

**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 allow for an educational agency or institution to share personally identifiable student-level data with contractors performing work on their behalf,

WHEREAS, R.S. 17:3914 allows for Local Educational Agency (“LEA”) to contract with a private entity for student and other educational services and release personally identifiable pursuant to the terms of the contract,

WHEREAS, the Louisiana Department of Education (hereinafter referred to as “State”) and Teaching Strategies, LLC. (hereinafter referred to as “Contractor”) have entered into a contractual arrangement, pursuant to which Contractor will provide services to State, LEAs, and Louisiana’s Head Start Programs.

WHEREFORE, the State and Contractor do enter into this Agreement subject to the terms and conditions as specified herein.

### **1. Local Educational Agencies and Head Start Programs Stipulation**

The Contractor acknowledges that LEAs and/or Louisiana’s Head Start Programs submit child data directly to the Contractor. The Contractor hereby agrees, to be bound, vis-à-vis any and all such LEAs and/or Head Start Programs that unilaterally sign an addendum to this data sharing agreement, by all of the provisions of this Agreement with respect to any child data provided directly to the Contractor by such Louisiana LEAs and/or Head Start Programs.

### **2. Purpose of the Disclosure**

Contractor agrees to collect and use any data disclosed to it pursuant to this Agreement solely for the purposes of the providing the services to the State, LEAs, and Head Start Programs referenced below.

The 2012 Act 3 legislation established an Early Care and Education Network. This Network must:

- Establish common standards of kindergarten readiness,
- Develop and implement a uniform statewide system (Kindergarten Readiness System) that issues letter grades to providers and holds them accountable for quality and positive child outcomes; and
- Requires that programs participate administer child assessments, receive a quality rating,

and share results.

Purpose of this agreement is to facilitate program evaluation for the LEAs and Head Start Programs in the form of Performance Profiles. The State will need the child level checkpoint levels in *GOLD™* by Teaching Strategies® from Head Start Programs using *GOLD™* under the state's, LEAs', and/or Head Start Programs' licenses.

### **3. Data**

LEAs and/or Louisiana's Head Start Programs agree to provide Contractor with the following child-level data using *GOLD™*:

- Name (first, middle, last)
- Nickname
- Child demographics
- First Day in Program
- Number of hours in attendance
- Funding Source

The Contractor agrees to provide the State with the following child-level data:

- First letter of child's first name
- First three letters of the child's last name
- Day of birth
- Checkpoint level

The State will only report assessment data in the aggregate, at the site-level, and with no individual child results within the reports.

The LEAs and/or Head Start Programs reserve the right to withhold any of the foregoing data if they determine that disclosure of such data would violate any provision of state or federal law.

### **4. Confidentiality**

This Agreement is entered into by Contractor 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 R.S. 17:3914. Contractor hereby acknowledges that all documents which include personally identifiable information contained in or derived from a student's education records are deemed confidential pursuant to FERPA and R.S. 17:3914 and will not be disclosed by Contractor to any third party.

Contractor 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 services referenced above. Contractor shall maintain the data, whether in hard copy or electronic form, in an area that has limited access only to Contractor's authorized personnel. Contractor shall not permit removal of the data from the limited access area. Contractor will ensure that access to the data maintained on computer files or databases is controlled by password protection. Contractor shall establish procedures to ensure that the target data cannot be extracted from a computer file or

database by unauthorized individuals. Contractor shall maintain all printouts, discs, or other physical products containing child-level data in locked cabinets, file drawers, or other secure locations when not in use. Contractor shall, under supervision of the LEA and/or Head Start Program, destroy the data provided to Contractor, including all copies, whether in electronic or hard copy form, when the services are completed or this Agreement is terminated, whichever occurs first.

## **5. Restrictions on Use**

Contractor shall not use the data for any purpose not expressly permitted in this Agreement. Contractor cannot disclose any document, whether in hard copy or electronic form, or otherwise disclose to any third party any child-level data or information in any form whatsoever or under any circumstances which would directly or indirectly makes a child's identity traceable.

## **6. Indemnification**

Contractor 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 any claims arising out of any cause related to the collection, transfer, keeping or securing of student data, except to the extent that they are due to the fault or negligence of the State.

Contractor shall defend, indemnify and hold harmless any LEA and/or Louisiana Head Start Program and any and all of the LEA and/or Louisiana Head Start Program 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 any claims arising out of any cause related to the collection, transfer, keeping or securing of student data, except to the extent that they are due to the fault or negligence of the LEA and/or Head Start Program.

