

CONTRACT AMENDMENT NUMBER 2

I. PARTIES

This Amendment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between Amplify Education, Inc., 55 Washington Street, Suite 900, Brooklyn, NY 11201-1071, (hereinafter called Contractor), and the State of Colorado (hereinafter called the State) acting by and through the Colorado Department of Education (hereinafter called CDE), 201 East Colfax, Denver, Colorado 80203.

II. EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the Effective Date). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

III. FACTUAL RECITALS

The Parties entered into the Contract to implement the use of an early literacy assessment tool that teachers may use to conduct real-time assessments of the reading skill levels of students enrolled in kindergarten through third grades and, based on the assessment results generate intervention plans and materials. The purpose of the amendment is to provide for additional training sessions, content, and materials needed for the early literacy assessment tool.

IV. CONSIDERATION-COLORADO SPECIAL PROVISIONS

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment. The Parties agree to replacing the Colorado Special Provisions with the most recent version (if such have been updated since the Contract and any modification thereto were effective) as part consideration for this Amendment.

V. LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

VI. MODIFICATIONS

The Amendment and all prior amendments thereto, if any, are modified as follows:

A. Paragraph IV., shall be amended by adding the following definitions:

“mCLASS DIBELS Deep” means an advanced assessment tool designed to provide additional in-depth information to help improve instruction for students who have not yet reached their grade-level benchmark goals, or for students who may have met some benchmark goals but are inaccurate in their skills and to provide educators with specific and detailed information for differentiating instruction corresponding to each of the key basic early literacy skills: phonological awareness, alphabetic principle, accuracy and fluency with connected text, comprehension, and vocabulary.

“Personally Identifiable Information (PII)” 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; 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; or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

PII also means a dataset that is linked to a specific individual that would allow a reasonable person in a school community, who does not have knowledge of the relevant circumstances, to identify the individual with reasonable certainty.

- B. Paragraph V.A. shall be amended by extending the performance period through June 30, 2016.
- C. Paragraph VII.A.2. shall be amended by adding “mCLASS: DIBELS Deep” to the list of tools collectively defined therein as “Early Literacy Assessment Tool” or “the Products” provided to CDE under the Contract.
- D. Paragraph VII.D. shall be amended by adding the following new Paragraph VII.D.8:
8. Contractor shall provide the following training and professional development services for the period July 1, 2014 to June 30, 2016 as directed by CDE. The number of sessions for each type of professional development shall be mutually determined by CDE and Contractor based in part on the number of licenses purchased in accordance with Exhibit C-1.

Professional Development Type	Session Length	Participant Maximum	Type of Participant	Materials
One Day DIBELS Next Training of Trainers	6 hours	25	Local Trainer	Participant Training of Trainers notebook
Two Day DIBELS Next Training of Trainers	6 hours	25	Local Trainer	Participant Training of Trainers notebook
Online DIBELS Next Training Course	Self-paced	N/A	Local Trainer; Principal	DN Online access
Taking Action with Data (Benchmark or Progress Monitoring Focus)	6 hours	25	Local Trainer; Principal	Participant ToT notebook
Webex Trainings	1 - 3 hours	12	Local trainer; Principal	None
Master Trainer Package	1 three day session 2 one day sessions	25	Lead teachers	Participant ToT notebook

Professional Development Type	Session Length	Participant Maximum	Type of Participant	Materials
Reporting and Analysis Suite Training Session	3 hours	25	Principals; District leadership	Participant Handouts
Instructional Leaders Training Session	6 hours	25	Principals; District leadership	Participant Handouts
DIBELS Deep Training of Trainers	6 hours	25	Local trainer; Principal	Participant ToT notebook
Half Day Onsite School Visit	3 hours	25	School staff	Varies according to onsite focus.
Full Day Onsite School Visit (at a single site)	6 hours	25	School staff	Varies according to onsite focus.
Professional Learning Map	N/A	N/A	School staff	Web Access

- E. Paragraph VIII.A. shall be amended by increasing the maximum amount payable to Contractor by the State by \$2,679,484 for the period July 1, 2014 to June 30, 2015 for a total maximum amount payable of \$5,679,484.
- F. Paragraph VIII.C. shall be amended by adding the following payment schedule and performance measures for the period July 1, 2014 through June 30, 2015:

Payment Schedule:

1. June 30, 2014: Contractor may invoice for fifty percent (50%) of Total Fees
2. September 30, 2014: Contractor may invoice for twenty percent (20%) of Total Fees.
3. December 31, 2014: Contractor may invoice for ten percent (10%) of Total Fees and the cost of DIBELS Deep licenses and kits as set forth in Exhibit C-1. The number of licensed students will be adjusted based on October enrollment, and the December invoice will reflect that adjustment.

