

Memorandum of Agreement: Data Sharing Agreement

Introduction

- This document is an agreement between the Fayette County Public Schools (FCPS) and _____ (hereinafter “the contracting party”) regarding the transfer of student and teacher data to the contracting party and the subsequent processing of that data.
- This agreement excludes any data which is freely and publicly available through other sources.
- Pursuant to KRS 61.932 and KRS 365.734, the parties to this agreement do hereby agree to the following:

Mechanism for Data Sharing

FCPS and the contracting party will at the appropriate time agree on a file or data sharing process that will involve the encrypted transfer of the data via the public networks.

Obligations of the contracting party

The contracting party warrants that it will:

- Use this data only for the joint project outlined above.
- Read and strictly comply with the provisions of the Family Educational Rights and Privacy Act (“FERPA”) and KFERPA; KRS 160.700 *et seq.* While in possession of this data maintain it in a secure, non-public location.
- Ensure that the student data will be accessed, used and manipulated **only** by those individuals necessary for the successful implementation of the project.
- Advise all individuals accessing the data on proper procedures for securely maintaining the data.
- Take appropriate technical and organizational measures against the unauthorized or unlawful accessing of the data.
- Securely delete all copies of the student data when they are no longer required. “Securely delete” means that industry standard methods will be taken for the purpose of ensuring that no unauthorized person shall be able to reasonably locate or extract the data after the deletion date.
- Promptly comply with any request from FCPS to amend, transfer or delete the data or a subset thereof.
- The contracting party shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement

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Board of Education: John Price, Chair • Melissa Bacon, Vice Chair • Amanda Ferguson • Douglas Barnett • Daryl Love
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purpose, and shall not sell, disclose, or otherwise process student data for any commercial purpose.

- Defend, indemnify, and hold harmless FCPS its agencies, officers and employees from any and all claims of any nature, including all costs, expenses, and attorney's fees, which may in any manner result from or arise out of this agreement, except for claims resulting from or arising out of the FCPS' sole negligence. The legal defense provided by the contracting party to FCPS under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the FCPS is necessary. The contracting party also agrees to defend, indemnify, and hold FCPS harmless for all costs, expenses, and attorneys' fees finally awarded by a court or that are included in a settlement entered into by the parties. FCPS agrees to notify the contracting party of such a claim within a reasonable time and agrees to cooperate with the contracting party in the defense and any related settlement.

Data Breach Act

Pursuant to KRS 61.931, *et seq.*, the contracting party warrants it has procedures and practices in place to safeguard against security breaches.

In the event of a security breach, the contracting party shall notify the FCPS within 48 hours of the suspected or confirmed breach, and the contracting party shall begin conducting a reasonable and prompt investigation to determine whether the security breach has resulted in or is likely to result in the misuse of personal information.

Within 48 hours of completion of the investigation, the contracting party shall notify the above if the investigation finds that the misuse of personal information occurred or is likely to occur.

Data Opt Out

FCPS may provide a mechanism for students, parents or guardians to opt out of any data sharing agreement with any contracting party.

FCPS Superintendent

Contracting party representative

Date

Date