



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

Issue Paper

DATE:

7/13/2023

AGENDA ITEM (ACTION ITEM):

Consider/Approve The approval of the purchase of PBIS Rewards for Summit View Academy for the 23-24 school year.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board

HISTORY/BACKGROUND:

PBIS is an evidenced based program that supports positive behavior in the school setting. The PBIS rewards program is a digital platform that will allow teachers to track and plan for student behavior, help students goal set, and communicate with parents in a streamlined manner. This platform will be utilized to promote positive behavior at Summit View Academy in grades 6-8 to emphasize a culture/learning environment conducive to high academic achievement.

FISCAL/BUDGETARY IMPACT:

\$2,880-SBDM 7000

RECOMMENDATION:

Approval The approval of the purchase of PBIS Rewards for Summit View Academy for the 23-24 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.

NAVIGATE360 - PBIS REWARDS ORDER FORM

Customer: Summit View Academy
Kenton County School District
5006 Madison Pike
Independence, KY 41051
United States

Proposal No: nv-199269
Proposal Date: July 13, 2023

Term

The term for subscription services begins on **August 8, 2023** and ends on **June 30, 2024**. Subscription services will be billed according to the following invoice schedule: Annually.

Purchase Details

Description	Quantity	List Price	Extended Price
PBIS Rewards Service Base Fee	1	\$750.00	\$750.00
PBIS Rewards Per Student Fee	690	\$2.00	\$1,380.00
PBIS Rewards Training: Live Virtual 2-Hour Session: Train the Trainer	1	\$750.00	\$750.00
Annual Price - Net 30			\$2,880.00

All prices are valid for 60 days from date on Order Form and are listed in USD.

***** ID Cards and Lanyards are not included. *****

***** The Advanced Referral System add-on is not included. *****

Purchaser agrees to the terms and conditions of the PBIS Rewards Purchase Terms, and which is a part of this order. A copy of the PBIS Rewards Purchase Terms can be found at:

<https://www.pbisrewards.com/policies/purchase-terms/>

Proposal No: nv-199269

Accurate Sales Tax will be added when applicable.

* Multi-year contract pricing is subject to pricing terms defined in the PBIS Rewards Purchase Terms of this Order Form.

Term of Service

Use of PBIS Rewards is subject to the **PBIS Rewards Platform Terms of Service**, and which is a part of this order. A copy of the PBIS Rewards Platform Terms of Service can be found at:

<https://www.pbisrewards.com/policies/platform-terms-of-service/>

The PBIS Rewards Platform Terms of Service covers the following: a) Acceptable Use; b) Student Data Privacy; c) FERPA; d) COPPA; e) PPRA; (f) ADA. Additionally, where applicable, it covers state-specific policies.

Accepted

To accept the terms of this proposal please sign and deliver this document to Navigate360, LLC dba PBIS Rewards via email at sales@pbisrewards.com or fax at 812-660-9040.

IN WITNESS WHEREOF, the parties have caused their respective duly authorized representatives to execute this Agreement in consideration of the promises and mutual covenants contained herein.

CUSTOMER SIGNATORY

Signature: _____

Name: _____

Date: _____

Title: _____

For: Summit View Academy**CUSTOMER BILLING INFORMATION**

A/P Contact Name: _____

A/P Phone: _____

A/P Email: _____

A/P Address: _____

City: _____

State/Territory: _____

Postal Code: _____

Purchase Order: _____

Sales Tax Exempt No. _____

Sales Tax Exemption Certificate must be attached.

Proposal No: nv-198898

Accurate Sales Tax will be added when applicable.

* Multi-year contract pricing is subject to pricing terms defined in the PBIS Rewards Purchase Terms of this Order Form.

Addendum A

Controlling Law, Venue and Legal Expenses, & Severability The parties hereby agree the provisions in section 8.9, 8.10, 8.11 of the PBIS Rewards Purchase Terms are not applicable. These provisions shall be replaced with the following:

All matters arising out of or relating to these Purchase Terms, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the State of Kentucky, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Kentucky.

Addendum A binding only upon acceptance by PBIS Rewards signified by signature.