4. March 31, 2015: Contractor may invoice for ten percent (10%) of Total Fees (performance holdback 1). Payment shall be made based on successful completion of the professional development and support metrics set forth in paragraphs VIII.C.6.a.1)a) and b) below.
5. June 30, 2015: Contractor may invoice for remaining ten percent (10%) of Total Fees (performance holdback 2). Payment shall be made based on successful completion of the metrics set forth in paragraphs VIII.C.6.a.2)a) through d) below
6. Performance Measures

Pursuant to Section 22-2-141, C.R.S., CDE must include performance measures as conditions affecting the amounts payable under the Contract. Twenty (20%) of the amount payable under the Contract and/or continuation of a contract is contingent upon the quality of the professional development, quality of support as indicated by improving student reading achievement, and implementation of an ongoing, iterative performance improvement cycle as determined by and in partnership with the CDE.

- 1) Ten percent (10%) of the total Contract amount will be paid in March 2015, based on successful completion of the following professional development and support metrics:
 - a) Five percent (5%) of the total Contract will be paid based on the delivery of an annual project plan, monthly status reports, assessment kit delivery and the implementation of participating schools
 - b) Five percent (5%) of the total Contract will be paid based on delivery of the professional development sessions outlined in Paragraph VII.D.5. above.
- 2) Ten percent (10%) of the total Contract amount will be paid in June 2015, based on successful completion of the following metrics:
 - a) Four percent (4%) of the total Contract will be paid based on an end of year one (2014-15) customer satisfaction rate of at least seventy five percent (75%) satisfactory rating from teachers and administrators on a survey developed by CDE and the Contractor.
 - b) Four percent (4%) of the total Contract will be paid based on the end of year one (2014-15 school year) schools using the assessment achieving ninety percent (90%) benchmark fidelity as measured by M-class: DIBELS next assessment.

- c) Two percent (2%) of the total Contract will be based on student outcome results, using aggregated DIBELS Next composite score data from the Beginning and End of Year Benchmark administrations. Contractor shall achieve a fifteen percent (15%) reduction in the percentage of students categorized as “high risk” by the DIBELS Next assessment in schools implementing the program with fidelity.

Schools are defined as implementing the program with fidelity if they maintain a 90% or higher completion rate at all three times of year (beginning of year, middle of year and end of year). Students are defined as "high risk" if their composite score at beginning of year is low enough to place them in the "well below benchmark" performance level for that grade and time of year. For the purposes of measuring the change in the number of high risk students at End of Year, only students assessed at all three benchmark periods (matched cohort) and who received at least two progress monitoring sessions on their skill deficiencies during each semester in which they were considered to be "well below benchmark" will be considered.

- G. Paragraph XI. shall be amended by adding the following new Paragraphs XI.G. through XI.L.:

- G. Protection

If Contractor provides physical or logical storage, processing or transmission of confidential or sensitive State data, Contractor shall provide, and shall cause its Subcontractors to provide, physical and logical protection for State hardware, software, applications and data that meet or exceed industry standards applicable to such categories of data and requirements as set forth in the Contract. Contractor shall cooperate with the State in any forensic investigation conducted in connection with the unauthorized access and use of the State’s legally protected data or PII. Contractor, if it retains, stores, or is given legally protected information or PII, at all times shall maintain, and shall cause its Subcontractor’s to maintain, network, system, and application security, which includes network firewalls, intrusion detection, and annual security testing. Contractor, if it retains, stores, or is given legally protected or PII, shall comply and shall cause its Subcontractors to comply, with State and federal regulations and guidelines applicable to such categories of data related to security, confidentiality and auditing, including but not limited to regulations and guidelines issued by the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g and 34 CFR Part 99. Contractor, if it retains, stores, or is given legally protected or confidential information shall use commercially reasonable measures to ensure,

