

**CONTRACT AMENDMENT NO. 4**

**1. 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, acting by and through the Colorado Department of Education, 201 East Colfax, Denver, Colorado 80203 (hereinafter called "Department" or "State.")

**2. 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 Department 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.

**3. FACTUAL RECITALS**

The Parties entered into the Contract for Contractor 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 this Amendment is to extend the Contract to June 30, 2017, add funding for the extension, update payment and fee schedules, update the training and professional services tables, and add additional privacy and security language regarding transparency.

**4. CONSIDERATION**

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.

**5. 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.

**6. MODIFICATIONS**

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

**A. Paragraph IV., Definitions, shall be amended by adding the following definition:**

"Covered Information" means Personally Identifiable Information (PII) and Student Data in any media or format that is created or provided by the State, a school district, a local education agency, a student, or the student's parent or legal guardian to a Contractor in the course of the student's, parent's or legal guardian's use of the Contractor's web site, service or application for public school purposes; or is gathered by a Contractor from any source and contains student PII or Student Data.

- B. Paragraph V., Term and Early Termination, shall be amended to extend the Contract as follows:

The Parties' respective performances under this Contract shall commence on the later of either the Effective Date or May 27, 2013. This Contract shall terminate on June 30, 2017, unless sooner terminated or further extended as specified elsewhere herein.

- C. Paragraph VII., Statement of Work, Paragraph D. shall be amended by adding the following new Paragraph VII.D.10:

10. Contractor shall provide the following training and professional development services for the period July 1, 2016 to June 30, 2017 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-3.

<b>Professional Development Type</b>	<b>Session Length</b>	<b>Participant Maximum</b>	<b>Type of Participant</b>	<b>Materials</b>
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
Instructional Leaders Training Session	6 hours	25	Principals; District leadership	Participant Handouts
Instructional Leaders Training Session	3 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.
Webinar Series / Remote Support	1-3 hours	N/A	School and District staff	None

<b>Professional Development Type</b>	<b>Session Length</b>	<b>Participant Maximum</b>	<b>Type of Participant</b>	<b>Materials</b>
Custom Created Content	N/A	N/A	School and District staff	None
Author Speaker Fee	1-6 hours	N/A	School and District staff	Varies depending on focus
Email consultations between consultants and principals of schools receiving onsite coaching.	N/A	N/A	School staff	None
Summer Teacher Institutes	1-3 days	50	School staff	Participant Handouts
Registration logistics for 3 <sup>rd</sup> party trainings	N/A	N/A	School and District Staff	Varies

**D.** Paragraph VIII., Payments to Contractor, Paragraph A., Maximum Amount shall be amended by increasing the maximum amount payable to Contractor by the State by \$2,987,226 for the period July 1, 2016 to June 30, 2017 for a total maximum amount payable of \$11,462,477.

**E.** Paragraph VIII., Payments to Contractor, Paragraph C., Payment Schedule shall be amended by adding the following payment schedule and performance measures for the period July 1, 2016 through June 30, 2017:

**C. Payment Schedule:**

1. June 30, 2016: Contractor may invoice for fifty percent (50%) of Total Fees
2. September 30, 2016: Contractor may invoice for twenty percent (20%) of Total Fees.
3. December 31, 2016: 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-3. The number of licensed students will be adjusted based on October enrollment, and the December invoice will reflect that adjustment.
4. March 31, 2017: 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, 2017: 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

a. 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 2017, 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 in Smartsheets, 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 2017, 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 (2016-2017) 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 (2016-2017 school year) schools using the assessment achieving ninety percent (90%) benchmark fidelity as measured by mCLASS: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.

d) 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.

- F.** Paragraph XI. shall be amended by adding the following new Paragraphs XI.N.1 through XI.N.8:

**N. Transparency Requirements**

A Contractor that operates an internet website, an on-line service, including cloud computing services, an on-line application or a mobile application that uses, creates or acquires Covered Information shall not knowingly engage in any of the following activities with respect to its web site, service or application:

