

Kenton County School District | It's about ALL kids.

Issue Paper

DATE:

09.20.22

AGENDA ITEM (ACTION ITEM):

Consider/Approve The sales contract with Mystery Science, Inc. for Summit View Academy to purchase an annual school membership renewal License for the 2022-2023 School year.

APPLICABLE BOARD POLICY:

01.1 – Legal Status of the Board

HISTORY/BACKGROUND:

Mystery Science allows teachers to identify student's current academic achievement levels and supplement classroom instruction in Science. This program is able to be differentiated to students' current level of achievement to target specific skills to close gaps and focus on growth. This agreement will allow for renewal of a one year license for students at all grade levels K-5.

FISCAL/BUDGETARY IMPACT:


\$1,599.00 – SVA ESSER FUNDS

RECOMMENDATION:

Approval The sales contract with Mystery Science, Inc., for Summit View Academy to purchase the annual renewal of the school membership license for the 2022-2023 school year.

CONTACT PERSON:

Alex Fangman


Principal/Administrator
District Administrator
Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

Quote #196457

Quote Issued: August 28, 2022 • Quote Expires: November 15, 2023

Summit View Academy Independence, KY

School Membership for 2022-2023 with US \$400 discount

Membership is valid through June 30, 2023.

Includes access to all lessons for all teachers at Summit View Academy.

Ready to purchase?

Activate your membership immediately by submitting your purchase order or payment online:
<https://mysteryscience.com/order/93d763>

Purchase orders submitted by mail are accepted but take longer to process.

Pricing Breakdown

School Membership 2022-2023	\$1,999
Membership period: July 1, 2022 - June 30, 2023	
\$400 Discount	- \$400

Grand total (USD) \$1,599

Total Discount of \$400

Financial Assistance

We never want cost to prevent teachers from teaching science. If cost is a barrier to you, please apply (only takes 5 minutes!).

To apply for financial aid, visit:
<https://mysteryscience.com/order/93d763>

See a mistake?

To cancel this quote, visit:
<https://mysteryscience.com/order/93d763>

Other questions? visit our help center at
<https://support.mysteryscience.com>

Terms of Service: By submitting a payment or purchase order, you are agreeing to the Mystery Science Terms of Service available at mysteryscience.com/terms, the terms and conditions of which are hereby expressly incorporated herein by reference. If you need a W-9, you can view it at mysteryscience.com/w9. Note that our W-9 lists our office mailing address, but our remit address is the Atlanta address listed below.

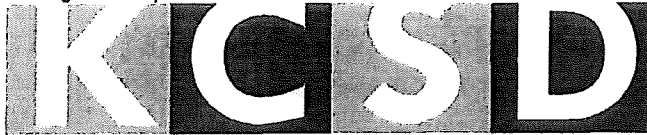
Remit to

Note: all purchase orders can be submitted online
Mystery Science
c/o Discovery Education, Inc.
PO Box 745873
Atlanta, GA 30374-5873

Contact

(650) 550-0670
Fax provided after
submitting PO #

MYSTERY
science
part of Discovery Education



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THE KENTON COUNTY BOARD OF EDUCATION

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY 41017

TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531

WEBSITE: www.kenton.kyschools.us

Dr. Henry Webb, Superintendent of Schools

DS
DB

**VENDOR ASSURANCES REGARDING PROTECTION OF
PERSONAL AND CONFIDENTIAL INFORMATION**

Data Security and Breach Protocols

Vendors that may receive Personal Information from Kenton County Board of Education (herein referred to as "KCBOE") as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account number, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by any agency as defined under the Act;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" includes any person or entity that has a contract or agreement with the KCBOE and receives (accesses, collects or maintains) personal information from the KCBOE pursuant to the contract or agreement.

The vendor hereby agrees to cooperate with the KCBOE in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, KCBOE, the Commissioner of the Kentucky State Police, the Kentucky Auditor of Public Accounts, the Commonwealth (Kentucky) Office of Technology, and the Commissioner of the Kentucky Department of Education of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)(2) applies and the vendor abides by the requirements set forth in that exception. Notification shall be in writing on a form developed by the Commonwealth (Kentucky) Office of Technology.

The vendor hereby agrees to report to the KCBOE, immediately and within seventy-two (72) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor hereby agrees that the KCBOE may withhold payment(s) owed to the vendor for any violation of the Act's notification requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any security breach as defined under the Act in accordance with KRS 61.933.

Upon conclusion of an investigation of a security breach as defined under the Act as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a), the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth (Kentucky) Office of Technology and that are reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction.