and shall cause its Subcontractors to ensure, that security is not compromised by unauthorized access to computers, program, software, databases, or other electronic environments and shall promptly report all breaches or suspected breaches to a representative of the OIS. Neither Contractor nor its Subcontractors shall have any rights to use or access any OIT or other State agency legally protected data or PII, except with the prior approval of the State. Contractor shall review, on a semi-annual basis, the Colorado Cyber Security Program (CCSP), posted at <http://www.colorado.gov/cs/Satellite/Cyber/CISO/1207820732279>, and its related documents, including its policies and procedures to ensure compliance with the standards and guidelines published therein. Contractor shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS for applications and systems that are owned, delivered to and/or controlled by the State. Contractor shall follow, and shall cause its Subcontractors to follow, the State's Data Handling and Disposal policy, which can be found at www.colorado.gov/oit/security_policies. Contractor shall perform, and shall cause its Subcontractors to perform, in a form reasonably acceptable to the State, current background checks on all of its respective employees and agents performing services or having access to State confidential information provided under the Contract.

A background check shall be performed prior to granting access to confidential information and repeated annually.

H. Security-Notice

Contractor is responsible for the security of all legally protected information (including PII) provided to it by the State. If such information is provided to Contractor or any Subcontractor by the State, Contractor shall comply with and shall cause its Subcontractors to comply with the State's Cyber Security Policies, which the OIS has promulgated pursuant to CRS §§24-37.5-401 through 406 and 8 CCR Section 1501-5. The Policies are posted at <http://www.colorado.gov/cs/Satellite/Cyber/CISO/1207820732279>.

I. Security Breach Remediation

If Contractor becomes aware of a data security breach, it shall notify the State promptly and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, if any. Unless Contractor can establish that Contractor or any of its Subcontractors is not the cause or source of the breach, Contractor shall be responsible for the cost of notifying each Colorado resident and residents of other states whose personal information may have been compromised. Notice shall be made as soon as possible within the legitimate needs of law enforcement and according to the requirements of the State. Contractor shall be responsible for performing an analysis to determine the cause of the breach, and for producing a remediation plan to reduce the risk of incurring a similar type of breach in the future. Contractor shall present such analysis and

remediation plan to the State within ten (10) days of notifying the State of the data security breach. The State reserves the right to adjust this plan, in its sole discretion. If Contractor cannot produce the required analysis and plan within the allotted time, the State, in its sole reasonable discretion, may perform such analysis, produce a remediation plan, and Contractor shall reimburse the State for the reasonable costs thereof. A breach of PII shall have occurred when there has been unauthorized acquisition of unencrypted PII data (electronic or otherwise) used in performance of the Contract, or any subcontract from the Contractor's or any Subcontractors possession which compromises security, confidentiality, or integrity of such PII. Contractor agrees to be liable for any unauthorized disclosure of PII in its possession or in the possession of its Subcontractors as if Contractor was the owner of the data and the primary cause of such compromise (through its own act or omission or that of a subcontractor). Contractor acknowledges that any breach of PII is a material breach of the Contract. Contractor shall notify the State immediately of any breach or suspected breach, but in no event later than twenty-four (24) hours after Contractor learns of suspected breach. The State may establish required remediation procedures and Contractor shall comply without limitation as reasonably directed by the State. Contractor shall bear all costs of such remediation.

J. End of Agreement Data Handling

Upon request by the State made before or within sixty (60) days after the effective date of termination of the Contract, Contractor will make available to the State a complete and secure (i.e. encrypted and appropriately authenticated), download file of all system data in .csv format, and/or delimited text files. The Parties agree that on the termination of the provision of data processing services, the Contractor shall, at the choice of the State, return all the personal data transferred, and the copies thereof to the State, or shall destroy all the personal data and certify to the State that it has done so, unless legislation imposed upon the Contractor prevents it from returning or destroying all or part of the data transferred. In that case, the Contractor warrants that it will guarantee the confidentiality of the data transferred and will not actively process the data transferred anymore.

K. Disposition of Data

The State retains the right to use the established operational services to access and retrieve State data content stored on Contractor's infrastructure at its sole reasonable discretion. The State reserves all right, title and interest, including all intellectual property and proprietary rights, in and to system data and content.

L. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under the

Contract, Contractor shall provide for the security of such PII, in a form acceptable to the State, including, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. Contractor shall take full responsibility for the security of all data in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof, except to the extent that the such disclosure or loss was caused by the State or parties within its control.

- H. New Exhibit C-1 (Payment and Fee Schedule) shall be added to cover payments for the period July 1, 2014 through June 30, 2015.
- I. Exhibit D (Contractor's Security Measures) shall be replaced by the DataPipe Report for the period July 16, 2012 to July 15, 2013, attached hereto and incorporated herein by reference.