1. Engage in targeted advertising of students on the Contractor's web site, service or application, or target advertising on any other web site, service or application when the targeting of the advertising is based upon any information, including Covered Information and persistent unique identifiers, that the Contractor has acquired because of the student's or parent's use of that Contractor's web site, service or application.
2. Use Covered Information, including persistent unique identifiers, created or gathered by the Contractor's web site, service or application, to amass a profile about a public school student, except in furtherance of a public school purpose as determined by the State.
3. Sell Covered Information, including PII to any third party.
4. Disclose Covered Information to any party unless the disclosure is:
  - a. Reasonably necessary in furtherance of a public school purpose of the web site, service or application and the recipient of the Covered Information contractually agrees to comply with the requirements herein and to not further disclose the Covered Information,
  - b. Required by state or federal law,
  - c. Necessary to respond to or participate in a judicial or administrative proceeding,
  - d. To protect the safety of users or security of the Contractor's website, service or application, or
  - e. To the extent required by law, to provide Covered Information to law enforcement agencies or for an investigation of a matter of public safety.
5. Contractor may not gather or use Covered Information from any source unless it has demonstrated a specific legitimate educational purpose for doing so and the use has been expressly authorized by the Department in the Contract.
6. Contractor must agree to delete Student Data at the request of a School District or Local Educational Agency.

7. Contractor acknowledges that the State will post this Contract to the Department's website and post a privacy score based on the Department's determination of the Contractor's privacy and security protections for Covered Information, with such criteria to include whether Contractor has signed the Student Privacy Pledge, whether Contractor has agreed to all of the Privacy and Security protections in the Department's Policy for Privacy and Security in Third Party Contracts, and the number of complaints received by the Department concerning Contractor's collection or use of Covered Information.

8. Contractor agrees to provide transparency to parents, school districts and the public about its collection and use of Covered Information including:

- a. Post on Contractor's website contact information for the Contractor or Subcontractor that collects or generates Covered Information,
- b. Post on the Contractor's website the types of Covered Information that is collected or generated by the Contractor, its Subcontractors or disclosed to a third party and how the Contractor shares and uses the Covered Information,
- c. Post on the Contractor's website the educational purpose(s) for which the Covered Information is used,
- d. Post on the Contractor's website its policies and procedures regarding retention and disposal of Covered Information,
- e. Upon request, provide a school district or local education agency with information about the specific data elements that are collected or generated by the Contractor, the Contractor's security policies and any other data that is merged with Covered Information that it collects or generates,
- f. Provide notice on its website to the public before making changes to its privacy policies,
- g. Facilitate students' and parents' access to and correction of Covered Information,
- h. Respond to the Department when an interested party reports an alleged violation of privacy or security laws or the provisions of this Contract, and
- i. Post on the Contractor's website whether or not the Contractor has signed the Student Privacy Pledge posted at [studentprivacypledge.org](http://studentprivacypledge.org).

G. New Exhibit C-3 (Payment and Fee Schedule) shall be added to cover payments for the period July 1, 2016 through June 30, 2017.

#### **7. START DATE**

This Amendment shall take effect on the later of its Effective Date or July 1, 2016.

#### **8. 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.

**9. 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 to the Department by the federal government, state government and/or grantor.

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**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**

**STATE OF COLORADO**  
John W. Hickenlooper, GOVERNOR  
Colorado Department of Education

Amplify Education, Inc  
By: Lawrence Holt  
Name of Authorized Individual

Title: CHIEF PRODUCT OFFICER & VP  
Official title of Authorized Individual

\*Signature [Signature]

~~Rich Crandall, CPA, MBA, SNS,~~  
~~Commissioner~~  
Katy Arthes, Ph.D., Interim Commissioner

[Signature]  
By: Rich Crandall, CPA, MBA, SNS,

~~Commissioner~~  
Katy Arthes, Ph.D., Interim Commissioner  
Date: [Signature]

**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: [Signature]  
Dave Grier, CPA, CDE Controller

Date: 6-6-2016



**EXHIBIT C-3  
FEE AND PAYMENT SCHEDULE FOR THE PERIOD  
JULY 1, 2016 THROUGH JUNE 30, 2017**

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

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 for years 3 to 5 are included in the per student license fee for new and returning schools.
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
DIBELS Deep licenses This pricing reflects a volume discount.	\$0.95	See Amendment 4 section 6. E.C.3
DIBELS Deep kits (including phonemic (PA) awareness, word reading and decoding (WRD))	\$55.00	See Amendment 4 section 6. E.C.3
Additional professional development		As provided or ordered