

**MEMORANDUM OF AGREEMENT BETWEEN  
THE MASSACHUSETTS DEPARTMENT OF  
ELEMENTARY AND SECONDARY EDUCATION  
AND  
(NAME OF ORGANIZATION)**

This Memorandum of Agreement (“the Agreement”) is entered into by and between the Massachusetts Department of Elementary and Secondary Education (“the Department”) and (name of organization) for the purpose of ....., (hereinafter, “the project”).

- I. PARTIES. The Massachusetts Department of Elementary and Secondary Education is a state educational agency, authorized to collect and maintain student educational records and to receive information from local educational agencies (LEAs) consistent with applicable state and federal laws and subject to the federal Family Educational Rights and Privacy Act (FERPA), as authorized by 20 U.S.C. § 1232g (b) and 34 CFR Part 99, and the Fair Information Practices Act (FIPA), M.G.L. c. 66.

(NAME OF ORGANIZATION) Include a concise description of the organization.

- II. PURPOSE. The purpose of the Agreement is to document the terms under which the Department is authorized to release to (name of organization) personally identifiable student information for the project, and to designate (name of organization) as the temporary custodian of the Department’s personally identifiable information consistent with applicable federal and state laws concerning access to and confidentiality of student record information including FERPA and FIPA. As described herein, (name of organization), as the Department’s authorized representative, may have temporary access to data in the custody of the Department for use in the project identified in this Agreement and any addenda to it. A (include number) page description of the project, dated, is attached hereto.

- III. AUTHORITY. Consistent with the federal Family Educational Rights and Privacy Act (FERPA), the Department designates (name of organization), through the individual named in section IV, paragraph 2, as its temporary custodian for the purpose of studying (include text), factors in connection with the Department’s conducting studies to improve instruction, pursuant to 34 CFR § 99.31(a)(6)(i).

Such disclosures are also consistent with the Fair Information Practices Act, M.G.L. c. 66A, § 2(c).

- IV. DATA DISCLOSURE. The Department shall provide (name of organization) with the following data for the purpose(s) described in section II:

**FOR EXAMPLE:**

SIMS data elements from 2014-2015 school year. Data fields required include:

- District
- School
- Grade
- Low-Income Status
- Economic Disadvantage Status
  - a. ED Status by each qualifying program (food stamps, Medicaid, Foster Care, etc.
- Ethnicity
- ELL Status (ELL, formerly ELL in the last two years, and ever ELL)
- Years in the U.S. (or, if unavailable, years in MA)
- Years in the current district
- Country of Origin (if known) for recent immigrants
- SASID

V. TERMS AND CONDITIONS. To effect the transfer of data and information that is subject to State and Federal confidentiality laws and to ensure that the required confidentiality of personally identifiable information shall always be maintained, [\(name of organization\)](#), agrees to:

1. In all respects comply with the provisions of FERPA. For the purposes of the Agreement and the specific projects conducted pursuant to the Agreement and described in addenda to it, FERPA includes any amendments or other relevant provisions of federal law, as well as all requirements of 34 CFR Part 99 and 20 U.S.C. § 1232g. Nothing in this Agreement may be construed to allow either party to maintain, use, disclose, or share student record information in a manner not allowed under Federal law or regulation.
2. For purposes of this project and for ensuring [\(name of organization\)](#) compliance with the terms of this Agreement and all applicable state and federal laws, [\(name of organization\)](#) designates [\(name of person\)](#) as the temporary custodian of the Department's data. [\(Name of person\)](#) can be reached at [\(include email address\)](#) [\(include telephone number\)](#). The Department will release all data and information for this project to the named temporary custodian. [\(Name of person\)](#) shall be responsible for transmitting all data requests and maintaining a log or other record of all data requested and received pursuant to the Agreement, including confirmation of the completion of the project and the return or destruction of data as described below. The Department or its agents may upon request review the records required to be kept by [\(name of organization\)](#) under this Agreement. The Department designates Carrie Conaway as its liaison for all communications with [\(name of organization\)](#) regarding this project and the Agreement as it relates to the project. Carrie Conaway can be reached at [cconaway@doe.mass.edu](mailto:cconaway@doe.mass.edu) and 781-338-3108.

3. Use data shared under the Agreement for no purpose other than the research project described in this Agreement, and as authorized under 34 CFR §§ 99.31(a)(1) and 99.35(a). Nothing in the Agreement shall be construed to authorize (name of organization) to have access to additional data from the Department that is not included in the scope of the Agreement, or to govern access to the data by entities other than the Parties. (Name of organization) further agrees not to share data received under the Agreement with any other entity without prior written approval from the Department (name of organization) understands that the Agreement does not convey ownership of data to (name of organization).
4. Require all employees, contractors, and agents of any kind to comply with the Agreement and all applicable provisions of FERPA and other federal and state laws with respect to the data and information shared under the Agreement. (Name of organization) agrees to require of and maintain an appropriate confidentiality agreement from each employee, contractor, or agency with access to data pursuant to the Agreement. Nothing in this section authorizes (Name of organization) to share data and information provided under the Agreement with any other individual or entity for any purpose other than completing (Name of organization) work as authorized by the Department consistent with this Agreement.
5. Not amend or alter the scope, design, format, or description of a project or report generated by (Name of organization) for this project, except as consistent with the Agreement, without prior written approval of the Department.
6. Not copy, reproduce, or transmit data obtained pursuant to the Agreement except to (Name of organization) own employees, contractors, or agents acting for or on behalf of the Department and as necessary to fulfill the purpose of the project described herein. Data may be stored on a server with other data but may not be merged with that data without prior permission from the Department. Data must be stored using industry-standard encryption and authentication to ensure that only authorized agents of the Department have access to the data. Data may not be taken, maintained, or stored outside the United States. All copies of data of any type, including any modifications or additions to data from any source that contains information regarding individual students, are subject to the provisions of the Agreement and in the same manner as the original data disclosed by the Department to (Name of organization). The ability to access or maintain data under the Agreement shall not under any circumstances transfer from (Name of organization) to any other individual, institution, or entity.
7. Not disclose data contained under the Agreement in it in any manner that could identify any individual student, except as authorized by FERPA, to any entity other than the Department, or authorized employees, contractors,