Student Data Security

Pursuant to KRS 365.734, if the vendor is a cloud computing service provider (which is defined pursuant to KRS 365.734(1)(b) as any person or entity other than an educational institution that operates cloud computing services) or, through service to the KCBOE, becomes the equivalent of a cloud computing service provider, the vendor further hereby agrees that:

- The vendor shall not process student data as defined pursuant to KRS 365.734 for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the vendor receives express permission from the student's parent. The vendor shall work with the KCBOE to determine the best method of collecting parental permission.
- With a written agreement for educational research, the vendor may assist the KCBOE to conduct educational research as permitted by the Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. sec. 1232g.
- Pursuant to KRS 365.734, the vendor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.
- Pursuant to KRS 365.734, the vendor shall not sell, disclose, or otherwise process student data for any commercial purpose.
- Pursuant to KRS 365.734, the vendor shall certify in writing to the agency that it will comply with KRS 365.734(2).

Family Educational Rights and Privacy Act, National School Lunch Act and Child Nutrition Act

If during the course of this agreement, the KCBOE discloses to the vendor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. sec. 1232g, et seq.), and its regulations, and data protected by the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. sec. 1751 et seq.), and the Child Nutrition Act of 1966 (CNA) (42 U.S.C. sec. 1771 et seq.), the vendor agrees that it is bound by and will comply with the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA.

The vendor hereby agrees to report to the KCBOE, immediately and within seventy-two (72) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor agrees that FERPA-protected information is confidential information. FERPA-protected information includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, and other information that, alone or in combination, is linked or linkable to a specific student that would 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.

The vendor understands and acknowledges that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. sec. 3571) or imprisonment for not more than five years (under 18 U.S.C. sec. 3559), or both.

The vendor understands and acknowledges that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the NSLA or the CNA is confidential information and that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.


In the event there is a conflict between this agreement and any other agreement between KCBOE and Vendor, the terms of this agreement shall apply.

Discovery Education, Inc., solely with respect to the Mystery Science product
Vendor Name

4350 Congress Street, Suite 700, Charlotte, NC 28209
Vendor Address

800-323-9084
Vendor Telephone

DEContractsTeam@discoveryed.com
Vendor Email Address

DocuSigned by:

7956C33848A2460...

Signature by Vendor's Authorized Representative

Travis Barrs
Print Name

May 26, 2022

Date



Mystery Science-Terms of Service

Summit View Academy, KY

By accessing or using the applications and services owned or operated by Mystery Science, Inc., whether through our software app(s) or website (our "Services"), you are accepting and agreeing to be bound by the terms and conditions set forth below (these "Terms").

Certain features of our Services may be subject to additional guidelines, terms, or rules, which will be posted with those features. We reserve the right, at any time, to modify, suspend, or discontinue our Services (or any portions of them). You agree that we will not be liable to you or to any third party for any modification, suspension, or discontinuance of our Services (or any portions of them).

Creating an Account

In most cases, our Services may only be used if you have an account with us. By creating an account, you represent that (a) all required information you provide is truthful and accurate; (b) you are of legal age to agree to these Terms; and (c) your use of our Services does not violate any applicable law or regulation or these Terms. When you create an account, you will be asked to choose a user name and a password for your account or you can use your Facebook account (or other online account we support). You may not use a user name or user profile that is used by someone else or that violates these Terms. We reserve the right to reclaim any user name that violates these Terms.

Your Account is Your Responsibility. You are responsible for maintaining the confidentiality of your password and for any and all use of your account. You should notify us immediately if you suspect any unauthorized use of your account or access to your password. You may not (a) use the account of any other user; (b) allow someone else to use or share your account (except as permitted above); or (c) sell, lend, or transfer your account, temporarily or permanently, with someone else. If you violate these Terms, we reserve the right to issue you a warning, suspend or even terminate your account (along with your ability to access and use the Services).

Paid Memberships. Full, continuous access to the curriculum and lesson plans on the Services is only available with a paid membership. Limited access to the curriculum and lesson plans is available for free.

You may purchase school or district memberships on a per site basis as indicated in your applicable purchase order, which entitles all of your teachers and staff (each, a "Member") at that site to create individual accounts which they can use to access the Services from anywhere on an unlimited number of devices. Purchase of a classroom membership entitles one teacher to create an account which they can use to access the Services for a single classroom. Homeschool memberships are for a single parent to use at home. Memberships may not be reassigned, transferred, resold or sublicensed without our prior written consent. You hereby acknowledge and agree that you are

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responsible for ensuring that your Members sign up for their own accounts and agree to, and comply with, these Terms when they access and use the Services.

Student Access. Our Services are intended for use primarily by teachers, parents, and other educational service providers. Anyone under 13 and/or not of the age of majority ("Students") may access and use our Services only with the involvement of their parent or legal guardian, using their parent's or guardian's account.