PBIS REWARDS SIGNATORY

Signature:	<u>Nick Zoglman</u>
Name:	<u>Nick Zoglman</u>
Date:	<u>7/21/2023</u>
For:	<u>Navigate360, LLC dba PBIS Rewards</u>

Proposal No: **nv-199269**

Accurate Sales Tax will be added when applicable.

* Multi-year contract pricing is subject to pricing terms defined in the PBIS Rewards Purchase Terms of this Order Form.



a solution of  Navigate360

PBIS Rewards Purchase Terms

Date: January 6, 2023

1. Overview

These PBIS Rewards Purchase Terms ("**Purchase Terms**") apply to Services and Products purchased from Navigate360, LLC dba PBIS Rewards ("**PR**") through any Purchase Instrument including, but not limited to, a Purchase Order, a PBIS Rewards Order Form, or any other executed agreement or contract by a customer ("**Organization**").

2. Order Acceptance

PR reserves the right to reject an order placed by an Organization for any reason. PR will notify the Organization within 30 days of receipt of an order if PR is rejecting the order.

3. PBIS Rewards Service Terms and Requirements

If the Organization purchases the PBIS Rewards Service from PR, the Organization agrees to the definitions, terms, and requirements outlined in the sub-paragraphs for Paragraph 3.

3.1 Subscription Period

If the Organization is purchasing the PBIS Rewards Service for a single school year, the service will be available to the Organization from the time the Organization completes onboarding until a date 60 days past the last day of the Organization's school calendar for the school year listed in the Purchase Instrument ("**Subscription Period**"). If the purchase is for more than one school year, the Subscription Period will extend until 60 days past the last day of the last school year listed in the Purchase Instrument. This last day of the Subscription Period is the Expiration of Service Date. Unless otherwise agreed, any Subscription Period shall automatically renew for successive one-year terms unless either party provides written notice of nonrenewal to the other party at least 90 days prior to the end of the then-current Subscription Period. If either party provides timely notice of nonrenewal, then these Purchase Terms shall terminate on the expiration of the then-current Subscription Period, unless sooner terminated as provided in these Purchase Terms.

The service may have limited functionality from the period(s) between the last day of any school year and the beginning of the subsequent school year or the Expiration of Service Date. This limited functionality period is granted to the Organization for the purpose accessing and downloading year-end and other reports from the system so that Organization can archive these reports.

3.2 Data Archive Grace Period

Data will be archived for an additional 60 days past the Expiration of Service Date. After this Data Archive Grace Period, Data will be deleted, and it will not be possible to retrieve the Data or the reports created in PBIS Rewards. This Data Archive Grace Period exists since schools may have an extended break between the end of one school year and the beginning of the following school year.

3.3 Student Count

Pricing of the PBIS Rewards Service is based on the student count given to PR at the time of the sale and is expected to be the Organization's best estimate of the peak enrollment during the Subscription Period. If the number of active students exceeds the school estimate by amount greater than 5% for more than 30 consecutive days, PR has the right to invoice the Organization for the additional student count.

3.4 Student Requirements

Students are not required to have ID cards, but the PBIS Rewards smartphone apps are most effective when students have ID cards. The ID cards should have a QR code or Barcode that represents a numeric student ID number unique to each student. PR can provide Student ID Cards at an additional cost.

3.5 Primary Staff Contact

PR will provide access for the Organization's primary staff contact. If the Organization consists of multiple sub-organizations (e.g., schools within a school district), the Organization may assign different primary staff contacts for each sub-organization. The Organization's primary staff contact may provide authorization for additional staff members to perform administrative tasks associated with the PBIS Rewards application. Once access has been granted, the primary staff contact, or designees, will be responsible to ensure that all other staff members and students are granted access to the program. PR can assist in this process if issues arise, but the primary responsibility for granting access and setting permission levels for school staff members and students will rest with the Organization.

3.6 Desktop Web Portal Requirements

A computer capable of running a modern web browser with current software updates applied such as:

- Chrome (latest version)
- Microsoft Edge (latest version)
- Firefox (latest version)
- Safari (latest version)

The computer must have Internet access and be capable of communicating with the website <https://app.pbisrewards.com>. The PBIS Rewards service including the Smartphone Apps and the Desktop Web Portal are provided as a cloud-hosted solution.

