

AGREEMENT FOR CONFIDENTIAL DATA EXCHANGE BETWEEN SAN FRANCISCO UNIFIED SCHOOL DISTRICT AND STANFORD UNIVERSITY

This Data Exchange and Confidentiality Agreement (“Agreement”) is entered into by and between San Francisco Unified School District (hereinafter referred to as “SFUSD” or “District”) and the Board of Trustees of the Leland Stanford Junior University (collectively the “Parties”), and is dated for convenience July 1, 2017. This Agreement sets forth the means to be used by Stanford University to ensure the confidentiality and security of information and data to be exchanged between SFUSD and Stanford University.

A. THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

The Family Education Rights Privacy Act (“FERPA”) permits the release of personally identifiable student data without prior written parental consent if the release is to “organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.” 20 USC 1232g(b)(1)(F). Each party agrees to comply with FERPA, and other applicable laws, in its performance of this Agreement.

B. PURPOSE

SFUSD and Stanford University agree that SFUSD will provide Stanford University with confidential data pursuant to FERPA section 1232g(b)(1)(F), for the purpose of research as described in this Agreement. Stanford University will store the data on the District’s behalf in a secure (that is, a system or computer using current industry standard technology to protect against unauthorized access including encryption software), password-protected computer, server or other electronic device at Stanford University’s Center for Education Policy Analysis (CEPA). CEPA will share data with other researchers at Stanford University only with the prior approval by SFUSD as to specific data. Individual researchers must establish approved data use agreements with SFUSD and approval from Stanford University’s Institutional Review Board (IRB) for their specific research projects to request data for specific research projects. CEPA will provide the approved data to a Stanford University researcher only once the data use agreement has been approved by SFUSD officials, and CEPA has received written permission (via email or other means) from SFUSD to give the data to Stanford University researcher or researchers based on the signed data use agreement.

Data provided by SFUSD for the purposes of this Agreement will include only the data legally permissible to provide to outside agencies for the purposes of research.

Background:

Many Stanford Research Organizations/Stanford Researchers at Stanford University make requests for quantitative data from SFUSD based on data use agreements established between the Stanford Research Organizations/Stanford Researchers and the District. In the past, SFUSD had to fulfill multiple requests for data from Stanford University, and often these requests were for similar data within very similar parameters. To avoid duplicating efforts on the District's part, Stanford University and SFUSD entered into this Agreement for Stanford University to receive and store SFUSD data. This also facilitates prompt transfer of data from SFUSD to Stanford University Stanford Research Organizations/Stanford Researchers who have data use agreements with SFUSD.

C. SCOPE

Part 1: Cooperation in Providing the Data

1.01 SFUSD agrees to provide CEPA with downloads of data that is legally permissible to share with a research institution. These downloads happen within approximately the first two months of each semester of each school year of this Agreement.

1.02 CEPA agrees to provide back to SFUSD extracts of District data when requested by District administrators in the Research, Planning, and Assessment office. CEPA agrees to provide this data according to the same protocols outlined for data exchange in this Agreement.

1.03 SFUSD and Stanford University will make sure that all appropriate data is transferred and stored pursuant to the terms of this Agreement. CEPA data manager/s will maintain a spreadsheet tracking the exchange of SFUSD data between SFUSD and CEPA, and will make such spreadsheet available to District RPA administrators upon request.

1.04 Prior to receiving any District data, a requesting Stanford Research Organization/Stanford Researcher must have established a data use agreement with SFUSD that outlines the data requested with a high degree of specificity. The data use agreement will be prepared by SFUSD and appropriately signed by an authorized SFUSD representative and the Stanford Principal Investigator, and such agreement shall include an appropriate list of requested data elements.

Part 2: Agreement to Provide Data to Other Organizations within Stanford University

2.01 The Faculty Director and the Executive Director of CEPA agree to devote personnel time to managing the SFUSD data and fulfilling data requests from other Stanford Research Organizations/Stanford Researchers with funding support from the Stanford University Graduate School of Education. Data requests from other Stanford Research Organizations/Stanford Researchers will only be approved by CEPA data managers once the Stanford Research Organization/Stanford Researcher has an approved data use agreement with SFUSD and CEPA receives a written approval/request to fulfill the data request by SFUSD.

Part 3: Protection and Security of Personal Information

3.01 CEPA will use appropriate and reasonable efforts to store all SFUSD data on a password-protected, secure server with encryption connected to a desktop computer in a locked office. Back-up copies of the data (on CD) will be stored in a locked file cabinet in a locked office. Only CEPA's Faculty Director, the Executive Director and data manager will have access to the SFUSD data set stored at CEPA.

3.02 CEPA will transfer data to Stanford Research Organizations/Stanford Researchers through a Secure-FTP (file transfer protocol) site upon receipt of a written approval/request from SFUSD pursuant to the terms of this Agreement. Identification numbers included in the data from SFUSD will be de-identified by CEPA before being shared with any Stanford Research Organization/Stanford Researcher, unless approval has been granted by SFUSD to share unscrambled identification numbers and such approval is reflected in the data use agreement with the Stanford Research Organization/Stanford Researcher. Stanford will limit access to the algorithm to convert the de-identified numbers to those with a legitimate educational interest in accessing the data in order to carry out this Agreement.

