Master Data Sharing Agreement (MDSA) between

Utah State Board of Education
and
Utah Education Policy Center

This Master Sharing Agreement ("Agreement") is entered into between the Utah State Board of Education ("Board" or USBE), and Utah Education Policy Center (UEPC).

WHEREAS, USBE has constitutional and statutory authority for the general control and supervision of the public education system pursuant to the Utah Constitution Article X, Section 3 and Utah Code Title 53A Chapter 1;

WHEREAS, the Parties have a valid mutual interest in USBE's disclosure and "UEPC" use of education records or personally identifiable information for the purpose of audit or evaluation of federal or state funded programs.

WHEREAS, the Board is subject to Federal Education Records Privacy Act (FERPA), 20 U.S.C. § 1232g and its implementing regulations, 34 C.F.R., Part 99, which generally requires written consent for disclosure of educational records or personally identifiable information to third parties;

WHEREAS, the information shared between USBE and "UEPC" will include education records with personally identifiable information;

WHEREAS, FERPA exception 20 USC 1232(g)(b) (choose A, B, C, D, E, or F) covers this situation and allows the sharing of the Personally Identifiable Information contemplated under this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Purpose: The purpose of this Agreement is to facilitate USBE's ability to share data with "UEPC" for the purpose of audit or evaluations of federal or state funded programs.
2. The following Definitions apply to this Agreement:
    a. "Education records" includes all information accessed, collected, stored, processed, disclosed, de-identified, created or used, including metadata and Personally Identifiable Information.
    b. "Metadata" includes all information created manually or automatically to provide meaning or context to other data.
    c. "Personally Identifiable Information" or "PII" includes both direct identifiers (such as a student's or other family member's name, address, SSN, student number, or biometric number) and indirect identifiers (such as a student's date of birth, place of birth, or

mother's maiden name). Indirect identifiers that constitute PII also include metadata about student interaction with an app or service, or other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty.

3. Data Sharing: It is understood and agreed that when USBE needs information from data maintained by "UEPC", that USBE and "UEPC" will securely send student level for the above stated purpose to be matched and that "UEPC" agrees that the sharing of data files, including derivative files, and data files resulting from merges, matches, or other uses of education records are subject to this Agreement.
    a. *Disclosure of Data:*
        i. *USBE may disclose personally identifiable information consisting of all data described in the accompanying Exhibit B.*
4. Term. This Agreement is effective for three (3) years from the date signed by the parties, unless terminated sooner in accordance with the terms and conditions herein. This Agreement may be renewed for a one-year period for two years thereafter if agreed to at least 30 days in advance of the term expiration date and in writing signed by both parties.
5. Request for Data. At the time a party requests data maintained by the other party, the description of the data to be shared and any additional terms relating to that data sharing shall be stated in a separate Data Request (Exhibit A), signed by the parties, that (1) is made subject to the terms of this Agreement; (2) specifies the personally identifiable information from education records to be disclosed; and (3) describes how the personally identifiable information from education records will be used with sufficient specificity to describe how the PII will be used and to make clear that the sharing of this data, including the PII, is within the purpose set forth in this Agreement. The persons who are authorized to sign the writing are:

USBE

Name:

Title: Superintendent of Instruction (or designee)

UEPC

Name: _Andrea K. Rorrer, PhD_____

Title: _Director, Utah Education Policy Center_____

6. Confidentiality and Non-Disclosure. The parties agree to use data only for those purposes described this Agreement or as required by law and under the following conditions:
    a. The parties shall have sufficient safeguards in place to ensure the data obtained is used only for the purpose stated in this Agreement.
    b. Data in electronic format shall be stored and processed in such a way that unauthorized

persons cannot retrieve the information by computer, remote terminal, or any other means.

c. The data shall not be stored on any server accessible by unauthorized personnel.
d. At the request of the donor party, the receiving party shall identify all personnel, by position, authorized to request and receive the data.
e. The parties shall limit access to, and use of, the data to only those persons who have a legitimate interest in the data provided under this Agreement, and shall do the following in regards to those individuals:
    i. require a non-disclosure agreement to be signed by those persons;
    ii. maintain past and current lists of all individuals to whom a party has determined to allow access to education records because the individuals have legitimate educational interest in the data and education records;
    iii. maintain each non-disclosure agreement signed by its employees and shall permit inspection of the same by the other party upon request;
    iv. notify the donor party in writing within 48 hours when an individual, who has had access to education records, is no longer with the receiving party;
    v. notify the donor party in writing within 48 hours if an individual's privileges to access education records has been withdrawn and the date withdrawal occurred;
    vi. shall not disclose the data or education records to individuals who have not been determined to have a legitimate educational interest, who have not received training, and who have not signed a non-disclosure agreement; and
    vii. ensure that PII contained in the data is protected from further disclosure.
f. The parties will publish the results of their audits and evaluations in a way that protects the privacy and confidentiality of the students who were the subjects of the data that was provided. The parties will ensure that students cannot be directly or indirectly identified in published reports. For example, when publishing tables, cell suppression and other methods of disclosure avoidance will be used so that students cannot be identified through small numbers displayed in table cells.

