

# EXHIBIT A

# BUSD Instructional Software Review and Approval Process

## Summary

In order to ensure that the Instructional Software Resources (ISR) used in Berkeley Unified School District (BUSD) classrooms are accessible for all students, provide necessary protections for student privacy and security, are aligned with the instructional program and are compatible with student technology systems, BUSD is implementing a structured review and approval process for ISR.

## Background

For the purposes of this document, ISR is defined as an online resource which students must directly interact with in order to access their curriculum or which stores personally identifiable student information such as student names or student work.

Content created on an unapproved ISR may be utilized if that content is accessed through an approved ISR. For instance, a teacher may use a program to create videos, and that program may have a video viewer that does not presently meet the necessary WCAG accessibility requirements. However, teachers may create videos using this program and then move those videos to Google Drive, which has an accessible video player.

The use of ISR is subject to multiple state and federal regulations and California Education Code. These include:

- **The Children's Online Privacy Protection Act (COPPA):** Requires parental consent for use by minors before collecting personal information, school districts may provide the consent in lieu of parents and provide notification.
- **The Children's Internet Protection Act (CIPA):** Requires districts to shield students from obscene or harmful content.
- **Family Educational Rights and Privacy Act (FERPA):** Protects and limits access to student records, which may include assignments and assessments completed by students through online systems.
- **Student Online Personal Information Protection Act (SOPIPA):** Outlines extensive privacy requirements for vendors marketing products used for K-12 school purposes.
- **California Education Code § 49073.1:** Requires vendors contracted by districts for ISR to have contracts in place guaranteeing compliance with security and privacy restrictions.
- **Title II of the Americans with Disabilities Act (ADA):** Prohibits discrimination against students with disabilities in services, programs or activities provided by the district.

- **Section 504 of the Rehabilitation Act (504):** Prohibits discrimination against students with disabilities including accessibility of communications and websites.
- **California Government Code § 7405 (Gov. Code 7405):** mandates compliance with Web Content Accessibility Guidelines (WCAG) 2.0 for state and local government entities.

The process of evaluating ISR for compliance with all applicable standards and regulations requires technical expertise in a variety of areas, necessitating review by subject-matter experts in the district's Educational Services department and the Technology Services department.

## Process Overview

The district will maintain a publicly accessible website listing of all approved ISR. The website will provide a complaint mechanism for community members who feel that an approved ISR is not compliant. For resources which are not on this list, staff must submit an [Instructional Software Approval Request Form](#) before use or purchase. The request will be concurrently reviewed by designated staff in the Educational Services, Special Education and Technology Services departments. If all departments approve the request then Technology Services staff will add the ISR to the approved ISR website with a link to a "Software Approval Certificate" which must accompany any purchase orders. If the software fails the review and approval process, it must not be used in the classroom. Purchasing staff will be instructed to deny any ISR purchase request which does not have a Software Approval Certificate attached.

## Review and Approval Process

ISR requests will be evaluated against four criteria:

- Compliance with Student Privacy Requirements
- Compatibility with Student Technology Systems
- Curriculum Alignment
- Accessibility

### Accessibility

The Superintendent shall designate a Digital Accessibility Officer (DAO) who shall in turn establish the Accessibility Review Process (ARP). The ARP shall be aligned with the most current adopted [Web Content Accessibility Guidelines \(WCAG\)](#) of the [Web Accessibility Initiative \(WAI\)](#). The DAO will review ISR for alignment with the Digital Accessibility Standards utilizing non-automated testing results produced by the vendor or internal evaluation. In situations where the software fails the Accessibility Review Process, the requester may submit a formal appeal. The appeal must

- Demonstrate compliance with Section 508 standards, 39 C.F.R. pt. 1194
- or

- Identify the exception as listed in Section 508 standards appendix A E202 and the alternative means that will be used to provide individuals with disabilities access to and use of information and data as specified in Section 508 standards appendix A E202.

## Compliance with Student Privacy Requirements (Technology Services)

Berkeley Unified School District has joined the California Student Privacy Alliance, which provides a standardized California Student Data Privacy Agreement (CSDPA) with ISR vendors to ensure compliance with all applicable state and federal regulations. Vendors signing a CSDPA may opt to allow other districts to attach themselves to the agreement through the execution of Exhibit E. Where the vendor agrees to sign a CSDPA or provide the appropriate Exhibit E for their ISR it shall be determined to be in compliance with Student Privacy Requirements and added to the [Berkeley Unified CSPA Page](#).

In cases where the vendor is unwilling or unable to provide a signed CSDPA, the district will undergo a review of the vendor's contract and written privacy policies to determine whether their product is in compliance. After this determination is made, the vendor will be added to the [Berkeley Unified CSPA Page](#) with a status of "District Vetted" or "Not Approved."

## Compatibility with Student Technology Systems (Technology Services)

Technology Services will review the ISR technical requirements to ensure that the system is compatible with the appropriate student equipment and accounts and can be accessed through the district network systems.

## Curriculum Alignment (Educational Services)

Educational Services shall review the ISR to ensure that digital curriculum resources are in alignment with Board Policy 6141.

After all reviews are completed, the Technology Services department will notify the requester of the status and provide a Software Approval Certificate, if appropriate. If a purchase request is being prepared for this ISR, the requester will attach the Software Approval Certificate to the request. No purchase order for ISR shall be processed which does not have a Software Approval Certificate attached.

## References

California Student Privacy Alliance. (n.d.) *California Student Privacy Alliance Resources*. [https://sdpc.a4l.org/view\\_alliance.php?state=CA](https://sdpc.a4l.org/view_alliance.php?state=CA)

Perez, Thomas E. (2010, July 21) *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations*. <https://www.federalregister.gov/documents/2010/07/26/2010->

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US Department of Education. (2020, January 16) *Technology Accessibility*. <https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/dis-issue06.html>

US Department of Justice, Civil Rights Division. (n.d.) *Information and Technical Assistance on the Americans with Disabilities Act*. [https://www.ada.gov/ada\\_title\\_II.htm](https://www.ada.gov/ada_title_II.htm)

Web Accessibility Initiative. (n.d.) *Making the Web Accessible*. <https://www.w3.org/WAI/>

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