



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. make personally identifiable student information in education records confidential and, subject to certain exceptions, prohibits the disclosure of such information to third parties,

WHEREAS, FERPA and its implementing regulations allow for an educational agency or institution to share personally identifiable student-level data with contractors performing work on their behalf,

WHEREAS, La R.S. 17:3914 allows for Local Educational Agencies to contract with a private entity for student and other educational services and release personally identifiable information pursuant to the terms of the Contract,

WHEREAS, the Louisiana Department of Education (hereinafter referred to as “State”), New Meridian and Achievement and the University of Kansas Center for Research (hereinafter referred to as “Contractor”) have entered into a contractual arrangement, pursuant to which the Contractor will provide services to State and Local Educational Agencies (LEAs).

WHEREFORE, the State and Contractor do enter into this Agreement subject to the terms and conditions as specified herein.

1. Local Educational Agencies Stipulation

The Contractor acknowledges that local educational agencies (LEAs) in Louisiana submit student data directly to the Contractor. The Contractor hereby agrees to be bound, vis-à-vis any and all such Louisiana LEAs that unilaterally sign an addendum to this data sharing agreement, by all of the provisions of this Agreement with respect to any student data provided directly to the Contractor by such Louisiana LEAs.

2. Purpose of the Disclosure

The Contractor agrees to collect and use any data disclosed to it pursuant to this Agreement solely for the purposes of research and design efforts to develop a system of “testlets”—short, modular, assessments in mathematics which will include developing prototypes at grades 5 and 7 and to piloting the testlets in participating districts throughout the 2022-23 school year. The pilot testlets will be delivered in four administration windows across the 2022-23 school year, planned for early November, mid-/late January, early March, and mid-April.

The data collected throughout the pilot will be used to support, design and deliver the testlets program and to address three overarching questions that will inform design decisions and the eventual use cases for the testlet system. Additionally, data will be used to inform implementation considerations and to improve potential administration and reporting decisions as well as the benefits if related research and development, improvements and future releases supporting the testlets program:



- Does the diagnostic data collected via the testlet system have a positive impact on teachers' instructional decisions?
- Could the data collected via the testlet system contribute to measures of student proficiency that meet the Federal requirements for accountability (i.e., supplement a statewide summative assessment)?
- Could the testlet system alone provide measures of student proficiency that meet the Federal requirements for accountability (i.e., replace a statewide summative assessment)?

3. Data

The State agrees to provide the Contractor with the following student-level data for school systems participating in the pilot and opting into this agreement for school years 2022-2023 to 2026-2027:

- Student-level demographic data
 - Louisiana statewide unique ID (LASID)
 - Gender
 - Ethnicity
 - English language learner status
 - Disability status
 - Socio-economic status
- LEAP 2025 student-level results for students participating in the pilot

LEAs will provide the Contractor with the following solely for the purposes provided above:

- School- and classroom-level information for rostering and reporting, including for access to test administration for proctoring, support level during testing, and for reporting data access.
- Student responses to the testlet pilot items
- Administration data including accommodations used, timing data, administration logs,
- Student-level demographic data
 - Louisiana statewide unique ID (LASID)
 - Student Grade Level
 - School Site
 - District Site
 - Local Student Identifier
 - Student Name
 - Gender
 - Date of Birth
 - Ethnicity
 - English language learner status
 - Socio economic status
- Teacher level data
 - Educator local identifier
 - Educator name
- Survey responses of teachers and students



The State and LEAs reserve the right to withhold any of the foregoing data if determined, in their sole discretion, that disclosure of such data would violate any provision of state or federal law.

4. Confidentiality

This Agreement is entered into by Contractor 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 Contractor hereby acknowledges that all documents which include 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 Contractor to any third party. Nothing in this provision shall preclude the Contractor from subcontracting with third parties to perform work contemplated herein; however, the Contractor is responsible for ensuring that any such subcontractor(s) adhere to, and agree to be bound by, all provisions of this agreement, and that any contract with such subcontractor(s) shall explicitly make such subcontractor subject to the audit provisions contained herein.