Invited Users. As part of the Services, we may allow you to create and share a link to certain limited content and features within the Services in order to grant other individuals (including, but not limited to Students) ("Invited Users") temporary access to such content and features; provided that you ensure that any of your Invited Users who are Students utilize such temporary access only with the involvement and consent of their parent or legal guardian. You hereby acknowledge and agree that you are responsible for ensuring that your Invited Users comply with these Terms when they access and use the Services.

Privacy. Please refer to our [Privacy Policy](#) for information on how we collect, use and disclose information about users of our Services.

Using Our Services

As long as you comply with these Terms, you may use our Services for educational and non-commercial purposes.

Fees. We charge fees for the use of certain products or services, and for access and use of certain content and features on our Services, which are described in the Services. These fees can change at any time. By selecting these products, services and/or features, you are agreeing to pay the applicable fees assessed to your account and authorizing us (or our third-party payment processor) to charge your payment account or credit card for such purchases. You represent and warrant that you have the legal right to use all payment method(s) you provide to us. YOU HEREBY ACKNOWLEDGE AND AGREE THAT ANY AND ALL PURCHASES AND FEES PAID BY YOU TO US IN CONNECTION WITH THE SERVICES ARE FINAL AND NON-REFUNDABLE.

Links to Other Sites. Our Services may contain links to content or services provided by other companies ("Third Party Links"). These Third Party Links are not under our control, and we are not responsible for their content, services, performance, operation, availability, business practices or policies. We are providing these Third Party Links to you as a convenience but we do not imply any endorsement or recommendation of their content or services, or of any association of us with them. If you access any of these Third Party Links, you do this at your own risk and any charges or obligations you incur in your dealings with these companies, are your responsibility. The websites available

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through the Third Party Links are subject to their own terms and policies, including privacy and data gathering practices.

Acceptable Use and Conduct

You are responsible for your conduct when using our Services and you agree that you will use our Services in compliance with all applicable laws and regulations, including, without limitation, those related to Student privacy.

Prohibited Conduct. You agree that you will not initiate, engage in, or encourage any Prohibited Conduct in connection with your use of our Services. "Prohibited Conduct" includes doing things like: attempting to and/or interfering or disrupting any computer or network used to provide or support the Services; restricting or inhibiting any other user from using and enjoying the Services; promoting, encouraging, advocating, or providing information about illegal activities; harassing, bullying or threatening other users; impersonating another person or representing yourself as affiliated with us, our staff or our partners; soliciting passwords, account information or other personal information from other users; conducting commercial activities and/or promotions or advertisements (unless approved by us in writing); loaning your account or making it available to others; using the Services for fraudulent purposes or that violates any applicable laws and regulations; or otherwise creating liability for us.

Prohibited Content. You agree that you will not post, exchange, make available, provide, or process any Prohibited Content. "Prohibited Content" includes content that: is offensive or promotes racism, bigotry, hatred or physical harm of any kind against any group or individual; bullies, defames, harasses or advocates stalking of, or intimidates another person; involves the transmission of "junk mail," "chain letters," or unsolicited mass mailing, or "spamming;" is false or misleading or promotes, endorses or furthers illegal activities or conduct that is abusive, threatening, obscene, defamatory or libelous; infringes another person's content or rights without a license to do so; promotes, copies, performs or distributes an illegal or unauthorized copy of another person's work, whether it is protected or not, such as, presenting the work of a third party as your own (plagiarism); contains viruses, malware, or similar destructive software; or otherwise violates these Terms or creates liability for us.

Enforcement by Us. We have the right (but not the obligation) to review and delete (or modify) any content you post on our Services for any reason, including if we believe, in our sole judgment, that such content violates these Terms or is Prohibited Content, or that we believe constitutes or promotes Prohibited Conduct or otherwise threatens the safety of, or harms any other person, or creates liability for us or any other person. We reserve the right (but have no obligation) to investigate and take appropriate action, including removing content from our Services (or modifying it), suspending or terminating your account and/or suspending or terminating the provision of our Services to you, and/or reporting you to law enforcement authorities, if you violate any provision of these Terms. In order to cooperate with governmental requests, subpoenas or court

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orders, to protect our systems, service providers, partners, and other users, or to ensure the integrity and operation of our business and systems, we may access and disclose any information or content we consider necessary or appropriate, including your account information (i.e. name, e-mail address, etc.), IP address and traffic information, usage history, your content, and your conduct.

Ownership

You acknowledge that all intellectual property rights in our Services, including the underlying software and technology and the information and content available on our Services are owned by us and our suppliers (including other users), are protected by copyright laws throughout the world. You may not download, copy, reproduce, publish, modify, create derivative works of, reverse engineer, disassemble, decompile, adapt, distribute, transfer, or exploit the Services or any content therein, in whole or in part without our prior written authorization. We and our suppliers reserve all rights not granted in these Terms. If you provide any suggestions, ideas, feedback, or recommendations to us regarding our Services or any content in the Services ("Feedback"), you give us a worldwide, perpetual, irrevocable, fully-paid and royalty-free license to use and exploit that Feedback for any purpose and without any further obligation to you.

