

**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, R.S. 17:3914 allows for the Louisiana Department of Education to share data outside the state of Louisiana for purposes of academic analysis of assessments,

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 NWEA, (hereinafter referred to as “Researcher”) do enter into this Data Sharing Agreement subject to the terms and conditions as specified here in.

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 reliability, validity, fairness of the Innovative Assessment Demonstration Authority (IADA) assessments for the Louisiana Department of Education.

2. Data

The State agrees to provide Researcher with the following student-level data (the “Data”):

- Innovative Pilot Assessment Results
- Student Demographics
- LEAP Results (including item responses), both historical and during the term of the Agreement
- Assessment Accommodations

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 industry standard 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. No person or entity will access Data except as authorized by law.

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 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, the 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, Privacy, and EdTech Director
Louisiana Department of Education
1201 N. Third Street
Baton Rouge, LA 70802
225.342.1840
kim.nesmith@la.gov

5. 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 specifically pertaining to Researcher's security and usage of the Data. Researcher shall reasonably 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 specifically limited to the Data under this Agreement 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 specifically related to the Data under this Agreement. The State understands and agrees that federal and state law and Researcher's company policies and procedures prohibit any data or systems outside the scope of the Data for this Agreement and that State will have no access to such data or systems.

6. 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 PII data 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 Data, 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 industry standard 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 within a reasonable time as a contact in resolving issues and fulfilling obligations associated with a security breach; (ii) notify State in writing of a security breach without undue delay that shall not to exceed 72 hours after Researcher becomes aware of a confirmed Security Breach; 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 reasonably cooperate with State in State's handling of the matter, including (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.

7. 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 Quality Director
P.O. Box 94064
Baton Rouge, LA 70804
Kim.Nesmith@la.gov
225-342-1840

Mike Nesterak
121 NW Everett Street
Portland, OR 97209

8. Term of Agreement

This Data Sharing Agreement shall begin on July 10, 2020 and shall terminate on July 15, 2025. 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.

9. Termination for Convenience

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

10. 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.

11. Survival

Researcher's obligation under Clauses 1, 3, 4, 5, 6, and 10 shall survive expiration and/or termination of this Agreement. Researcher's obligations under Clauses 5 and 6 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 10th day of July, 2020.



Dr. Cade Brumley
State Superintendent of Education

DocuSigned by:



9EE11D7374704BD

Geri Cohen CFO Researcher



**INNOVATIVE ASSESSMENT DEMONSTRATION
AUTHORITY (IADA)
NWEA DATA SHARING AGREEMENT**

Amendment # 1 to the Data Sharing Agreement between NWEA and Louisiana Department of Education entered into on July 10, 2020

Amendment Provisions

The purpose of this Amendment is to revise the following provisions of the Agreement: Paragraph 3, 4, and 7 of the Agreement currently reads as follows:

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.

Paragraph 3 above shall be replaced in its entirety by the following:

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. Nothing in this provision shall preclude the Researcher from subcontracting with Progressive Measurement to support the current NWEA IAP Psychometric/Research team with operational psychometric work. The Researcher is responsible for ensuring that Progressive Measurement adheres to, and agrees to be bound by, all provisions of this agreement, and that any contract with Progressive Measurement shall explicitly make such subject to the audit provisions contained herein.

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



**INNOVATIVE ASSESSMENT DEMONSTRATION
AUTHORITY (IADA)
NWEA DATA SHARING AGREEMENT**

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, Privacy, and EdTech Director
Louisiana Department of Education
1201 N. Third Street
Baton Rouge, LA 70802
225-342-1840
kim.nesmith@la.gov

Paragraph 4 above shall be replaced in its entirety by the following:

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. Nothing in this provision shall preclude the Researcher from subcontracting with Progressive Measurement to perform work contemplated herein as described in the foregoing section. 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:

Laura Boudreaux
Director of Strategic Research and Privacy
Louisiana Department of Education
1201 North Third Street
Baton Rouge, LA 70803
225-219-7368
laura.boudreaux@la.gov

7. Liaison Officials

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



**INNOVATIVE ASSESSMENT DEMONSTRATION
AUTHORITY (IADA)
NWEA DATA SHARING AGREEMENT**

Kim Nesmith
Data Quality Director
P.O. Box 94064
Baton Rouge, LA 70804
kim.nesmith@la.gov
225-342-1840

Mike Nestrerak
121 NW Everett Street
Portland, OR 97209

Paragraph 7 above shall be replaced in its entirety by the following:

7. Liaison Officials

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

Laura Boudreaux
Director of Strategic Research and Privacy
Louisiana Department of Education
1201 North Third Street
Baton Rouge, LA 70803
225-219-7368
laura.boudreaux@la.gov

Leslie Mугan
121 NW Everett Street
Portland, OR 97209
leslie.mugan@nwea.org

All other terms and conditions remain the same.

This amendment contains or has attached hereto all revised terms and conditions agreed upon by the Contracting parties.

IN WITNESS THEREOF, this amendment is signed and entered into on this 31st day of January, 2023.

2/13/2023

DocuSigned by:

062C8EFAEBD74C3...
Dr. Cade Brumley
State Superintendent of Education

DocuSigned by:

A6119BCB6C10410...
Jason Mendenhall
NWEA President, State Solutions