and agents of (Name of organization) working on the project approved by the Department consistent with this Agreement. Persons participating in the approved project on behalf of the Parties shall neither disclose or otherwise release data and reports relating to an individual student, nor disclose information relating to a group or category of students without ensuring the confidentiality of individual students in that group. Publications and reports of this data and information related to it, including preliminary project descriptions and draft reports, shall involve only aggregate data and no personally identifiable information or other information that could lead to the identification of any student. No report of aggregate data based on an identifiable group of students fewer than ten in number shall be released to anyone other than the Department. (Name of organization) shall require that all employees, contractors, and agents working on this project abide by that statistical cell size.

8. Not provide any data obtained under this Agreement to any entity or person ineligible to receive data protected by FERPA, or prohibited from receiving data from any entity by virtue of a finding under 34 CFR § 99.31(a)(6)(iii).
9.
  - a) Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, security, and integrity of data obtained pursuant to the Agreement and that prevent use and disclosure of such data other than as permitted under the Agreement.
  - b) Immediately inform ESE when (Name of organization) either (1) knows, or has reason to know, of a breach of security with respect to the data provided under this Agreement, or (2) when (Name of organization) knows, or has reason to know, that any of the data described in section was acquired or used by an unauthorized person or used for an unauthorized purpose. Notice shall be given by telephone and by email to Carrie Conaway, [cconaway@doe.mass.edu](mailto:cconaway@doe.mass.edu), (781) 338-3108, and to the Department Chief of Litigation Lucy Wall, [lwall@doe.mass.edu](mailto:lwall@doe.mass.edu), (781) 338-3400. In addition to informing ESE as provided herein, (Name of organization) shall cooperate with the Department and such other state and federal entities as necessary in the investigation and further reporting of such breach.
10. Destroy all data obtained under the Agreement and addenda to it in a manner consistent with industry standards when no longer needed for the purpose for which the Department disclosed the data. Nothing in this Agreement authorizes (Name of organization) to maintain data beyond the time period reasonably needed to complete the project and respond to inquiries from other researchers, which shall be December 31, 2016 or no later than 12 months following the date of publication of the final report of this project, whichever date is earlier. (Name of organization) agrees to require all employees, contractors, or agents working on the project to comply with this provision. No other individual or entity is authorized to

continue research using the data obtained under the Agreement upon the termination of the Agreement and project described herein.

11. In order to protect the confidentiality of personally identifiable information disclosed to (Name of organization), provide the Department any proposed publications or presentations which are to make public any findings, data, or results of the research produced under this Agreement for the Department's review at least thirty (30) days prior to submission of a manuscript or abstract for publication, or the date of the presentation. (Name of organization) agrees to delete any personally identifiable by the Department in advance of publication or presentation of the findings, data, or research results.
12. Provide the Department with an electronic copy of the final versions of all reports and other documents associated with the project and, at the Department's request, with an electronic copy of a nontechnical summary of findings for potential public distribution. The Department reserves the right to distribute and otherwise use the final report and associated documents as it wishes, in sum or in part. (Name of organization) has the right to publish, present, or use the study results it has gained in the course of the research under this Agreement. (Name of organization) or its agents working on this project, retain the right to publish findings in other publications, provided it first shares a substantively similar report with the Department.
13. The Department shall provide (Name of organization) with reasonable notification of any changes in Department policies regarding limits on the use of confidential data. As an agent of the Department, (Name of organization) shall either affirmatively agree to uphold these policies or relinquish access to the data.

VI. COMPLIANCE WITH FIPA. For the purposes of FIPA, M.G.L. c. 66A, (Name of organization) is a "holder" of personal data and will comply in all respects with the applicable requirements of FIPA, a copy of which is available at <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleX/Chapter66A>.

VII. RELATED PARTIES. (Name of organization) represents that it is authorized to bind to the terms of the Agreement, including security, confidentiality, maintenance, publication, and destruction of data disclosed by the Department to it, all related or associated institutions, individuals, employees, contractors, or other agents who may have access to the data or may own, lease, or control equipment or facilities of any kind where the data is stored, maintained or used in any way. The signatory below on behalf of (Name of organization) is authorized to bind (Name of organization) to the terms of the Agreement.

VIII. TERM. This Agreement takes effect upon the signature by the representative of each party named below and shall remain in effect until the data access time

period defined in paragraph 10 of section V has ended, or until canceled by either party upon 30 days written notice, whichever occurs first. The Agreement is renewable upon written approval by the representative of each party.

VIII. This Agreement expresses the entire agreement of the parties and shall not be modified or altered except in writing executed by the representatives of the Department and (Name of organization) authorized to bind the parties, and in a manner consistent with applicable state and federal laws.

\_\_\_\_\_  
Carrie Conaway  
Chief Strategy and Research Officer  
Massachusetts Department of Elementary and Secondary Education

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Name of person)  
(Title)  
(Name of organization)

\_\_\_\_\_  
Date

Attachment: Project description