7. Data Security: The parties will have whole disk encryption on computers used for accessing or storing reports from the data. Each party will limit access to the data using appropriate security controls in accordance with the most recent NIST 800-53 guidelines in transmitting, encrypting, storing, and maintaining data: http://www.nist.gov/publication-portal.cfm, and comply with the State of Utah Information Technology Resources Acceptable Use Policy found at: http://dts.utah.gov/employee-state/statewide-dts-policies/index.php.
8. User Training: The parties agree to train authorized users accessing information under this Agreement on relevant statutes prescribing confidentiality and safeguarding requirements, disclosure prohibitions, and penalties for unauthorized access or disclosure. The parties shall have the right to review disclosure training and request or suggest any changes necessary. The parties shall maintain past and current lists of individuals attending training and the related training materials.
9. Additional Security Measures: The parties shall:

a. Store any data provided by the other party in an area that is physically secure from access by unauthorized individuals at all times.
b. Maintain each other's data only until such time that the data is no longer needed for the specific purpose described in the applicable Data Request attached as Exhibit A, or upon termination of this Agreement, whichever occurs first. At that point, the data will be destroyed within 30 days, except for disclosed information possessed by any court.
c. Refrain from duplicating the data other than as required for disaster recovery.
d. Report any data breach to the party that provided the information immediately upon discovery and cooperate to mitigate any concerns.

10. Indemnity: To the extent that both parties to this Agreement are governmental entities as defined in the Governmental Immunity Act of Utah (U.C.A. 63G-7-101 et. seq.), nothing in this Agreement shall be construed as a waiver by either or both parties of any rights, limits, protections or defenses provided by the Act. Nor shall this Agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Agreement is otherwise entitled. Subject to and consistent with the Act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsults brought against it. There are no indemnity obligations between these parties. Nothing in this provision is meant to excuse either Party from statutory damages described under UCA 53A-1-1411.

11. Monitoring: The parties shall permit each other the right of a compliance review, no more frequently than once per calendar year, to ensure that the provisions of the Agreement are upheld and will maintain a system sufficient to allow an audit of its compliance with the disclosure and confidentiality and access to data sections above this Agreement. As an alternative, a party to be audited may furnish the results of a mutually agreeable 3rd party audit to the other party.

12. Amendments: This Agreement may only be amended by the mutual written agreement of the parties. No provision in this Agreement may be waived, except pursuant to a writing executed by the party against whom the waiver is sought to be enforced. Any such waiver shall not be construed as a waiver by such party of any subsequent breach under this Agreement.

13. Public Information: The parties agree that this Agreement will be a public document, and may be available in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Each party gives the other express permission to make copies of this Agreement in accordance with GRAMA.

14. Governing Law: This Agreement shall be governed by the laws, rules, and regulations of the State of Utah.

15. Assignment: Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party.

16. Independent Contractors: The parties are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement. Neither party may take any binding action on the other party.

17. Entire Agreement: This Agreement constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written

IN WITNESS WHEREFOR, the parties sign and cause this Interagency Agreement to be executed.

UTAH STATE BOARD OF EDUCATION

By: Sydnee Dickson

Its: State Superintendent

Date 4/10/18

Utah Education Policy Center

By: Andrea K. Rorrer

Its: Director,

Date: 8/8/2017

Exhibit A
Data Request

Date of Request: August 8, 2017

TO:
Utah State Board of Education
Chief Privacy Officer:

From:

Requestor: Andrea K. Rorrer, PhD

Agency Name: Utah Education Policy Center

1. **This Data Request is subject to the terms and conditions of that certain Master Data Sharing Agreement (MDSA) Between Utah State Board of Education and State Board of Regents dated August 8, 2017.**

2. **Description of data to be shared: Data include student data tables "a" through "u" and CACTUS data tables 1 – 38 (see attached *USBE Data_UEPC Summary 2017_8_8* for detailed description).**

3. **Purpose of Sharing: The purpose of the data sharing is to conduct program evaluations and longitudinal research studies (see attached *USBE Data_UEPC Summary 2017_8_8* for detailed purposes of sharing).**

4. **Specific duration of this sharing effort: August 8, 2017 to August 8, 2020**

Approvals:

UTAH STATE BOARD OF EDUCATION

Signature: _____
Date: 4/10/18

Utah Education Policy Center

Signature: Andrea K. Rorrer
Date: 8/8/2017

Non-Disclosure Agreement

This Agreement is made by the Utah State Office of Education (USOE) and the University of Utah, a body politic and corporate of the State of Utah, on behalf of its Utah Education Policy Center, hereafter known as "Researcher."

