

Agreement Between  
The Connecticut State Board of Education  
and American Institutes for Research

This Agreement is entered into by the Connecticut State Board of Education (CSBE) on behalf of the Connecticut State Department of Education (CSDE) and American Institutes for Research (AIR or "Researcher") for the purpose of sharing information between the parties in a manner consistent with the Family Education Records Privacy Act of 1974 ("FERPA"). The information will be used by researchers at AIR to deliver the Smarter Balanced Field Test assessment in Connecticut and to study the efficacy of its implementation. This agreement also allows the CSDE to comply with the assessment requirements outlined in sections 6311(b)(1)(B) and 6311(b)(3)(C)(i) of the Elementary and Secondary Education Act as adjusted by the double-testing flexibility provided by the U.S. Department of Education that enables Connecticut to administer the Smarter Balanced Field Test in lieu of the existing assessments (the Connecticut Mastery Test and the Connecticut Academic Performance Test) in a vast majority of Connecticut districts. It also facilitates a study by the CSDE and AIR of the feasibility of statewide implementation of the Smarter Balanced operational assessment in the Spring of 2015. In order to complete this study and have a positive impact on the instruction of children, AIR requires the use of student data from the CSDE. The student data to be provided to AIR by the CSDE are detailed in Appendix A.

The Family Educational Rights and Privacy Acts Statute, 20 U.S.C. §1232g (hereinafter "FERPA") permits the disclosure of personally identifiable information from education records to organizations conducting studies for or on behalf of educational agencies to develop, validate, or administer predictive tests, to administer student aid programs, or to improve instruction. To effect the transfer of data subject to FERPA, Researcher agrees to the following:

- I. PARTIES. The CSDE is a state educational authority authorized to receive information from local educational agencies ("LEAs") subject to FERPA, as authorized by 34 CFR Section 99.31. Researcher shall conduct a study, as described below, on behalf of the CSDE and LEAs for the purpose of improving instruction in Connecticut public schools.
- II. DEFINITIONS. The following definitions shall be the same as provided in FERPA and the regulations promulgated thereunder, as amended from time to time: Attendance, Authorized Representative, Education Program, Educational Agency, Education Record, Disclosure, Institution of Postsecondary Education, Student, and Personally Identifiable Data.
- III. DUTIES OF THE RESEARCHER.
  1. In all respects, Researcher shall comply with the provisions of FERPA. For purposes of this Agreement, "FERPA" includes any amendments or other relevant provisions of federal law, as well as all requirements of Chapter 99 of Title 34 of the Code of Federal Regulations (CFR), as amended from time to time. Nothing in this Agreement may be construed to allow either party to maintain, use, disclose or share student information in a manner not allowed by federal law or regulation or by this Agreement.
  2. Researcher shall use the data shared under this Agreement for no purpose other than to administer the Smarter Balanced assessment and to perform a study to study its efficacy,

which is authorized under 34 CFR Section 99.31(a)(6). Researcher further agrees not to share data received under this Agreement with any other entity without the CSDE's prior written consent. Researcher agrees to allow the Office of the State Auditor for the State of Connecticut, subject to FERPA restrictions, access to data shared under this Agreement and any relevant records of Researcher for purposes of completing authorized audits of the parties. Researcher agrees to immediately cease all use of the data shared under this Agreement in the case of a data breach or suspected data breach.

3. Researcher shall require all employees to comply with all applicable provisions of FERPA and other federal laws with respect to the data shared under this Agreement. Researcher agrees to require and maintain an appropriate confidentiality Agreement from each employee with access to data pursuant to this Agreement and to limit access to confidential information to staff members with legitimate interests related to the study. Furthermore, the Researcher agrees to ensure that authorized employees only access the confidential data for legitimate purposes related to the study. Nothing in this paragraph authorizes sharing data provided under this Agreement with any other entity for any purpose.
4. Researcher shall maintain all data obtained pursuant to this Agreement in a secure computer environment on secure drives where access is restricted to authorized persons. Data shall not be stored on stand-alone computer/notebook hard disks or portable storage devices like external/removable hard drives, flash cards (e.g., SD, Compact Flash), flash drives (a.k.a thumb or jump drives), compact disks, digital video disks, etc. Researcher shall not copy, reproduce or transmit data obtained pursuant to this Agreement except as necessary to fulfill the purpose of the original request.
5. Researcher agrees that all copies of data of any type, including but not limited to any modifications or additions to data from any source that contains information regarding students, are subject to the provisions of this Agreement in the same manner as the original data. The ability to access or maintain data under this Agreement shall not under any circumstances transfer from Researcher to any other institution or entity.
6. Researcher assures that it will not disclose any data obtained under this Agreement in a manner that could identify an individual student to any other entity at any time and during any stage of this study.
7. Researcher agrees that it shall not provide any data obtained under this Agreement to any party ineligible to receive data protected by FERPA or prohibited from receiving data from any entity by virtue of a finding under Section 99.31(b)(6)(iii) of Title 34, Code of Federal Regulations.
8. Researcher agrees not to release any data where the cell size of the group reported would be less than or equal to five (5). In the case of assessment data, the researcher agrees to a more stringent minimum cell size of twenty (20).
9. Researcher shall destroy and render permanently inaccessible all data obtained under this Agreement and all data related to this study that may contain confidential information when it is no longer needed for the purpose for which it was obtained or if the agreement is cancelled per Section VII of this agreement, but no later than the end date of the Agreement. Nothing in this Agreement authorizes Researcher to maintain data beyond the