Contractor 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 personnel who have a need for the data to perform the services referenced in this agreement. Contractor shall maintain the data in hard copy or electronic form, in an area that has limited access only to Contractor's authorized personnel. Contractor shall not permit removal of the data from the limited access area. Contractor will ensure that access to the data maintained on computer files or databases is controlled by password protection. Contractor shall establish procedures to ensure that the target data cannot be extracted from a computer file or database by unauthorized individuals. Contractor 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. Contractor shall, under supervision of the State, destroy the data provided to Contractor, including all copies, whether in electronic or hard copy form, when the services are completed or this Agreement is terminated, whichever occurs first.

5. Restrictions on Use

Contractor shall not use the data for any purpose not expressly permitted in this Agreement. Contractor cannot disclose 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 or under any circumstances which would directly or indirectly makes a student's identity traceable.

6. Indemnification

Contractor 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 any claims arising out of any cause to the extent such claims arise from Contractor's receipt keeping or securing of student data in violation of the terms of this Agreement, except to the extent that they are due to the fault or negligence of the State.



Contractor shall defend, indemnify and hold harmless any LEA and any and all of the LEA'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 any claims arising out of any cause to the extent such claims arise from Contractor's receipt, keeping or securing of student data in violation of the terms of this Agreement, except to the extent that they are due to the fault or negligence of the LEA.

7. Ownership

Any data delivered or transmitted to the Contractor by the State and/or obtained or prepared by Contractor for the State pursuant to this Agreement shall become the property of the State, and shall, upon request, be provided or returned by Contractor to the State.

Any data delivered or transmitted to the Contractor by an LEA and/or obtained or prepared by Contractor for an LEA pursuant to this Agreement shall become the property of the LEA, and shall, upon request, be provided or returned by Contractor to the LEA. Any documents, materials, and/or products created or developed by Contractor under this Agreement for an LEA shall be the property of the LEA.

No records, reports, documents, materials or products created or developed under this contract can be distributed to third parties.

8. Security Audits

Pursuant to in La. R.S. 17:3914, the Contractor shall permit security audit checks pertaining to Contractor's security and usage of student data following reasonable notice and no more frequently than annually unless a security breach has occurred. Contractor shall cooperate with all security audits. Access shall be made available at all reasonable times on working days during working hours at Contractor's business premises to Contractor's employees, together with records, books and correspondence and other papers and documentation or media of every kind in possession of Contractor and Contractor's employees pertaining to this Agreement. No person or entity will access PII except as authorized by law.

9. Security Breach

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

Contractor shall take commercially reasonable steps and best efforts, in accordance with industry standards, to prevent security breaches. Contractor shall also take commercially reasonable steps,



in accordance with industry standards, to promptly remedy any security breach and prevent any further security breach at Contractor's expense in accordance with standard industry practices and applicable law.

Contractor shall:(i) provide the State and LEA contact information for a team that shall serve as the State's and LEA's primary security contact and someone from this team 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) promptly notify the State and LEA via email, SMS text, or a phone call to the State and LEA contacts which have been provided to the Contractor once the Contractor becomes aware of a security breach.

Immediately following Contractor's notification to the State and LEA of a security breach, Contractor, the State, and the LEA shall coordinate with each other to investigate the security breach. Contractor agrees to fully cooperate with State and LEA in their handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing reasonable access which would include physical access to offices/operation center to the facilities and operations affected;(iii) facilitating interviews with Contractor'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 LEA and (v) providing any notices to persons or organizations affected by the security breach as required by law and as required by the State or LEA.

10. Term of Agreement

This Agreement shall begin on November 1, 2022 and shall terminate on November 1, 2027. 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 Contractor and all LEAs written notice of such termination. Contractor may terminate this Agreement at any time by giving the State written notice of such termination.

12. Assignment of Contract

Contractor shall not assign any interest in this Agreement by assignment, transfer, or novation, without prior written consent of the State. Nothing in this provision shall preclude the Contractor from subcontracting with third parties to perform work contemplated herein; however, the Contractor is responsible for ensuring that any such subcontractor(s) adhere to, and agree to be bound by, all provisions of this agreement, and that any contract with such subcontractor(s) shall explicitly make such subcontractor subject to the audit provisions contained herein.



13. Survival

Contractor’s obligation under Clauses 2, 4, 5, 6, and 7 shall survive expiration and/or termination of this Agreement. Contractor’s obligations under Clauses 8 and 9 shall survive expiration and/or termination of this Agreement until Contractor 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 1st day of November, 2022.

DocuSigned by:

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Dr. Cade Brumley,
State Superintendent of Education

DocuSigned by:

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New Meridian
Steve Titan
Title:

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