



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

Issue Paper

DATE:

September 18, 2023

AGENDA ITEM (ACTION ITEM):

Consider/Approve the PSAT terms of service for Dixie and Simon Kenton High Schools for the 23-24 school year.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board

HISTORY/BACKGROUND:

PSAT, or Preliminary Scholastic Aptitude Test, is a standardized test that acts as a baseline for college readiness. PSAT measures math, reading and writing abilities and can assist students in qualifying for a National merit scholarship if they score high enough. PSAT transitioned to an electronic version for the 23-24 school year and is an elective test for students.

FISCAL/BUDGETARY IMPACT:

\$5,200 (School Instructional Funds-7000, Title I, ESSER)

RECOMMENDATION:

Approve the PSAT terms of service for Dixie and Simon Kenton High Schools for the 23-24 school year.

CONTACT PERSON:

Jena Smiddy


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.

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250 Vesey Street
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By phone: 212-713-8000

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These Terms shall be governed by the laws of the state of New York without regard to choice or conflict of law principles. All disputes arising from or related to these Terms shall be resolved exclusively in the state and federal courts located in New York County, New York State and you and College Board irrevocably consent to the jurisdiction of such courts. You and College Board expressly waive any right to a jury trial in any lawsuit arising from or related to this Agreement.

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Legal Terms for Students

1. ARE YOU A STUDENT OR AN EDUCATOR?

If you are a student (or parent or guardian), please read on, as the paragraphs below set forth the Legal Terms that apply to you. If you are an educator or administrator of an education institution or agency, the legal terms that apply to you are [here \(/educator-legal-terms\)](#). If you are neither a student nor an educator but wish to use College Board Services (as defined below) then for purposes of these Legal Terms you are a student and are subject to the terms below.

2. COLLEGE BOARD "RULES OF THE ROAD" FOR STUDENTS: LEGAL TERMS

Your ("**you**" or "**your**") purchase, registration, and/or use (collectively, "**use**") of College Board ("**we**" or "**us**" or "**College Board**") products and services including, but not limited to, www.collegeboard.org (<https://www.collegeboard.org>) and its subdomains and College Board assessments, programs, applications and mobile applications (collectively, "**College Board Services**"), are subject to the provisions below and the Service Specific Terms defined below (collectively, "**Legal Terms**"). If you use College Board Services on behalf of another person (for example, if you are a parent or legal guardian of a student registering for an assessment), these Legal Terms govern both you and the person on whose behalf you are acting. Your use of College Board Services including, without limitation, browsing our websites, constitutes acceptance of these Legal Terms. These Legal Terms are a legally binding contract between you and College Board so please review them carefully. These Legal Terms amend and replace the "Site Terms of Use."

Note that the section below entitled **DISAGREEMENTS BETWEEN YOU AND COLLEGE BOARD-ARBITRATION** contains an arbitration clause and class action waiver. This means that all disputes between you and College Board will be exclusively resolved through binding individual arbitration. Both you and College Board give up rights to have those disputes decided by a judge or jury, and both you and College Board give up rights to participate in class actions, class arbitrations, or representative actions.

3. ADDITIONAL RULES: SERVICE SPECIFIC TERMS

Your use of certain College Board Services may subject you to additional terms, conditions, and policies (collectively, "**Service Specific Terms**"), which you will be asked to review and agree to when you register for, or participate in, such services. These Legal Terms include and incorporate the Service Specific Terms to which you agree. If one or more of the provisions of Service Specific Terms are inconsistent with these Legal Terms, the provisions of the Service Specific Terms will control. Some of our Service Specific Terms are here:

- [SAT \(https://satsuite.collegeboard.org/sat/terms-conditions\)](https://satsuite.collegeboard.org/sat/terms-conditions)
- [PSAT \(https://satsuite.collegeboard.org/psat-nmsqt/terms-conditions\)](https://satsuite.collegeboard.org/psat-nmsqt/terms-conditions)
- [AP \(https://apstudents.collegeboard.org/exam-policies-guidelines/terms-conditions\)](https://apstudents.collegeboard.org/exam-policies-guidelines/terms-conditions)

4. YOUR GATEWAY TO COLLEGE BOARD SERVICES: YOUR ACCOUNT

Your College Board account is your personal gateway to College Board Services, including registering for assessments (SAT, CLEP and ACCUPLACER), looking up your test scores and sending them to higher education institutions, linking to your personal Khan Academy account,

using BigFuture (college and career planning services), applying for financial aid, joining AP Classrooms and Pre-AP Classrooms, and signing up for Student Search Service (described below).

You are responsible for maintaining the confidentiality of your username and password and for restricting other people's access to your College Board account. All activities that occur under your account or password are your responsibility. You may be held responsible for losses incurred by College Board due to someone else using your College Board ID, password, or account. You agree to promptly notify College Board in the event of any unauthorized use or compromise of your account.