time period reasonably needed to complete the purpose of the request. All data no longer needed shall be destroyed or returned to the CSDE in compliance with 34 CFR Section 99.35(b)(2). Researcher shall provide written verification to the CSDE within 30 days of such destruction. Researcher agrees to require all employees to comply with this provision. Researcher agrees that failure to abide by the destruction requirements of this agreement shall constitute a breach of confidential information, which is subject to the breach related requirements detailed later in this agreement.

IV. **CONFIDENTIALITY:** All data provided to AIR by the State or developed internally by AIR with regard to the State will be treated as proprietary to the CSBE and confidential unless the CSBE agrees in writing to the contrary. AIR agrees to forever hold in confidence all files, records, documents, or other information as designated, whether prepared by the State or others, which may come into AIR's possession during the term of this contract, except where disclosure of such information by AIR is required by other governmental authority to ensure compliance with laws, rules, regulations, and such disclosure will be limited to that actually so required. Where such disclosure is required, AIR will provide advance notice to the CSBE of the need for the disclosure and will not disclose anything absent consent from the CSBE unless such advance notice is in and of itself in violation of applicable laws, rules and regulations.

- (a) **"Confidential Information"** shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Department classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
- (b) **"Confidential Information Breach"** shall mean an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the client, the AIR, the Department or State.

**(c) Protection of Confidential Information**

i. AIR, at its own expense, has a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which it comes to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.

ii. AIR shall implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:

- 1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
- 2) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
- 3) A process for reviewing policies and security measures at least annually;
- 4) Creating secure access controls to Confidential Information, including but not limited to passwords; and
- 5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.

iii. AIR shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which AIR possesses or controls has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, AIR shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by AIR at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. AIR's costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.

v. Nothing in this Section shall supersede in any manner AIR's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of AIR as a Business Associate of the Department.

V. PARTIES' REPRESENTATIVES.

AIR identifies the following single individual to serve as their representative under this Agreement.

Selina Tolosa  
American Institutes for Research  
1000 Thomas Jefferson Street  
Washington D.C., District of Columbia 20007  
United States  
Phone: (202) 403-5000  
[stolosa@air.org](mailto:stolosa@air.org)

This representative shall be responsible for transmitting all data requests and maintaining a log or other record of all data requested and received pursuant to this Agreement, including confirmation of the completion of any projects and the return or destruction data as required by this Agreement. The CSDE or its agents may upon request review the records required to be kept under this section.

CSDE names the following individual as its contact person:


Ajit Gopalakrishnan, Chief  
Bureau of Data Collection, Research and Evaluation  
Connecticut State Department of Education  
165 Capitol Avenue  
Hartford, CT 06106  
Phone: (860) 713-6888  
Fax: (860) 713-7033  
Email: [ajit.gopalakrishnan@ct.gov](mailto:ajit.gopalakrishnan@ct.gov)

VI. RELATED PARTIES. Researcher represents that it is authorized to bind to the terms of this contract, including confidentiality and destruction or return of student data, all employees 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. This Agreement takes effect only upon acceptance by authorized representatives of AIR, by which that institution agrees to abide by its terms and return or destroy all student data upon completion of the research for which it was intended or upon the termination of its current relationship with Researcher.

VII. TERM and CANCELLATION. This Agreement takes effect upon signature by the authorized representative of each party and will remain in effect for one year after the execution of this Agreement. The parties further understand that the CSDE may cancel this Agreement at any time, upon reasonable notice. The CSDE specifically reserves the right to cancel this Agreement without notice should the CSDE, in its sole discretion, determine that student information has been released in a manner inconsistent with this Agreement, has not been maintained in a secure manner, or that substantially similar data access has become generally available for research purposes through any other mechanism approved by the CSDE.


IN WITNESS WHEREOF, the Parties have affixed their signatures:

Connecticut State Board of Education

By:   
Stefan Pryor  
Commissioner

2/10/14  
Date

American Institutes for Research

By:   
Thomas Jesulaitis  
Director of Contracts and Grants  
American Institutes for Research

1/16/14  
Date

Appendix A.

The CSDE shall provide AIR the following data elements, where available, for each student being given the Smarter Balanced Field-Test Assessment.

Element
State Abbreviation
Responsible District Identifier
Responsible School Identifier
SSID
Last or Surname
First Name
Middle Name
Birthdate
Confirmation Code
Grade Level When Assessed
Sex
Hispanic or Latino Ethnicity
American Indian or Alaska Native
Asian
Black or African American
White
Native Hawaiian or Other Pacific Islander
Demographic Race Two or More Races
IDEA Indicator
Limited English Proficiency Status
Language Code
Section 504 Status
Economic Disadvantage Status