3.7 Smartphone Apps Requirements

Any user who will use one of the PBIS Rewards Smartphone Apps must have a smartphone or device capable of running the applicable PBIS Rewards Smartphone App (Staff App, Student App, Family App). Devices supported include:

- iOS devices (latest version)
- Android devices (latest version)

PR will attempt, but not guarantee, to support the latest version of Amazon Fire devices. PR will attempt, but not guarantee, to support previous versions of the operating systems of these devices. Devices must be capable of communicating with the website <https://app.pbisrewards.com> over a Wi-Fi network or over a mobile data network.

3.8 ID Card Limitation

If the Organization is using ID Cards provided outside of the PBIS Rewards service, the Organization confirms that it has adequately tested its ID Cards with the PBIS Rewards Smartphone Apps for those platforms that Organization will be using. PR does not warrant that the Smartphone Apps will work with ID Cards that are not provided by PR or are not produced from the PBIS Rewards service. Although the Smartphone Apps generally work with other ID Card systems that use a barcode or QR Code, it is important that Organization test compatibility to ensure that the Apps work satisfactorily.

3.9 Limited Warranty

The Organization warrants that it has completed due diligence on the fitness of the PBIS Rewards service. PBIS Rewards warrants that the PBIS Rewards Service will work as outlined in the user documentation provided via the PBIS Rewards support site at <https://support.pbisrewards.com> and makes no implied warranties. PBIS Rewards will fix any Defect of operation of the software in a timely manner which will not extend beyond 60 days from the first discovery of the Defect. A Defect is any operation or non-operation of the software where it does not perform as described on the support website. Requests to change how the software operates will not constitute a Defect. Any warranty claim must be brought within 180 days from date of purchase for which PR may choose to either repair, replace, or refund the purchase price.

4. ID Card Purchase Terms and Requirements

If Organization purchases ID Cards from PR, the Organization agrees to the following terms. 1) PR will bill for the ID Cards in advance if the ID Cards are ordered at the same time as the PBIS Rewards service on the same Purchase Instrument. 2) PR will make reasonable effort to engage with the Organization before printing and shipping ID Cards. If Organization fails to participate in the review of the ID Cards, PR has the right to print and ship the ID Cards and the Organization agrees to pay the corresponding invoice for the ID Cards.

5. Training Engagement Terms and Requirements

If Organization purchases training services from PR, the Organization agrees to the definitions, terms, and requirements listed in these sub-paragraphs of Paragraph 5.

5.1 Training Definitions

Attendee is a person who is participating in a training course for the purpose of learning from the instruction and materials of the training course.

Training courses/sessions are either **Open** or **Organization-Specific**. **Open** training is training that is for the benefit of Attendees from any Organization. **Organization-Specific** training is training purchased specifically for and by a single Organization.

Self-Paced Training is training that is reviewed independently and at the Attendee's own pace. It does not include instructor time unless outlined in the description of the Self-Paced Training course. Access to the material may be limited to a time period with a start and end date/time. Some training materials may be accessible only through a training portal.

Virtual Training is instructor-led training provided to Attendees through a video conference platform such as Microsoft Teams, Zoom, or another platform chosen by PR that provides live video presentation. Unless specifically outlined in the purchase order, and agreed to by PR, video recording is limited to PR. Virtual Training is not self-paced training but has a schedule and all Attendees participate at the same time. Virtual Training is led by an instructor or instructors provided by PR.

Hosted Training is instructor-led live in-person training hosted by PR at PR's facility or a neutral-site facility arranged by PR, such as a hotel conference center. Hosted Training is led by an instructor or instructors provided by PR. Unless specifically outlined in the purchase order, and agreed to by PR, video recording is limited to PR.

Onsite Training is instructor-led live in-person training that is hosted at a facility provided by the Organization and led by an instructor or instructors provided by PR. It is almost always Organization-Specific. Unless specifically outlined in the purchase order, and agreed to by PR, video recording is limited to PR.

Hybrid Training is training that includes two or more training types from Self-Paced Training, Virtual Training, Hosted Training, and Onsite Training.