3.03 CEPA will maintain a spreadsheet tracking the exchange of data between CEPA and other Stanford Research Organizations/Stanford Researchers, and make such spreadsheet available to District RPA administrators upon request.

Part 4: Benefits to School and/or District

4.01 SFUSD has a limited amount of resources and wants to make sure it has a productive partnership with Stanford University. Therefore, SFUSD wants to expand its capacity to fulfill data requests from Stanford Research Organizations/Stanford Researchers in a timely manner and set up and maintain a secure and legally compliant data center on the Stanford University campus. This will diminish the time and resources SFUSD currently devotes to these data requests. This will also allow SFUSD to fulfill Stanford Research Organizations/Stanford Researchers' data requests in a timely manner.

Part 5: Timeline

5.01 CEPA agrees to provide Stanford Research Organizations/Stanford Researchers with data as approved in writing by SFUSD within 30 days of receipt of a written approval/ request by SFUSD to transfer data. CEPA will not transfer any data that has not been specifically requested in writing by SFUSD to be transferred. This timeline includes the initial submission of a proposed data use agreement by a Stanford Research Organization/Stanford Researcher to SFUSD as well as any back and forth discussion needed between the Stanford Research Organization/Stanford Researcher and CEPA to make sure the Stanford Research Organization/Stanford Researcher has all of the approved data elements he or she needs. This timeline does not include additional requests for data made by the Stanford Research Organization/Stanford Researcher after the initial request. SFUSD will make every effort to meet this timeline, however, during periods of peak workload, some delays may occur.

D. NATURE OF DATA

To address the purpose and scope of work detailed in this Agreement, Stanford University requests the specific SFUSD records or data listed in Attachment A (“Specific Records on Data Elements”) which shall be incorporated into this Agreement by reference as though fully set forth herein.

E. TRANSFER OF DATA

SFUSD and Stanford University shall use a Secure, mutually agreed upon means and schedule for transferring confidential information. At no time will SFUSD or Stanford University send data electronically in an unsecured format to or from the parties. The parties agree that the data may be electronically transferred via secure file transfer protocol (SFTP) accessible to authorized users secure log-in only.

First, the data will be transferred from SFUSD to Stanford University. Stanford University’s Graduate School of Education has agreed to Securely store the data at CEPA, under the leadership of the CEPA Faculty Director and Executive Director.

Second, CEPA will devote personnel to manage the incoming data, make sure the data are in a readable format with guidance from SFUSD, organize the data, and work with SFUSD to understand the data elements. This includes maintaining a codebook (i.e., detailed documentation – source, date, and definition) of all the data from SFUSD.

Third, any Stanford Research Organization/Stanford Researcher that would like to conduct research with SFUSD data must complete and submit a proposed data use agreement to the District’s Office of Research, Planning and Assessment. SFUSD will assess the proposed data use agreement, and if such agreement is approved, will assess what data elements are appropriate to be shared with the Stanford Research Organization/Stanford Researcher for the purpose of the project outlined in the data use agreement.

Fourth, for approved data use agreements, Stanford University personnel will contact the CEPA data manager to request a secure transfer of data elements outlined in the approved and fully executed data use agreement to the Stanford Research Organization/Stanford Researcher, and provide the CEPA data manager with a written request (via email or another means) to supply the approved data to the Stanford Research Organization/Stanford Researcher.

Fifth, the CEPA data manager will securely transfer these data to the Stanford Research Organization/Stanford Researcher within 30 days of receipt of the written request from SFUSD.

Sixth, once data is transferred via SFTP to Stanford Research Organization/Stanford Researcher, the CEPA data manager will delete SFUSD data from the SFTP after receipt by the project and/or by the end of 14 days.

F. PERIOD OF AGREEMENT; EFFECTIVE DATE

The period of this Agreement shall be from July 1, 2017 through June 30, 2020. This Agreement shall be effective when fully signed by the parties, and shall continue in full force and effect through the period of the Agreement unless terminated earlier by either party pursuant to Section I (“Termination”) herein.

G. STANFORD UNIVERSITY RESPONSIBILITIES

Stanford University agrees to the following confidentiality statements:

1. Stanford University acknowledges that these data are confidential data and proprietary to SFUSD, and agree to use reasonable and appropriate measures to protect such information from unauthorized disclosures and to comply with all applicable District policy and Local, State and Federal confidentiality laws and regulations including but not limited to the California Education Code and the Family Education Rights and Privacy Act (FERPA).
2. Stanford University shall designate the CEPA Faculty Director as the person responsible for the security and confidentiality of the data and will notify SFUSD immediately in writing of any change in designee.
3. Stanford University will use appropriate safeguards to prevent the use or disclosure of the information other than as provided by this data use agreement.
4. Stanford University shall instruct all staff with access to data provided by District to Stanford University pursuant to this Agreement in the requirements for handling confidential student information, and require each person who will have access to such information to sign an agreement to comply with the confidentiality provisions of this Agreement.
5. Stanford University shall not assign this Agreement or any portion thereof to a subcontractor or other third party without the prior written consent of SFUSD, and any attempted assignment without such prior written consent in violation of this Section shall be without effect and shall automatically terminate this Agreement.
6. Stanford University agrees that the research shall be conducted in a manner that does not permit personal identification of students, parents or staff by individuals other than representatives of Stanford University who have legitimate educational interests in the information.
7. Stanford University will report only aggregate data and will not report any individual data, nor will data be reported in a manner that permits indirect identification of any individual.
8. Stanford University will not contact the individuals included in the data sets without obtaining advance written authorization from SFUSD.
9. If a research proposal from a Stanford Research Organization/Stanford Researcher includes a survey of students, or a survey of any other subject, then the Stanford Research