## **7. Ownership**

Any data delivered or transmitted to the Contractor by the State and/or obtained or prepared by Contractor for the State pursuant to this Agreement shall become the property of the State, and shall, upon request, be provided or returned by Contractor to the State.

Any data delivered or transmitted to the Contractor by an LEA and/or Louisiana Head Start Program and/or obtained or prepared by Contractor for an LEA and/or Head Start Program pursuant to this Agreement shall become the property of the LEA and/or Head Start Program, and shall, upon request, be provided or returned by Contractor to the LEA and/or Head Start Program. Any documents, materials, and/or products created or developed by Contractor under this Agreement for an LEA and/or Head Start Program shall be the property of the LEA and/or Head Start Program.

No records, reports, documents, materials or products created or developed under this Agreement can be distributed free or for profit.

## **8. Security Audits**

Pursuant to in La. R.S. 17:3914, the Contractor shall permit security or audit checks pertaining to Contractor's security and usage of student data. Contractor shall cooperate with all security audits. Access should be made available at all reasonable times on working days during working hours at Contractor's business premises to Contractor's employees, together with records, books and correspondence and other papers and documentation or media of every kind in possession of Contractor and Contractor's employees pertaining to this Agreement. No person or entity will access PII except as authorized by law.

## **9. 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 Contractor that relate to the protection of the security, confidentiality or integrity of personally-identifiable student information, or receipt of a complaint in relation to the privacy practices of Contractor or a breach or alleged breach of this Agreement relating to such privacy practices.

Contractor shall take commercially reasonable steps and best efforts, in accordance with industry standards, to prevent security breaches. Contractor shall also take commercially reasonable steps, in accordance with industry standards, to remedy any security breach within twenty-four (24) hours and prevent any further security breach at Contractor's expense in accordance with standard industry practices and applicable law.

Contractor shall:(i) provide the State, LEA, and Head Start Program with the name and contact information for an employee of Contractor who shall serve as the State's, LEA's, and Head Start Program's primary security contact and shall be available to assist State, LEA, and Head Start Program 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, LEA, and Head Start Program via email, SMS text, and telephone once the Contractor becomes aware of a security breach.

Immediately following Contractor's notification to the State, LEA, and Head Start Program of a security breach, the Contractor, the State, LEA, and Head Start Program shall coordinate with each other to investigate the security breach. Contractor agrees to fully cooperate with State, LEA, and Head Start Program in their handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing physical access to the facilities and operations affected;(iii) facilitating interviews with Contractor'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, LEA, and Head Start Program and (v) providing any notices to persons or organizations affected by the security breach as required by law and as required by the State, LEA, and Head Start Program.

## **10. Term of Agreement**

This Agreement shall begin on June 10, 2016 and shall terminate on June 30, 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**

The State may terminate this Agreement at any time by giving Contractor, LEA, and/or Head Start Programs written notice of such termination.

### **12. Assignment of Contract**

Contractor shall not assign any interest in this Agreement by assignment, transfer, or novation, without prior written consent of the State. Nothing in this provision shall preclude the Contractor from subcontracting with third parties to perform work contemplated herein; however, the Contractor is responsible for ensuring that any such subcontractor(s) adhere to, and agree to be bound by, all provisions of this agreement and that any contract with such subcontractor(s) shall explicitly make such subcontractor(s) subject to the audit provisions contained herein.

### **13. 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 filed and adjudicated in the 19<sup>th</sup> Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

Exclusive jurisdiction and venue for any and all suits between the LEAs and/or Louisiana's Head Start Programs and Contractor arising out of, or related to, this Agreement shall be filed and adjudicated in the appropriate Louisiana State District Court, in the Parish in which the LEA and/or Head Start Program is domiciled.

Exclusive jurisdiction and venue for any and all suits among the Contractor, the State, and one or more LEAs and/or Louisiana Head Start Programs arising out of, or related to, this Agreement shall be filed and adjudicated in the 19<sup>th</sup> 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**

Contractor's obligation under Clauses 2, 4, 5, 6, 7, and 13 shall survive expiration and/or termination of this Agreement. Contractor's obligations under Clauses 8 and 9 shall survive expiration and/or termination of this Agreement until Contractor 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 10th day of June, 2016.

  
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John C. White,  
State Superintendent of Education

  
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Leslie J. Collins  
Chief Financial Officer,  
Teaching Strategies, LLC