Whereas Researcher is organized for the purpose of improving the quality of educational policies, practices, and leadership in public schools and higher education and to increase educational access and opportunities for all children and adults; and

Whereas USOE desires to facilitate the conduct of research projects by Researcher that will provide benefit to USOE as it evaluates and improves all facets of the provision of education;

Now, therefore, the parties agree as follows:

1. USOE agrees to provide Researcher access to the following de-identified, coded microdata for teachers and students to enable Researcher to conduct research projects consistent with the provisions of this Agreement: all data gathered by USOE from districts and schools, including, but not limited to, data pertaining to schools, students, and educators, beginning with the year 2004. USOE shall update the data release at least annually. Hereinafter, to the extent that the data provided by USOE pursuant to this Agreement constitutes individually identifiable data, such data shall be referred to as "Subject Data." Data provided by USOE is "individually identifiable" to the extent that data in any subgroup contains information on ten (10) or fewer students.

2. Researcher agrees to preserve the confidentiality of Subject Data consistent with applicable law. Researcher will not report or publish Subject Data except as allowable with applicable law. Notwithstanding the foregoing, Researcher may utilize and maintain Subject Data in large-scale studies for aggregate level analysis and to maintain the reliability and validity of the data analyses.

3. Researcher agrees to utilize USOE data to perform research on behalf of USOE by (a) assisting in the development, validation, or administration of predictive tests, (b) administer student aid programs, or (c) improve instruction. USOE and Researcher agree that Researcher may utilize Subject Data to perform research addressing the following: teacher supply and demand; achievement gaps; the pipeline to post-secondary education; educational finance equity and adequacy; teacher, principal and school effectiveness; charter schools; class size; and district requested research. . In instances where Researcher-proposed studies fall outside the scope of the above-identified areas of research, a written addendum to this Agreement will be executed by the parties on a project-by-project basis.

4. Researcher agrees to not report or publish Subject Data in any manner that discloses students' identities in a manner that would violate the Family Educational Rights and Privacy Act (FERPA), 34 CFR 99-31 (a) (6), such as publishing performance data for subgroups of students with a count, also known as n-size, less than ten (10).

5. Researcher agrees to provide an electronic copy of each report or publication Researcher produces using Subject Data to Jennifer Lambert (contact) at the USOE at least 10 days prior to the public release. USOE acknowledges that Researcher may participate in presentations, symposia, and other similar events and that Researcher may use Subject Data in connection with such events or present materials produced using Subject Data at such events. The notification requirement contemplated by this section shall only apply to UEPC press releases, publications in journals or similar periodicals, and postings on a Web site maintained by UEPC provided that all other use is in compliance with FERPA and no individually identifiable information is shared in articles, presentations, symposia, or other similar events..

6. Researcher agrees that all data files including derivative files and all data files resulting from merges, matches, or other uses of the subject data provided by USOE with data from other sources are subject to this Agreement to the extent such files contain Subject Data.

7. Researcher agrees to limit and restrict access to the Subject Data to the following:

   7.1 Leaders in charge of the day-to-day operations of the research and who communicate with the contact person within USOE.

   7.2 Professional/Technical staff in charge of the research.

   7.3 Support staff including analysts, computer technicians, assistants, and secretaries, on a need-to-know basis.

8. Researcher agrees to notify and train each of its employees who will have access to Subject Data of the strict confidentially of such data and shall require each of those employees to sign a Non-Disclosure Agreement.

   8.1. Researcher shall maintain each Non-Disclosure Agreement signed by its employees at its facility and shall allow inspection of the same by USOE within 10 days after USOE requests such an inspection.

   8.1 Researcher shall promptly notify USOE in writing when a Leader or Professional/Technical staff person has terminated, or access by specific staff members to Subject Data has been terminated, and give the date thereof..

8.2 Researcher agrees to notify USOE immediately in writing upon receipt of any request or demand by others for disclosure of the Subject Data.

8.3 Researcher agrees to notify USOE immediately in writing upon discovering any breach, or suspected breach, of security or any disclosure of Subject Data to an unauthorized party or agency.