VII. START DATE

This Amendment shall take effect on the later of its Effective Date or July 1, 2014.

VIII. ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

IX. AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.

CONTRACTOR
Amplify Education, Inc.

By: Richard Morris, Vice President
~~Krista Curran~~

Title: ~~Senior Vice President and General Manager~~



*Signature

STATE OF COLORADO

John W. Hickenlooper, GOVERNOR

Colorado Department of Education
Robert Hammond, Commissioner



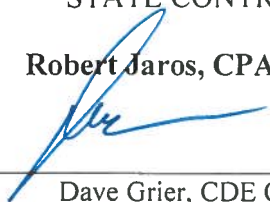
By: Robert Hammond, Commissioner

Date: 6-25-14

ALL CONTRACTS REQUIRE APPROVAL by the STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: 

Dave Grier, CDE Controller

Date: 6-26-14

**EXHIBIT C-1
FEE AND PAYMENT SCHEDULE FOR THE PERIOD
JULY 1, 2014 THROUGH JUNE 30, 2015**

	Year 1 Completed	Year 2	Year 3	Year 4	Year 5
Per Licensed Student cost up to 20,000 Licensed Students	R* \$22.50	R* \$22.50	\$19.25	\$19.25	\$19.25
	N* \$23.25	N* \$23.25	\$20.00	\$20.00	\$20.00
Per Licensed Student cost 20,001- 50,000 Licensed Students	R* \$22.50	R* \$22.50	\$19.25	\$19.25	\$19.25
	N* \$23.25	N* \$23.25	\$20.00	\$20.00	\$20.00
Per Licensed Student cost 50,001- 80,000 Licensed Students	R* \$22.50	R* \$22.50	\$19.25	\$19.25	\$19.25
	N* \$23.25	N* \$23.25	\$20.00	\$20.00	\$20.00
Per Licensed Student cost over 80,000 Licensed Students	R* \$21.50	R* \$21.50	\$18.25	\$18.25	\$18.25
	N* \$22.25	N* \$22.25	\$19.00	\$19.00	\$19.00

Notes:

1. N* = new schools and R* = returning schools. The rationale for this distinction is that assessment materials are a one-time purchase in the first year of a school's implementation; professional services are included in new and returning cost.
2. DIBELS Next materials are provided as a one-time inclusion in the per student license fee for new schools. Each new school will receive one kit per grade (total of four kits).
3. Professional services are included in the per student license fee for new and returning schools. Pricing for year 2 has been amended to reflect CDE's request to include the professional services embedded into year 1 pricing, for a second year, at \$4.35 per student. Pricing for years 3 to 5 does not include that level of professional services at this time.

4. Pricing does NOT include teacher mobile devices utilized for assessment administration. Contractor advises that LEAs or schools bear this cost. LEAs and schools would then have the flexibility to choose hardware that meets local technology requirements and bear the responsibility to adequately maintain, secure, and repair hardware.
5. Pricing assumes once student enrollment reaches a given volume, the per-student cost for that volume tier applies to all students. By way of example, if in year 2, enrollment reaches over 80,000 students, Returning price would be \$21.50 per student for any returning students and New price would be \$22.25 for any new students.
6. After student licenses have been paid, CDE may use the remaining funds up to the contract cap to purchase DIBELS Deep licenses, kits and additional professional development.

Item	Fee	Payment schedule
<p>DIBELS Deep licenses</p> <p>This pricing reflects a first-year discount and will be subject to change in future years</p>	<p>\$0.85 per student</p>	<p>December 2014</p>
<p>DIBELS Deep kits (including phonemic (PA) awareness, word reading and decoding (WRD) and comprehension and oral language fluency (CFOL) measures)</p> <p>PA and WRD measure materials are currently available. CFOL materials are not yet available from authors and will be provided when available.</p> <p>Fee applies to the kits purchased under this amendment in 2014-15 only, as the cost is subject to change.</p>	<p>\$55.00 per kit (all inclusive for purchases after CFOL becomes available)</p>	<p>December 2014</p>
<p>DIBELS Deep kits comprehension and oral language fluency (CFOL) measures</p>	<p>\$25.00 per kit (applicable as an additional fee for DIBELS Deep kits purchased and delivered in the 2013-2014 school year).</p>	<p>December 2014</p>

Item	Fee	Payment schedule
Additional professional development		As provided or ordered, on a quarterly basis