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In the Matter of  
Third- Party Contractor  
Investigations of

Investigation and Determination by  
New York State Education Dept.  
Chief Privacy Officer

Behavioral Strategies Licensed  
Behavior Analyst & LMSW LLC and  
Blue Sea Educational Consulting Inc.  
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On April 28, 2023, the New York State Education Department's ("NYSED's") Chief Privacy Officer was made aware of a data incident involving a school district by the New York State Division of Homeland Security and Emergency Service's Cyber Incident Response Team. Thereafter, two school districts filed data incident reports with NYSED's Privacy Office indicating that a former employee (the "former employee") of Behavioral Strategies Licensed Behavior Analyst & LMSW P LLC ("Behavioral Strategies") inappropriately access ed It(cce)-43 Td [(a)r7

On April 17, 2023, a different Blue Sea employee emailed Riverhead, attempting to obtain access to Frontline (IEP Direct) on behalf of the former employee so that the former employee could access information pertaining to three students with whom she was assigned to work. This email did not explain that the former employee was new to Blue Sea or that she formerly worked at Behavioral Strategies. Riverhead and Blue Sea employees continued to correspond from April 17 through 20, 2023. On April 20, a Blue Sea employee emailed Riverhead clarifying that "the Frontline account that was updated for [the former employee's] current clients and email was the account for her former agency supervisor [at Behavioral Strategies]. Is it possible to move that account back to [Behavioral Strategies] and maybe make a new one for [the former employee]?" A Riverhead administrator responded that she was unable to do so and that,

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Findings :

There is no evidence that the former employee was provided unauthorized access to student data . What occurred here was a failure —or, more accurately, an unwillingness —to communicate. A phone call or two could have clarified many of the misunderstandings that occurred when Blue Sea sought to establish a Frontline account with Riverhead for the former employee. Instead, the misunderstandings compounded to an almost farcical level involving two businesses, ten school districts a BOCES, and my office.

Even if an employee leaves an employer on less than cordial terms, it behooves both employer and employee to share information as necessary and communicate in a professional manner . In this case, Behavioral Strategies and Blue Sea serve many of the same school districts . As such, the former employee should have informed Behavioral Strategies of the identity of her new employer and both companies should have ensured that the districts they serve were properly notified of the change in personnel.

Determination

Behavioral Strategies and Blue Sea must submit evidence to my office, by September 15, 2023, that:

- 1) All of their employees received data privacy and security training. Evidence will consist of a list of names and dates that the training occurred.
- 2) They have implemented internal policies to inform the school districts they serve of any personnel changes that include employees who work directly with students. Evidence will consist of a copy of the policy and its effective date.



July 13, 2023  
Louise DeCandia  
Chief Privacy Officer  
NYSED