

**STATE OF LOUISIANA
DEPARTMENT OF EDUCATION
DATA SHARING AGREEMENT**

WHEREAS, the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and its implementing regulations codified at 34 C.F.R 99.1 et seq. and La. R.S. 17:3914 make personally identifiable student information and other student level data in education records confidential and, subject to certain exceptions, prohibit the disclosure of such information to third parties and impose penalties, including criminal penalties, for unauthorized disclosures of such data to third parties,

WHEREAS, FERPA and its implementing regulations at 34 C.F.R. 99.31(b)(1) allow for the sharing of student-level data with organizations conducting certain studies for or on behalf of the school.

WHEREAS, FERPA and its implementing regulations at 34 C.F.R. 99.31 permit the disclosure of student information to organizations conducting studies on behalf of an educational agency in order to improve instruction, if:

- the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information;
- the information is destroyed when no longer needed for the purposes for which the study was conducted; and
- the educational agency enters into a written agreement with the organization that,
 - specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
 - requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
 - requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and
 - requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

WHEREFORE, the Louisiana Department of Education, (hereinafter referred to as “State”) and Center for Assessment, (hereinafter referred to as “Researcher”) do enter into this Agreement subject to the terms and conditions as specified herein.

1. Purpose of the Research

Researcher agrees to use any data disclosed to it pursuant to this Agreement solely for the purposes of evaluating the effectiveness of Innovative Assessment.

2. Data

The State agrees to provide researcher with the following student-level data:

- District and School ID
- Louisiana Secure ID
- Innovative Pilot Assessment Results
- LEAP Results (including item responses)
- Student Demographics
- ELA Teacher/Student Linkage

The State reserves the right to withhold any of the foregoing data if the State determines, in its sole discretion, that disclosure of such data would violate any provision of state or federal law.

3. Confidentiality

This Agreement is entered into by the Researcher and the State in accordance with the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232(g), et seq., (FERPA) and La. R.S. 17:3914. The Researcher hereby acknowledges that all documents which include student information contained in or derived from a student's education records are deemed confidential pursuant to FERPA and La. R.S. 17:3914 and therefore will not be disclosed by Researcher to any third party.

Researcher shall retain the original version of the data at a single location and shall not make a copy or extract of the data available to anyone except those who have a need for the data to perform the research project. Researcher shall maintain the data, whether in hard copy or electronic form, in an area that has limited access only to Researcher's authorized personnel. Researcher shall not permit removal of the data from the limited access area. Researcher will ensure that access to the data maintained on computer files or databases is controlled by password protection. Researcher shall establish procedures to ensure that the target data cannot be extracted from a computer file or database by unauthorized individuals. Researcher shall maintain all printouts, discs, or other physical products containing student-level data in locked cabinets, file drawers, or other secure locations when not in use. Researcher shall ensure that all printouts, tabulations and reports are edited for any possible disclosure of personally-identifiable student data or any data sets or cells of less than ten (10). Researcher shall, under supervision of the State, destroy the data, including all copies, whether in electronic or hard copy form, when the research project is completed or this Agreement is terminated, whichever occurs first.

4. Restrictions on Use

Researcher shall not use the data for any purpose not expressly permitted in this Agreement without the prior written approval of the Louisiana State Superintendent of Education. Researcher may publish the results, analysis or other information developed as a result of any research based on the data provided under this Agreement only in summary or aggregate form, so as to prevent the disclosure of any personally identifiable student information. Researcher cannot publish any document, whether in hard copy or electronic form, or otherwise disclose to any third party any student-level data or information in any form whatsoever in data sets and/or cell sizes of less than ten

(10) or under any circumstances which would directly or indirectly make a student's identity easily traceable. Researcher shall provide the State with a copy of any document containing, incorporating, referencing, or which Researcher has prepared in any way utilizing, any data provided to Researcher pursuant to this Agreement, whether in hard copy or electronic form, that Researcher intends to publish, at least 7 business days prior to its first publication. Advance copies of such documents shall be forwarded to:

Kim Nesmith
Data Governance and Privacy Director
Louisiana Department of Education
1201 N. Third Street
Baton Rouge, LA 70802
225.342.1840
kim.nesmith@la.gov

5. Indemnification

Researcher shall defend, indemnify and hold harmless the State and any and all of the State's directors, officers, officials, employees, agents, contractors and representatives against and from any and all costs, expenses, damages, injury or loss, including reasonable attorney's fees, to which they or any of them may be subject from Researcher and/or any student, teacher or any other third party as a result, directly or indirectly, of any disclosure of data by the State pursuant to this Agreement or any re-disclosure of such data by Researcher.

