
- 10.7. ***No Third-Party Beneficiaries.*** This Agreement is for the benefit of, and shall be enforceable by, the parties only. This Agreement is not intended to confer any right or benefit on any third party. No action may be commenced or prosecuted against a party by any third party claiming as a third-party beneficiary of this Agreement.
- 10.8. ***Entire Agreement.*** This Agreement, including without limitation all Exhibits attached hereto, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, oral or written, regarding such subject matter. Changes, modifications or waivers to this Agreement must be in writing and signed by both parties.
- 10.9. ***Execution in Counterparts/Electronic Signatures.*** This Agreement may be executed in any number of separate counterparts, each of which together shall constitute a single agreement, but each together shall constitute one and the same instrument. Each party agrees that it will not contest the validity of the execution of this Agreement solely on the basis of the exchange of signed counterparts in .pdf format or the use of a mutually agreed-upon electronic signature process. Any copy of this Agreement electronically signed by both parties pursuant to any such mutually-agreed electronic signature process will be deemed to be an original.

EXHIBIT A
Digital Curriculum Solutions

1. **Apex Curriculum:** Apex Learning will provide Client with the following from July 1, 2021 through June 30, 2022:

- **Courses:** 100 Courses unlimited enrollment subscriptions for Fossil Ridge High School. Courses subscriptions do not include access to Technology Courses.

Price: \$17,500.00

- **Courses:** 22 Courses unlimited enrollment subscriptions for Rocky Mountain High School. Courses subscriptions do not include access to Technology Courses.

Price: \$3,850.00

Each unlimited enrollment subscription provides access for one student enrolled in any number of Courses at the same time. If a student completes or withdraws from all Courses in which he or she is enrolled, the subscription may be reused to enroll another student in any number of Courses. The number of students enrolled at the same time may not exceed the number of subscriptions purchased. Client may purchase additional subscriptions for access through June 30, 2022 at \$175.00 per subscription.

2. **Professional Services:** Apex Learning will provide Client with three 3-hour web conference sessions.

Price: \$1,800.00

Total Price: \$23,150.00

EXHIBIT B
Invoice Schedule

Apex Learning will invoice Client in the amount of \$23,150.00 on execution of Client's May 7, 2021 Software Services Agreement by both parties.

EXHIBIT C

User Support

1. **General.** Apex Learning will provide Client Users with support via a toll-free phone number (for U.S. calls only), online chat and/or email. Phone support will be available from Apex Learning Monday–Friday from 5:00 a.m. to 7:00 p.m. Pacific Time. Apex Learning will give Client Users notice of any intermittent or seasonal changes to the phone support schedule by posting an announcement on the Apex Learning website through which Client Users access the Apex Curriculum and/or by a voicemail greeting.
2. **Disclaimer.** Apex Learning’s ability to support Client Users with respect to the Apex Curriculum depends on Client (a) providing Apex Learning with prompt notice if Client becomes aware of any problem that affects the ability of Client Users to access and/or use the Apex Curriculum, (b) cooperating in a timely manner with Apex Learning’s efforts to diagnose the source of problems, (c) making available to Apex Learning appropriate staff and system information for resolving issues as they may arise, and (d) implementing reasonable technical solutions suggested by Apex Learning in a timely manner. In addition, Apex Learning is not responsible for Client User problems that stem from Client’s Internet connection, any Client or third-party hardware or software, or Client’s own network.

EXHIBIT D

Student Data Privacy and Protection Addendum

1. Definitions.

- a. “**FERPA**” means the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g and the applicable regulations promulgated thereunder, as amended from time to time.
- b. “**Student Data**” means Personally Identifiable Information (as defined under FERPA) from an Education Record (as defined under FERPA) maintained or processed by Apex Learning in connection with the performance of its obligations under this Agreement.
- c. “**Targeted Advertising**” means presenting an advertisement to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or Student Data. Targeted Advertising does not include advertising to a student at an online location based on that student’s current visit to that location or in response to a student’s request for information or feedback, without the retention of a student’s online activities or requests over time for the purpose of targeting advertisements.

