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. 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 at 34 C.F.R. 99.31(b)(1) allow for the sharing of student-level data with organizations under circumstances in which parental permission has been obtained,

WHEREAS, FERPA and its implementing regulations at 34 C.F.R. 99.31(a)(4)(i) allow for the disclosure of personally-identifiable student information with a third party if the disclosure is in connection with financial aid for which the student has applied or which the student has received and the information is necessary to:

- determine eligibility for the aid,
- determine the amount of the aid,
- determine the conditions for the aid, or
- enforce the terms and conditions of the aid.

WHEREAS, La. R.S. 47:6301 authorizes the creation of "student tuition organizations" for the purpose of providing financial aid to qualified students to attend private schools,

WHEREAS, ACE Scholarships Louisiana is a student tuition organization as authorized by La. R.S. 47:6301,

WHEREFORE, the Louisiana Department of Education, (hereinafter referred to as "State") and ACE Scholarships Louisiana, (hereinafter referred to as "STO") do enter into this Agreement subject to the terms and conditions as specified herein.

This Data Sharing Agreement, upon execution, shall supersede and replace all other Data Sharing Agreements that are in existence between the Louisiana Department of Education and ACE Scholarships Louisiana.

1. Purpose of the Disclosure

STO agrees to use any data disclosed to it pursuant to this Agreement solely purposes related to the administration of a student financial aid program, as set forth in 34 C.F.R. 99.31(a)(4)(i) as described below to the extent permitted by law:

STO will adjudicate student applications for admission into the Tuition Donation Rebate program by using student data accessed through query system provided to STO by LDE.

2. Data

The State agrees to provide STO with the following personally-identifiable student information on students whose parent has provided written consent for the disclosure of such information and who have applied with the STO for financial aid or who have received financial aid from the STO:

- Student name and unique ID
- Grade
- Student's qualification status for food stamps or free and reduced lunch
- Student's special education status with exceptionalities
- Student enrollment information from the most recent Oct 1st and Feb 1st reportings
- Student's enrollment status in Louisiana Scholarship Program
- Student's enrollment status in Tuition Donation Rebate Program

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 STO 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 RS 17:3914. The STO 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 RS 17:3914 and therefore will not be disclosed by STO to any third party.

STO 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 administer the financial aid program. STO shall maintain the data, whether in hard copy or electronic form, in an area that has limited access only to STO's authorized personnel. STO shall not permit removal of the data from the limited access area. STO will ensure that access to the data maintained on computer files or databases is controlled by password protection. STO shall establish procedures to ensure that the target data cannot be extracted from a computer file or database by unauthorized individuals. STO 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. STO 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). STO shall, under supervision of the State, destroy the data, including all copies, whether in electronic or hard copy form, when the student information is no longer needed for the purposes set forth in this MOU or this Agreement is terminated, whichever occurs first.

4. Restrictions on Use

STO 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. STO 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. STO 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 makes a student's identity easily traceable. STO shall provide the State with a copy of any document containing, incorporating, referencing, or which STO has prepared in any way utilizing, any data provided to STO pursuant to this Agreement, whether in hard copy or electronic form, that STO intends to publish, at least 7 business days prior to its first publication. Advance copies of such documents shall forwarded to:

Kim Nesmith
Data Quality Director
Louisiana Department of Education
1201 N. Third Street
Baton Rouge, LA 70802
225.342.1840
kim.nesmith@la.gov

5. Indemnification

STO 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 STO and/or any student, teacher or any other third party as a result, directly or indirectly, of any disclosure of data by the State pursuant to this Agreement or any re-disclosure of such data by STO.

6. Ownership

Any and all student information that the State provides to STO shall remain the property of the State. Any reports or other documents created by STO with the student information provided by the State shall be the property of the STO. STO 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 makes a student's identity easily traceable. STO agrees to provide the State with a copy of any and all reports and other documents that STO intends to publish or to disclose to any third party, which STO created with the data provided under this Agreement within seven (7) business days from the date they are finalized. STO grants the State a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, distribute and display, and to make derivative works from, any of the reports or other documents created by STO with data provided pursuant to this Agreement.

7. Audits

STO shall permit the State or its authorized representatives to carry out security or audit checks pertaining to STO's security and usage of PII. STO shall cooperate with the State. The State or its authorized representatives shall have access at all reasonable times on working days during working hours at STO's business premises to STO's employees, together with records, books and correspondence and other papers and documentation or media of every kind in possession of STO and STO'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.

8. 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 student information or the physical, technical, administrative or organizational safeguards put in place by STO that relate to the protection of the security, confidentiality or integrity of PII, or receipt of a verifiable complaint in relation to the privacy practices of STO or a breach or alleged breach of this Agreement relating to such privacy practices.

STO shall take commercially reasonable steps and best efforts, in accordance with industry standards, to prevent security breaches. STO shall also take commercially reasonable steps, in accordance with industry standards, to immediately remedy any security breach and prevent any further security breach at STO's expense in accordance with standard industry practices and applicable law.

STO shall:(i) provide the state with the name and contact information for an employee of STO who shall serve as the State's primary security contact and 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) immediately notify State in writing of a security breach after STO becomes aware of it; and

Immediately following STO's notification to the State of a security breach, STO and the State shall coordinate with each other to investigate the security breach. STO agrees to fully cooperate with State in State's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing the State with physical access to the facilities and operations affected;(iii) facilitating interviews with STO'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.

9. Liaison Officials

The State's liaison and the STO'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 Governance and Privacy Director
P.O. Box 94064
Baton Rouge, LA 70804
Kim.Nesmith@la.gov
225-342-1840

Jonathan Tee
Chief Operating Officer
1201 E. Colifax Ave. Suite 302
Denver, CO 80218
jtee@acescholarships.org
303-407-0618

10. Term of Agreement

This Agreement shall begin on May 15, 2018 and shall terminate on May 15, 2021. 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

Either party may terminate this Agreement at any time by giving the other party written notice of such termination.

12. Assignment of Contract

STO shall not assign any interest in this Agreement by assignment, transfer, or novation, without prior written consent of the State.

13. Jurisdiction, Venue and Governing Law

Exclusive jurisdiction and venue for any and all suits between the State and STO 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.

14. Survival

STO's obligation under Clauses 1,3,4,5,6, and 13 shall survive expiration and/or termination of this Agreement. STO's obligations under Clauses 7 and 8 shall survive expiration and/or termination of this Agreement until STO has fully complied with its obligation to destroy data as set forth herein.

THUS DONE AND SIGNED at Baton Rouge, Louisiana, on the day, month and year first written below.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this 15th day of May, 2018.

John C. White,
State Superintendent of Education

Jonathan Tee
Chief Operating Officer
ACE Scholarships Louisiana