6. Ownership

Any records, reports, documents, materials, and/or products created or developed by Researcher with the data provided under this Agreement shall be the property of the Researcher. Researcher agrees to provide the State with a copy of any and all records, reports, documents, materials and/or products created or developed by the Researcher with the data provider under this Agreement within seven (7) business days from the date they are finalized. Researcher grants the State a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, distribute and display, and to make derivative works from, any of the records, reports, documents, materials and/or products created by Researcher with data provided pursuant to this Agreement.

7. Security Audits

Pursuant to La. R.S. 17:3914, the Researcher shall permit the State or its authorized representatives to carry out security or audit checks pertaining to Researcher's security and usage of student data. Researcher shall cooperate with the State. The State or its authorized representatives shall have access at all reasonable times on working days during working hours at Researcher's business premises to Researcher's employees, together with records, books and correspondence and other papers and documentation or media of every kind in possession of Researcher and Researcher's employees pertaining to this Agreement that are necessary for the State to carry out such security and audit checks. The State or its authorized representatives shall have the right to reproduce and/or retain copies at its expense of any of the aforementioned information and documents.

8. Security Breach

As used in this Agreement “Security Breach” means any act or omission that compromises either the security, confidentiality or integrity of personally-identifiable student information or the physical, technical, administrative or organizational safeguards put in place by Researcher that relate to the protection of the security, confidentiality or integrity of PII, or receipt of a complaint in relation to the privacy practices of Researcher or a breach or alleged breach of this Agreement relating to such privacy practices.

Researcher shall take commercially reasonable steps and best efforts, in accordance with industry standards, to prevent security breaches. Researcher shall also take commercially reasonable steps, in accordance with industry standards, to immediately remedy any security breach and prevent any further security breach at Researcher’s expense in accordance with standard industry practices and applicable law.

Researcher shall:(i) provide the state with the name and contact information for an employee of Researcher who shall serve as the State’s primary security contact and shall be available to assist State twenty-four (24) hours per day, seven (7) days per week as a contact in resolving issues and fulfilling obligations associated with a security breach; (ii) immediately notify State in writing of a security breach after Researcher becomes aware of it; and

Immediately following Researcher’s notification to the State of a security breach, Researcher and the State shall coordinate with each other to investigate the security breach. Researcher agrees to fully cooperate with State in State’s handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing the State with physical access to the facilities and operations affected;(iii) facilitating interviews with Researcher’s employees and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law or industry standards and as otherwise required by the State and (v) providing any notices to persons or organizations affected by the security breach as required by law and as required by the State.

9. Liaison Officials

The State’s liaison and the Researcher’s liaison for the implementation of this Agreement and for receipt of all notices or other communications required or permitted under this Agreement is:

Kim Nesmith
Data Governance and Privacy Director
Louisiana Department of Education
1201 N. Third Street
Baton Rouge, LA 70802
225.342.1803
kim.nesmith@la.gov

Nathan Dadey
Associate
Center for Assessment
31 Mount Vernon Street

Dover, NH 03820
603.516.7900
ndadey@nciea.org

10. Term of Agreement

This Agreement shall begin on March 30th, 2019 and shall terminate on March 30th, 2023. The effective date of this Agreement may be extended only if an amendment to that effect is duly executed by the parties and approved by the necessary authorities prior to said termination date. If either party informs the other that an extension of this Agreement is deemed necessary, an amendment may be prepared by one party for appropriate action by the other party.

11. Termination for Convenience

The State may terminate this Agreement at any time by giving Researcher written notice of such termination.

12. Assignment of Contract

Researcher shall not assign any interest in this Agreement by assignment, transfer, or novation, without prior written consent of the State.


13. Jurisdiction, Venue and Governing Law

Exclusive jurisdiction and venue for any and all suits between the State and Contractor arising out of, or related to, this Agreement shall be in the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana. The laws of the State of Louisiana, without regard to Louisiana law on conflicts of law, shall govern this Agreement.

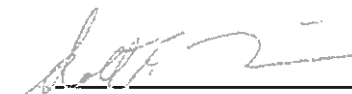
14. Survival


Researcher's obligation under Clauses 1, 3, 4, 5, 6, and 13 shall survive expiration and/or termination of this Agreement. Researcher's obligations under Clauses 7 and 8 shall survive expiration and/or termination of this Agreement until Researcher has fully complied with its obligation to destroy data as set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this 30th day of March 2019.



John C. White,
State Superintendent of Education



Researcher


Researcher