5.2 Self-Paced Training Requirements

If Organization purchases training that includes a Self-Paced Training component, the Organization agrees to make time available to the Attendees during the time period where the training material is available. The Organization will be responsible for ensuring that the Attendee(s) has/have a device and Internet access that is adequate for going through the training.

5.3 Virtual Training Requirements

If Organization purchases training that includes a Virtual Training component, the Organization agrees to allow Attendees to participate during the scheduled time of the events that make up the Virtual Training. The Organization will be responsible for ensuring that the Attendee(s) has/have a device and Internet access that is adequate for participating in the training.

5.4 Hosted Training Requirements

If Organization purchases training that includes a Hosted Training component, the Organization agrees to allow Attendees to participate during the scheduled time of the events that make up the Hosted Training. Attendees participating in Hosted Training are responsible for their own travel, housing, and meals Attendees must bring a

computer (laptop or computer-capable tablet) and hand-held device such as a smartphone. Ideally each Attendee has a mobile device and a computer. Computers can be shared, if necessary, but dedicated devices for each Attendee will provide the best experience. Hosted Training events are not recorded unless specified in the description of the training event.

5.5 Onsite Training Requirements

If Organization purchases training that includes an Onsite Training component, the Organization agrees to provide and/or furnish the following:

- Space suitable for training. This can be a classroom, library, auditorium, or other suitable facility.
- Electricity. Organization will provide extension cord(s) and power strips if required.
- Audio/visual equipment. PR will bring a computer with an HDMI output. A/V Equipment should accept HDMI as input and be capable of displaying the contents on a screen or large monitor such that all Attendees present for training can see the display and hear computer generated audio. If the room is large, please provide a microphone for the instructor.
- Internet access which can be wired and/or Wi-Fi available, with passwords, for use by PR in the training room. Please ensure that the Internet access is suitably open so that it can be used by the instructor.
- Suitable devices for using the PBIS Rewards service for all training Attendees. Ideally each Attendee has a mobile device and a computer. Computers can be shared, if necessary, but dedicated devices for each Attendee will provide the best experience.
- Contact information for a technology specialist that can troubleshoot any issues that may arise with Wi-Fi, audio, or device connectivity.
- Access to nearby restroom for all participants.
- Time and space allotted for lunch service to participants (30-60 minutes). This would also include trash removal at the end of the session.
- Training websites cleared through technology filters including YouTube. PR will provide URL links seven (7) days prior to the start of training.
- Contact person onsite at location at least 1 hour (night before would be best) to allow for instructors to set up session and test technology.
- Prompt attendance and professional courtesy is necessary, and appreciated, to effectively complete the full training. Delayed training sessions will result in decreased training content.

5.6 Scheduling

Training courses that are **Open** are scheduled by PR and published in advance of any purchases.

Training courses that are **Organization-Specific** are scheduled after purchase by the Organization and PR will work with Organization to schedule suitable dates. Organization is obligated to request the dates/times for training at least 30 calendar days in advance. PR will do its best to accommodate the dates requested, but the requested dates are subject to availability of PR training staff and are not guaranteed until confirmed by PR. If the requested dates are unavailable, PR will work with the Organization to schedule a date that works for both parties. Training must be scheduled and completed within the PBIS Rewards service subscription period. If training cannot be scheduled within the PBIS Rewards service subscription period, PR will work with Organization to substitute an equivalent.

5.7 Unused Training and Cancelled Training Events

PR will not pro-rate, refund, or credit unused training.

If a Training Event is cancelled due to an uncontrollable/unforeseen natural event, such as a National Weather Emergency or dangerous situation, all parties agree to reschedule the event with the same terms as stated in the original order. Organization shall not be responsible for any additional charge from PR. If the Organization cancels the scheduled training engagement more than 14 calendar days before the start of the Engagement Date, the Organization shall be responsible for 60% of the total charges for the Training. If the cancellation is within 14 calendar days or less of the start of the Engagement Date, the Organization agrees to pay the contract amount. In the event of an emergency with the scheduled instructor of PR (e.g., personal/family-related illness, accident, death), PR will make its best effort to send a similarly experienced instructor. If no instructor is available and PR must cancel the engagement, the Organization will be reimbursed the Deposit and will not be responsible for any of

the incurred expenses of PR. PR agrees to work with the Organization if there are extenuating circumstances outside of the control of the Organization that require rescheduling of the training.