You agree that all information you provide to College Board is true, accurate, and complete.

5. ABOUT YOU: YOUR PRIVACY

We recognize the importance of protecting your privacy! Our privacy policies are located at <https://privacy.collegeboard.org/> (/home) (collectively, "**Privacy Policies**") and are part of these Legal Terms. By using College Board Services, you're agreeing that we can collect and process your information in the ways described in our Privacy Policies.

6. HELPING COLLEGES AND SCHOLARSHIP PROGRAMS FIND YOU: STUDENT SEARCH SERVICE

If you decide to opt-in to our voluntary Student Search Service® ("**Search**"), we will share information about you which you provide to College Board, with participating accredited colleges, universities, nonprofit scholarship programs, and nonprofit educational organizations (collectively, "**Education Organizations**"). You can opt-out at any time! More information about Search is available at <https://bigfuture.collegeboard.org/student-search-service> (<https://bigfuture.collegeboard.org/student-search-service>) and at <https://privacy.collegeboard.org/privacy-statement> (/privacy-statement) ([/privacy-statement](https://privacy.collegeboard.org/privacy-statement)).

7. YOUR INFORMATION

Information, data, and other content that you provide to College Board or that is generated or collected through your use of College Board Services, including assessment scores (collectively, "**Your Information**"), belongs to you, except as you otherwise agree. Some College Board Services accessed via your personal College Board account, such as AP Classroom and Pre-AP Classroom, may be subject to the Federal Education Rights and Privacy Act (FERPA) and/or to other federal and state laws governing the collection, storage, use and disclosure of student data (collectively, "**Privacy Regulations**"). Subject to applicable Privacy Regulations, any other applicable law, our Privacy Policies, and any applicable Service Specific Terms, you grant College Board a perpetual, worldwide, royalty-free license to your Information. For example, if you opt-in to Student Search Service, we will share your Information only as permitted by the Terms of that Service and our Privacy Policies (see Section 6 above).

8. COLLEGE BOARD INTELLECTUAL PROPERTY (OUR STUFF)

All text, audio and video recordings, images, video, animations, content, materials, data, and other information included in, or made available to you, through College Board Services (collectively, "**Our Content**") is the property of College Board and/or third parties from whom College Board licensed it ("Licensors") and is protected by applicable United States and international copyright laws. Our Content may not be distributed, downloaded, uploaded, reproduced, reposted, retransmitted, disseminated, sold, published, broadcast, or circulated, or otherwise used, in part or in whole, in any way whatsoever without our express written permission. You may not attempt to decompile, reverse engineer, scrape or data-mine College Board Services or Content.

All trademarks and logos included in or made available through College Board Services ("**College Board Trademarks**") are owned by us or are used with permission by us from their respective owners. You may not use any College Board trademark, or any other trademark set forth in our Services without our express written consent.

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Some College Board Services include online or digital services (collectively, "**Digital Services**"). College Board grants you a limited, non-exclusive, revocable, and non-transferable license (permission) to access Digital Services to which College Board has granted you access. You are responsible for meeting and maintaining the minimum technical requirements to use Digital Services, such as with respect to devices, operating systems, and browser versions. Access to Digital Services may require internet access, for which College Board is not responsible. College Board Services may also be made available to you via a mobile device. Standard messaging, data and other fees may be charged by your carrier. Your carrier may prohibit or restrict certain mobile features and certain mobile features may be incompatible with your carrier or mobile device.

- View a list of [College Board's trademarks \(/copyright-trademark/college-board\)](http://copyright-trademark/college-board).
- Review the [guidelines for the use of College Board's trademarks \(/copyright-trademark/guidelines\)](http://copyright-trademark/guidelines).

9. THIRD-PARTY CONTENT (OTHER PARTY'S STUFF)

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10. YOU MAY USE OUR SERVICES FOR NON-COMMERCIAL USE ONLY

College Board Services are provided to you solely for your non-commercial use. This means, for example, you cannot use College Board Services to make money or as part of any test prep or other business. You will use College Board Services solely for their intended use and will not reproduce, duplicate, copy, sell, resell, use, or exploit College Board Services for any other purpose.

11. DIGITAL MILLENNIUM COPYRIGHT ACT NOTICE

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12. DISAGREEMENTS BETWEEN YOU AND COLLEGE BOARD-ARBITRATION

This Section 12 applies to the extent allowable by law and to the extent not already provided for in Service Specific Terms.