Termination

You can terminate your account at any time by deactivating your account or by providing notice of termination to us. Upon any termination of your account, all rights and licenses granted to you in these Terms will immediately and automatically end and you may no longer use the Services.

If you are using the Services on a free basis, we reserve the right to terminate or suspend your account or your access to any or all portions of the Services without notice at any time, for any reason, including your violation or breach of any provision in these Terms.

If you are using the Services under a paid membership, your account and access to the Services will terminate automatically and immediately at the end of the subscription term set forth on your purchase order unless you execute a new purchase order for the Services with us; provided that we reserve the right to terminate or suspend your account or your access to any or all portions of the Services without notice if you or any of your Members or Invited Users violate or breach any provision in these Terms.

Those provisions in these Terms that by their nature are intended to survive termination or expiration of these Terms will so survive, including, without limitation those sections titled: "Fees," "Links to Other Sites," "Enforcement by Us," "Ownership," "Use of the Services is at Your Own Risk," "Use of Materials is at your Own Risk," "Limitation of Liability," "Indemnification" and "General Provisions."

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Use of the Services is at Your Own Risk

By using the Services, you may be exposed to information or content that might be inaccurate, incomplete, unreliable, controversial, or considered by some to be objectionable. You agree that we will not be liable in any way for any such content, such as for errors or omissions in that content, or any losses or damages incurred as a result of the use or reliance of any information or content available via the Services. The Services are provided to you "AS IS" and on an "AS AVAILABLE" basis. WE EXPLICITLY DISCLAIM ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. We make no warranty that the Services will meet all of your requirements or will be available on an uninterrupted, completely secure, or error-free basis.

Use of Materials is at Your Own Risk.

As part of the Services, we may recommend the use of certain materials and supplies ("Materials"). Such Materials are typically found in classrooms or commonly available but they may also be supplied by us. The use of Materials is at your own risk and you agree that we will not be liable in any way for losses or damages, including without limitation, personal injury and property damages, in connection with the use of any Materials, whether obtained by you or supplied by us.

Limitation of Liability

IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR (A) ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, (B) ANY LOSS OF USE, INCOME, DATA, PROFITS, REVENUE OR BUSINESS INTERRUPTION, OR OTHER ECONOMIC LOSS, OR (C) ANY DAMAGES FOR PERSONAL OR BODILY INJURY, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE AND REGARDLESS WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EVEN IF A LIMITED REMEDY SET FORTH IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. OUR AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS WILL NOT EXCEED THE GREATER OF: (I) THE AMOUNT THAT YOU PAID FOR YOUR USE OF THE SERVICES IN THE SIX (6) MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO LIABILITY; OR (II) ONE HUNDRED DOLLARS (\$100.00).

Exclusions

Some jurisdictions do not allow the exclusion of certain warranties or the exclusion or limitation of liability for consequential or incidental damages, so the limitations above may not apply to you.

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Indemnification

You will defend, indemnify and hold us and our officers, directors, employees and agents harmless from all claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and accounting fees, arising out of or connected with your or your Members' or Invited Users' access to or use or alleged use of the Services or any Materials, or your or your Members' or Invited Users' violation of these Terms, including without limitation, any and all claims of personal injury, tangible or intangible property damage, death, negligence and/or strict liability arising from your use of the Services or any Materials.

General Provisions

These Terms constitute the entire agreement between us with respect to the subject matter and supersedes and merges any prior proposals, understandings and contemporaneous communications. These Terms may be amended by us from time to time. If we make material changes to these Terms, we will notify you by posting the revised Terms or notifying you through the Services or your account. Your continued use of the Services after the changes go into effect will constitute your agreement to such changes. These Terms will be governed by and construed in accordance with the laws of the State of Kentucky, without regard to or application of conflicts of law rules or principles. By using our Services you consent to personal jurisdiction and venue in the state and federal courts for the State of Kentucky for any lawsuit filed there against you by us arising from or relating to these Terms or our Services. If any part of these Terms is determined to be invalid or unenforceable by a court of competent jurisdiction, that provision will be enforced to the maximum extent permissible and the remaining provisions of these Terms will remain in full force and effect.

Contacting Us

If you have any questions about these Terms, please contact us.

Mystery Science, Inc.

Signature: 

Full Name: Travis Barrs

Title: Global Head of Operations

Date Signed: September 15, 2022

Summit View Academy

Signature: _____

Full Name: _____

Title: _____

Date Signed: _____