6. Security Protocols

Both parties agree to maintain security protocols that meet industry standards in the storage, transfer, or transmission of any data, including ensuring that data and the PBIS Rewards platform may only be viewed or accessed by parties legally allowed to do so. Both parties agree to train staff members on security protocols and practices.

7. Billing and Payment

7.1 Billing

PR will bill for services upon receipt of an order. These terms apply regardless of how an organization places an order for the PBIS Rewards service or services or supplies related to PBIS Rewards.

The timing and frequency of invoices/statements are determined by the type of service provided to the Organization. These can include:

1. **PBIS Rewards Service and Related Subscription Services:** PBIS Rewards will bill for a partial or full school year and the coverage period will be clearly identified with a starting date and an ending date or a clear description of the school year. After the initial thirty days of service, the Organization is committed to the remaining time on the service it purchased and no refunds will be given. We do not require that the Organization finishes each term, and the Organization may terminate and close its account at any time without any additional charges or fees. However, we will not pro-rate any return for unused service. The Organization also understands that while no refund will be issued, it has the right to keep its account open for the full period for which it paid.
2. **Supplies:** Supplies include, but is not limited to, ID Cards and Lanyards. We may require a deposit of up to 100% before fulfilling an order.
3. **Training:** Training includes on-site training and virtual training. We may require a deposit of up to 100% before the first training session.

7.2 Taxes, Governmental Charges, Surcharges, and Fees

Taxes and other local, state and federally charged, imposed or authorized fees, charges and surcharges are not built into our rates, and therefore, will be included on Organization's invoice unless the Organization is a non-taxable entity and provides documentation as such. Organization agrees to pay all such amounts. These taxes, charges, surcharges and fees may change from time to time without notice.

7.3 Surcharges and Fees

Surcharges may be imposed if Organization has non-standard invoice delivery requirements and/or non-standard payment requirements, including, but not limited to, non-standard late payment requirements or non-standard payment methods. We reserve the sole right to classify invoice delivery and payment methods as standard and non-standard.

We reserve the right to amend, alter, or modify its invoice delivery and payment methods at any time in its sole and absolute discretion. Organization shall be given notice 60 days prior to any changes in invoice delivery methods or before the implementation of any Payment and/or Billing Surcharges.

7.4 Payment

Payments for charges are payable by Organization upon the due date of the invoice. ACH Organizations may be debited within 30 days following the mailing or emailing of an invoice. Credit card clients may be charged within 24 hours following the mailing or emailing of an invoice and are subject to a convenience fee of 2%. Organizations will be charged a \$25 NSF Fee when payments by check are returned for Non-Sufficient Funds.

After the Subscription Period, Organization agrees and understands that subscription services under these Purchase Terms shall be subject to an annual increase of the greater of 5% or CPI.

A monthly late payment charge of up to 1.5% per month on the balance due, and a minimum charge of \$10.00 per month, not to exceed the highest rate allowed by law, may be charged on any balance not paid by the due date.

Payment must be made to PBIS Rewards at the address set forth on the invoice. Organization agrees to pay our attorney's fees and expenses and other collection costs in the event collection or other enforcement efforts become necessary or appropriate in our discretion.

All payment amounts are in US Dollars (USD).

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7.5 Disputes

Any disputes must be communicated to us in writing within fifteen (15) days of receipt of our invoice and submitted with full payment of all undisputed charges.

7.6 Service Suspension

Services may be suspended if an account is past due. We will make reasonable efforts to notify Organization in advance of suspension, but advance notice to Organization by Us is not guaranteed nor required.

8. Legal

8.1 Copyright

All title, including, but not limited to, copyrights in and to the Services, other related materials, and any copies thereof are owned by PR. All rights not expressly granted are reserved by PR.