If you think we've done something wrong, please let us know and hopefully we can resolve your issues. But if we can't, then these rules will govern legal disputes between you and College Board involving College Board Services:

- a. All disputes between you and College Board that relate in any way to these Legal Terms or to College Board Services, but excluding claims that a party violated the intellectual property rights of the other party, shall exclusively be resolved by a single arbitrator through binding, individual arbitration administered by the American Arbitration Association ("AAA") under the AAA Consumer Arbitration Rules in effect at the time a request for arbitration is filed with the AAA. Copies of the AAA Consumer Arbitration Rules can be located at adr.org. Any dispute as to arbitrability shall be resolved by the arbitrator.
- b. Arbitration will be conducted on a documents-only basis (i.e., there will be no in-person or telephone hearing) unless otherwise agreed by the parties or required by the arbitrator. Should the parties agree to, or should the arbitrator require proceedings, such proceedings should be conducted at a location which is reasonably convenient to both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the parties agree that the proceedings will be conducted via a video or telephonic call or, in the event that face-to-face proceedings are agreed to by the parties or required by the arbitrator, at a location that is reasonably convenient to both parties in accordance with the AAA Consumer Arbitration Rules.
- c. The parties agree that the Federal Arbitration Act ("FAA") 9 U.S.C. § 1 et seq. governs this provision, and it is the intent of the parties that the FAA shall preempt all State laws to the fullest extent permitted by law. New York law otherwise applies to these Legal Terms, without regard to choice-of-law principles.
- d. No arbitration may be maintained as a class or collective action, and the arbitrator shall not have the authority to combine or aggregate the disputes of more than one individual, conduct any class or collective proceeding, make any class or collective award, or make an award to any person or entity not a party to the arbitration, without the express written consent of College Board.
- e. By agreeing to arbitration in accordance with this Section, you are waiving your right to have your dispute heard by a judge or jury.
- f. Each party will be responsible for its own fees and expenses and any legal fees incurred in connection with the arbitration. This does not preclude the arbitrator from granting relief in accordance with AAA Consumer Arbitration Rules.

13. GOVERNING LAW, VENUE AND WAIVER OF JURY TRIAL

These Legal Terms shall be governed by the laws of the state of New York without regard to choice or conflict of law principles. All disputes arising from or related to these Legal Terms that are not subject to arbitration under the arbitration sections above shall be resolved exclusively in the state and federal courts located in New York County, New York State and you and College Board irrevocably consent to the jurisdiction of such courts. You and College Board expressly waive any right to a jury trial in any lawsuit arising from or related to these Legal Terms.

14. LIMITATION OF LIABILITY AND DISCLAIMER OF WARRANTIES (LIMITS TO WHAT/HOW MUCH YOU CAN SUE US FOR)

a. Limitation of College Board's Liability

EXCEPT TO THE EXTENT FINALLY DETERMINED TO BE PROHIBITED BY LAW, COLLEGE BOARD'S TOTAL LIABILITY TO YOU OR ANYONE CLAIMING BY OR THROUGH YOU OR ON YOUR BEHALF, FOR ANY CLAIMS, LOSSES, COSTS, OR DAMAGES ARISING OUT OF OR RESULTING FROM OR IN ANY WAY RELATED TO COLLEGE BOARD, COLLEGE BOARD SERVICES INCLUDING, WITHOUT LIMITATION, ANY TEST ADMINISTRATION BY COLLEGE BOARD, FROM ANY CAUSE, SHALL NOT EXCEED THE REGISTRATION FEES YOU PAID FOR THE PARTICULAR COLLEGE BOARD SERVICES GIVING RISE TO THE DISPUTE OR \$100.00, WHICHEVER IS GREATER. IN ADDITION, COLLEGE BOARD WILL NOT BE LIABLE IN ANY EVENT FOR ANY CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES.

b. Disclaimer of Warranties

COLLEGE BOARD MAKES NO WARRANTIES REGARDING COLLEGE BOARD SERVICES INCLUDING WITHOUT LIMITATION (I) THAT A TESTING EXPERIENCE WILL BE UNINTERRUPTED OR ERROR FREE; (II) THAT USING BIGFUTURE (COLLEGE AND

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15. **SPECIAL CONDITIONS FOR INTERNATIONAL USE AND EXPORTS**

You may not use or export or re-export any Content or any copy or adaptation of such Content, or any College Board Services, in violation of any applicable laws or regulations, including without limitation United States export laws and regulations.

16. **CHANGES, AND SEVERABILITY**

College Board reserves the right to make changes to these Legal Terms at any time. You are responsible for reviewing and becoming familiar with any changes to these Legal Terms. Your use of College Board Services following such changes constitutes your acceptance of the updated Legal Terms. Should any provision of these Legal Terms be held to be void, invalid, unenforceable, or illegal by a proper legal authority, the validity and enforceability of the other provisions shall not be affected and, to the extent possible, the void, invalid, unenforceable, or illegal provision shall be modified so that it is valid, enforceable, and legal, and to the fullest extent, reflects the intention of the parties.