9. Researcher agrees to retain the original version of the Subject Data at a single location and shall not make a copy or extract of the Subject Data available to anyone except individuals specified in paragraph 7.

9.1. Researcher agrees to ensure access to the Subject Data is maintained in computer files or databases in a secure physical location. The data are controlled by password protection and/or similar procedures designed to ensure that Subject Data cannot be accessed by unauthorized individuals.

9.2. To the extent consistent with applicable law, Researcher agrees to shred or destroy Subject Data, and all media used to transfer it from the USOE to Researcher, including all copies and derivative or merged files containing Subject Data, when maintenance of the Subject Data is no longer needed for the purposes for which research performed pursuant to this Agreement was conducted.

10. This Agreement shall terminate 72 (months) from the date it is signed. However, it may be extended by written agreement of the parties.

11. Any violation of the terms and conditions of this Agreement may result in the immediate revocation of this Agreement by USOE.

11.1. USOE may initiate revocation of this Agreement by written notice to Researcher indicating the factual basis and grounds of revocation.

11.2. Upon receipt of the written notice of revocation, the Researcher shall immediately cease all research activity related to the Agreement until the issue is resolved. The Researcher will have 5 business days to submit a written response to USOE indicating why this Agreement should not be revoked.

11.3. The USOE Data Governance Policy Board shall decide whether to revoke the Agreement based on all the information available to it. USOE shall provide written notice of its decision to the Researcher within 10 business days after receipt of the Response. These timeframes may be adjusted for good cause.

SIGNATURE PAGE

By signing below, the official of the Research Organization certifies that he or she has the authority to bind the Research Organization to the terms of this Agreement and that the Research Organization has the capability to undertake the commitments in this Agreement.

Location at which the subject data will be maintained and analyzed: Utah Education Policy Center, Annex 2054	
Signature of the Official of the Research Organization: Andrea K. Rorrer	Date: 2/9/10
Type/Print Name of Official: Andrea K. Rorrer	E-mail: andrea.rorrer@utah.edu
Title: Director, Utah Education Policy Center	Telephone: 581-4207 801-~~581-4492~~
Mailing Address: 1705 Campus Center Dr Rm 339 Salt Lake City UT 84112	
Signature of the Principal Research Analyst: Andrea K. Rorrer	Date: See above
Type/Print Name of Principal Research Analyst: see Above	E-mail:
Title:	Telephone:
Mailing Address:	
Signature of Utah State Board of Education/USOE Contact: [signature]	Date: 2/9/10
Type/Print Name of USOE Contact: Jennifer Lambert	E-mail: jennifer.lambert@schools.utah.gov
Title: Data Quality Manager	Telephone: 801-538-7731

From: Phillips, Whitney
To: Andrea Rorrer; Throndsen, Jennifer
Cc: STACY K EDDINGS; Brough, Aaron
Subject: RE: amendment needed
Date: Thursday, June 14, 2018 1:26:37 PM
Attachments: image001.png

Andrea,
This is permissible as we have a master sharing agreement with you. I will attach this email correspondence to our existing agreement. Which specific data fields do you need to perform this evaluation? Feel free to work with Aaron's team for data delivery.
Take care,
Whitney
Whitney Phillips, Ph.D.
Chief Privacy Officer
Utah State Board of Education
801-538-7523

From: Andrea Rorrer <Andrea.Rorrer@utah.edu>
Sent: Wednesday, June 13, 2018 1:41 PM
To: Phillips, Whitney <Whitney.Phillips@schools.utah.gov>; Throndsen, Jennifer <Jennifer.Throndsen@schools.utah.gov>
Cc: STACY K EDDINGS <stacy.eddings@utah.edu>
Subject: amendment needed
Importance: High
Good morning Whitney,
We are working on an evaluation for Read Graduate Succeed with Jennifer Throndsen. This evaluation was included in our initial approved evaluation data share agreement list. In addition to
the other data approved to be used, we are going to need to use DIBELS data. I am writing to request that we receive DIBELS data for the purposes of this evaluation.
Next, the USBE collects participation data for Read Graduate Succeed. For the purposes of the evaluation, we will need to access these data. These data will be part of the student outcome analysis conducted for this evaluation.
Is there anything you need beyond this communication for to receive these data? We have copied Jennifer as the program contact at USBE. Please let me know if there is anything more specific needed.
Thank you, Andrea
Andrea K. Rorrer, Ph.D.
College of Education, Associate Dean
Utah Education Policy Center, Director
Department of Educational Leadership and Policy,
Professor
1721 Campus Center Drive
Salt Lake City, UT 84112
801-581-4207
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