8.2 Termination by PBIS Rewards

PR may suspend or discontinue part or all of the Services or terminate any agreement immediately upon notice to Organization for any of the following reasons: (i) Organization fails to pay any invoice within 30 days from the date of invoice, provided PR gives Organization notice and an opportunity to cure its payment default within seven business days of such notice; (ii) Regulatory or other governmental actions which adversely affect the cost of providing the Services, determined in PR's sole discretion; (iii) Organization furnishes false or misleading customer information; (iv) Organization fails, in PR's sole discretion, to maintain satisfactory credit qualifications; (v) Organization fails to provide timely information or data necessary for activating the Services; (vi) Organization does not comply with any applicable software licensing agreements, if any; (vii) Organization becomes subject to voluntary or involuntary bankruptcy, insolvency, reorganization, or liquidation proceedings; makes an assignment for the benefit of creditors; or admits in writing its inability to pay its debts; or (viii) a Prohibited Use has occurred. In such cases, PR may terminate the applicable agreement or any portion of the Service.

8.3 Termination by Organization

Organization may terminate its use of the PBIS Rewards Service at any time and request that all data maintained by PR for the delivery of service be deleted. Notice shall be made in compliance with the Notice terms listed below. No refund for unused service will be given.

8.5 Limitation of Liability

In no event shall PR be liable for any damages including, without limitation, incidental or consequential damages that Organization alleges to have suffered as a result of the Services or the failure of the Services or any costs or expenses for labor or other expenses incurred by reason of the use of any defective goods, access interruption, or loss of information arising out of the use of or inability to use the Services, even if PR has been advised of the possibility of such damages. Any action for PR's breach of these and all terms associated with the PBIS Rewards Service must be commenced by Organization within 180 days after the cause of action occurs.

8.6 Damages Upon Termination

If PR at any time terminates the Service for any default by Organization, in addition to any other remedies PR may have at law or in equity, PR may recover from Organization all damages PR may incur by reason of such default.

8.7 Notice

All notices that are required or permitted to be given shall be in writing, duly signed by the party giving such notice, and transmitted either by personal delivery or by registered or certified mail with return receipt and postage prepaid. All such notices shall be effective immediately upon personal delivery or mailing to the addressee. The address of either party may be changed by notice to the other party given pursuant to this paragraph. For purposes of all notices or communications required or permitted, the addresses of the parties will be:

PR: Navigate360, LLC dba PBIS Rewards
3900 Kinross Lakes Parkway, STE 200
Richfield, OH 44286
United States

Organization: Address on Purchase Instrument.

Organization shall notify PR if legal notices should be sent to an address other than the Organization's address.

8.8 Waiver

No waiver by either party of any default in the performance of any part of any terms of any agreement, contract, or Purchase Instrument by the other party shall be deemed to be a continuing waiver of any future default or a waiver of any other default as provided under the terms.

8.9 Controlling Law

All matters arising out of or relating to these Purchase Terms, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the State of Ohio, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Ohio.

8.10 Venue and Legal Expenses

Each party irrevocably and unconditionally agrees that it will not commence any action or proceeding of any kind whatsoever against the other party in any way arising from or relating to these Purchase Terms and all contemplated transactions, in any forum other than a court situated in the State of Ohio. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees only to bring any such action or proceeding in such courts. Each party agrees that a final judgment in any such action or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

In the event of any litigation between Organization and PR, each Party agrees to bear its own attorney and legal fees except as outlined otherwise in this Purchase Terms agreement.

8.11 Severability

All terms and provisions in any agreement, contract, or purchase instrument are independent of one another and shall remain in force should a court or law in the State of Ohio declare one or more of any other term or provision void or unenforceable.

8.12 Authority

Individuals executing agreements, contracts, and purchase instruments on behalf of their Organization represent and warrant that they are duly authorized to execute such agreement, contract, or purchase instrument.



Kenton County School District | It's about ALL kids

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

VENDOR ASSURANCES REGARDING PROTECTION OF PERSONAL AND CONFIDENTIAL INFORMATION

Data Security and Breach Protocols

Vendors that 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 twenty-four (24) 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 twenty-four (24) 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.

Navigate360, LLC dba PBIS Rewards
Vendor Name

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Vendor Address

(812) 434-6685
Vendor Telephone

customerservice@pbisrewards.com
Vendor Email Address

Nick Zoglman
Signature by Vendor's Authorized Representative

Nick Zoglman
Print Name

7/10/2023
Date