17. **FORCE MAJEURE**

We shall not be held liable for any delay or failure in our performance of any part of College Board Services by reason of any cause beyond our reasonable control, whether specifically listed below or not, and including without limitation, acts of God, acts of civil or military authority, government regulations, laws, embargoes, epidemics, pandemics, public health emergencies, war, terrorist acts, riots, fires, explosions, earthquakes, nuclear accidents, floods, hurricanes, tornadoes, major storms, extreme weather events, public unrest, strikes, power or telecommunications outages, ransomware or hacker attacks, website outages or other incidents affecting College Board, or acts or omissions of our vendors, suppliers, or common carriers.

18. **SURVIVAL**

Your obligations under these Legal Terms, which by their nature would continue beyond the termination of College Board Services, will remain in effect even after your access to the College Board Services are terminated, or your use of College Board Services ends.

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College Board

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2. ADDITIONAL TERMS: SERVICE SPECIFIC TERMS

Your use of certain College Board Educator Services may require you to agree to additional terms, conditions, and policies (collectively, “**Service Specific Terms**”) which you will be asked to review and agree to when you register for, or participate in, such services. These Terms include and incorporate the Service Specific Terms to which you agree. College Board Educator Services that require your agreement to Service Specific Terms include, but are not limited to, AP Classroom, Assessment Reporting for K-12 Educators and Higher Ed Educators, Student Search Service and PowerFAIDS. If one or more of the Service Specific Terms are inconsistent with these Terms, the provisions of the Service Specific Terms will control.

3. PROFESSIONAL ACCOUNTS

To access College Board Educator Services, you must create a professional account, which is subject to these Terms. Access credentials (such as username and password) to professional accounts must be kept confidential and may not be shared with anyone else. If you are no longer authorized by your Institution to use College Board Educator Services and/or if you cease to be employed by the Institution you identified when creating your professional account, and/or you cease to be Weekend Testing Staff (and you are not currently using other College Board Educator Services), you must immediately discontinue use of your professional account and/or notify your Institution so that they may disable your access to College Board Educator Services. You must promptly notify College Board in the event of any unauthorized use or compromise of your account.

Via your professional account, you may be able to share or delegate access to certain College Board Educator Services to other Education Professionals ("**delegate access**"). For example, you may be able to delegate access to other Education Professionals to view student data of your Institution and/or to allow other Education Professionals to financially bind your Institution. However, you may only delegate access if you have been so authorized by your Institution, and you may only delegate access to Education Professionals who are duly authorized by your Institution. If an Education Professional to whom you delegated access is no longer authorized for such access, or is no longer employed by the Institution, you must promptly notify College Board.

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You may use College Board Educator Services only for their intended uses and in compliance with all applicable laws. You may not: (i) impair or attempt to impair the performance, availability or accessibility of College Board Educator Services, (ii) harm, reverse engineer or gain unauthorized access to user accounts or the technology and equipment supporting College Board Educator Services, (iii) act unlawfully, illegally, fraudulently or harmfully with respect to College Board Educator Services, (iv) enter or supply incomplete, false, or misleading information, impersonate another person or misrepresent your affiliation with an Institution, or (v) reproduce, duplicate, copy, sell, resell, use or exploit College Board Educator Services for any commercial purpose or any other purpose outside of its intended use.

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Attn: Legal - Copyright Agent
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By phone: 212-713-8000

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12. SPECIAL CONDITIONS FOR INTERNATIONAL USE AND EXPORTS

You may not use, export or re-export any Content or any copy or adaptation of such Content, or any College Board Educator Services, in violation of any applicable laws or regulations, including without limitation, United States export laws and regulations.

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College Board reserves the right to make changes to these Terms at any time. You are responsible for reviewing and becoming familiar with any changes to these Terms. Your use of College Board Services following such changes constitutes your acceptance of the updated Terms. Should any provision of these Terms be held to be void, invalid, unenforceable, or illegal by a proper legal authority, the validity and enforceability of the other provisions shall not be affected and, to the extent possible, the void, invalid, unenforceable, or illegal provision shall be modified so that it is valid, enforceable, and legal, and to the fullest extent, reflects the intention of the parties.

14. FORCE MAJEURE

College Board shall not be held liable for any delay or failure in performance of any part of College Board Educator Services by reason of any cause beyond our reasonable control, whether specifically listed below or not, and including without limitation, acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, pandemics, public health emergencies, war, terrorist acts, riots, fires, explosions, earthquakes, nuclear accidents, floods, hurricanes, tornadoes, major storms, extreme weather events, public unrest, strikes, power or telecommunications outages, ransomware or hacker attacks, website outages or other incidents affecting our facilities, or acts or omissions of our vendors, suppliers, or common carriers.

15. SURVIVAL

Your obligations under these Terms, which by their nature would continue beyond the termination of College Board Educator Services, will remain in effect even after your access to the College Board Educator Services is terminated, or your use of College Board Educator Services ends.

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