2. **Compliance with Laws.** Apex Learning agrees to comply with all Applicable Laws (as defined below in this Section 2) in the performance of its obligations under this Agreement. Client agrees to comply with all Applicable Laws in its use of access to the Apex Curriculum, including when providing Apex Learning with access to Student Data under this Agreement. “**Applicable Laws**” as used herein include FERPA and other applicable federal and state laws regarding the protection of Student Data.
3. **Use of Student Data.** Apex Learning will only use Student Data to perform its obligations under this Agreement.
4. **Confidentiality of Student Data.** Apex Learning will not disclose Student Data to a third party except as follows: (a) with the prior written consent of the parent or guardian of the student to whom the Student Data pertains or, if the student is an adult, the adult student; (b) as may be required by law, including subpoena or court order; (c) to authorized representatives of Apex Learning in connection with Apex Learning’s performance of its obligations under this Agreement and provided such authorized representatives have agreed in writing to maintain the confidentiality of such Student Data; (d) to law enforcement to protect the safety of individuals; or (e) to a successor entity following the purchase, merger, or other type of acquisition of Apex Learning, or the purchase of Apex Learning’s assets, so long as the successor entity continues to be subject to the provisions of this Agreement. Client will maintain the confidentiality of Client User credentials that enable access by such Client Users to the Apex Curriculum. Further, Client is responsible for cancelling the Client User credentials of any Client User who no longer needs access to the Apex Curriculum.
5. **Parental/Legal Guardian/Adult Student Consent.** Client is responsible for obtaining any necessary consent from parents, legal guardians and adult students for the disclosure of Student Data by Client to Apex Learning and by Apex Learning to Client as is reasonably necessary for Apex Learning to perform its obligations under this Agreement.
6. **Data Privacy & Security Safeguards.** Apex Learning will establish and maintain reasonable administrative, physical, and technical safeguards to protect the security, confidentiality and integrity of Student Data in its custody, including encryption of Student Data while in motion and at rest.
7. **Correction of Inaccurate Information.** Upon request, Apex Learning will assist Client in using the Apex Curriculum administrative tools so Client may access and correct any factually inaccurate Student Data.
8. **Prohibition on Targeted Advertising.** Apex Learning will not use Student Data to engage in any Targeted Advertising.

9. **Notice of Data Breach.** Apex Learning will notify Client if Apex Learning becomes aware of any breach of Apex Learning security resulting in an unauthorized release of or unauthorized access to Student Data, in accordance with applicable state or federal law. Similarly, Client will notify Apex Learning if Client becomes aware of any misuse of Client access credentials for the Apex Curriculum.
10. **Storage in the United States.** Student Data will be stored on servers or other computers operated and maintained by or on behalf of Apex Learning in the United States.
11. **Treatment of Student Data on Conclusion of Client Access to Apex Curriculum.** Following conclusion of Client's access to the Apex Curriculum under this Agreement, Apex Learning will store Student Data on Client's behalf for the lesser of (a) up to thirteen months so that the Student Data remain available should Client seek to renew access to the Apex Curriculum, (b) a period specified by Client in writing, or (c) the period (if any) dictated by Applicable Law (the applicable (a), (b) or (c) being the "Maintenance Period"). The maintenance of Student Data in this manner will constitute part of the Services. At the end of the Maintenance Period, Apex Learning will de-identify all Student Data (i.e., so that they no longer qualify as Personally Identifiable Information under FERPA) in accordance with Applicable Laws, unless Client has renewed access to the Apex Curriculum.

Exhibit C



Poudre School District

DJG/DJGA - VENDOR RELATIONS, SALES CALLS AND DEMONSTRATIONS

VENDOR QUALIFICATIONS

No favoritism shall be extended to any vendor. The Purchasing and Materials Management Department, in cooperation with other interested District departments, sites and employees, may establish required vendor qualifications for certain District purchases, and may prequalify vendors, as they determine necessary or appropriate.

CONFLICT OF INTEREST

District employees have a fiduciary duty to act in the best interests of the District regarding all work they perform in connection with any District contract or purchase. No vendor shall offer, and no District employee shall accept, any gift, service, honorarium, stipend or fee that may objectively be viewed as having the purpose or effect of improperly influencing the employee to purchase goods and/or services from the vendor. No District employee may have a financial or business interest in any District contract or purchase made by the employee in his or her official capacity, and no District employee may influence or attempt to influence the District regarding any contract or purchase in which the employee has a financial or business interest.

SALES CALLS

To protect District students and staff against disruption of the educational process and/or interruption of the work day, sales representatives shall not be permitted in District schools for the purpose of making sales calls unless authorized to do so by the superintendent, executive director of finance or purchasing and materials manager, or their designees.

The superintendent, executive director of finance or purchasing and materials manager may, when they determine it to be in the best interest of the District, bar any vendor, organization or person from any or all District facilities for soliciting purchases from or services to students, their parents/guardians, or District employees.

VIOLATIONS

Employees who violate any provision of this policy shall be subject to discipline up to and including termination of employment. Any vendor engaging in conduct that is inconsistent with this policy may be disqualified indefinitely from doing business with the District.

Adopted by Board: May 1972

Revised by Board: May 1982

Revised by Board: April 1988

Revised by Board to conform with practice: May 22, 1995

Revised by Board: April 8, 1996

Revised by Board: June 10, 1996

Revised by Superintendent: May 14, 2007

Revised by Superintendent: March 8, 2017

Revised by Board: February 12, 2019

LEGAL REF:

C.R.S. 24-18-101, et seq.

CROSS REFS:

DJ, Purchasing

DJA, Purchasing Authority

DJB, Purchasing Procedures

FE, Construction Projects and Contracting Procedures

FEAA, Construction Project Prequalification

GBEA, Staff Ethics/Conflict of Interest

GBEBC, Gifts to and Solicitations by Staff