Organization/Stanford Researcher shall obtain advance written approval from SFUSD's Office of Research, Planning, and Assessment ("RPA") and Stanford University's Institutional Review Board (IRB), and if such approval is granted by each of those, then Stanford Research Organization/Stanford Researcher shall also obtain prior written informed consent from the parent or legal guardian of each student participating in such survey where students are the survey subjects. If the use of surveys will be proposed, the surveys must be attached to the research application and subsequently approved by SFUSD's RPA in writing prior to use.

10. Stanford University shall not re-disclose any individual-level data with or without identifying information to any other requesting individuals, agencies, or organizations without prior written authorization by SFUSD, and Stanford University shall not disclose to any Stanford Research Organization/Stanford Researcher any personally identifiable student information (e.g. name, date of birth, address...) unless express prior written permission to do so is granted by SFUSD for a specific project only, as provided for in this Agreement.
11. Stanford University shall use the data only for the purpose described in Section A above and according to the terms and conditions of this Agreement. These data shall not be used for personal gain or profit.
12. Stanford University shall use reasonable and appropriate efforts to keep all information furnished by SFUSD on encrypted machines and in a space otherwise physically and electronically secure from unauthorized access, including using such efforts to prevent unauthorized persons from retrieving, or altering the information by means of a computer, remote terminal, or other means. No data will be stored on unencrypted laptop or desktop computers or servers or other unencrypted portable computing devices or media, e.g., flash drives, etc.
13. Stanford University shall permit examination and on-site inspections by SFUSD upon reasonable advance notice for the purpose of ascertaining whether the terms of this Agreement are being met.
14. Stanford University agrees that the confidential data shall be securely destroyed when no longer needed for the purposes of this Agreement.
15. Stanford University agrees that SFUSD shall not be named or otherwise identified in the study, unless written permission to do so is granted by SFUSD for a specific project only.

H. LIABILITY

1. Stanford University agrees to be responsible for, and assumes all liability for, any claims, costs, damages or expenses (including reasonable attorneys' fees) that may arise from or relate to Stanford University's sole intentional or negligent release of personally identifiable student, parent or staff data (collectively "Claims"). Stanford University agrees to hold harmless SFUSD and pay any costs incurred by SFUSD in connection with any such Claim.

2. SFUSD agrees to be responsible for, and assumes all liability for, any claims, costs, damages or expenses (including reasonable attorneys' fees) that may arise from or relate to SFUSD's sole intentional or negligent release of personally identifiable student, parent or staff data (collectively "Claims"). SFUSD agrees to hold harmless Stanford University and pay any costs incurred by Stanford University in connection with any such Claim.
3. In the event of concurrent negligence of Stanford University, its Board, officers, employees and agents, and SFUSD, its Board, officers, employees and agents, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified. Nothing in this Agreement shall constitute a waiver or limitation of any rights that Stanford University may have under applicable law in the event of concurrent negligence of persons or entities other than District.
4. Stanford University and SFUSD agree to cooperate with each other in the investigation and disposition of third-party liability claims arising out of any services provided under this Agreement. It is the intention of Stanford University and District to fully cooperate in the disposition of all such claims. Such cooperation may include joint investigation, defense and disposition of claims of third parties arising from services performed under this Agreement. Stanford University and District agree to promptly inform one another whenever an incident report, claim or complaint is filed or when an investigation is initiated concerning any service performed under this Agreement.
5. The provisions of this Section shall survive the termination or expiration of this Agreement.

I. TERMINATION

1. This Agreement may be terminated as follows, after notification via the United States Postal Service (certified mail or registered mail) or recognized overnight delivery service (e.g., UPS, DHL or FedEx):
 - a. By either party immediately in the event of a material breach of this Agreement by another party.
 - b. By either party after 30 days advance written notice to the other party, for any reason or no reason.
2. The confidentiality provisions of this Agreement shall survive the expiration or termination of the Agreement. If this Agreement is terminated by either party for material breach or for any other reason with 30 days written notice, the confidential information shall be returned or securely destroyed within 7 days of the termination. If the Agreement terminates at the end of the term described in Section D, Stanford University shall return or securely destroy all confidential information when it is no longer needed for the purposes of this Agreement. Such return or secure destruction shall occur within 7 days after the data are no longer needed for the purposes of this Agreement.

3. Secure destruction of the confidential information shall be accomplished by utilizing an approved method of confidential destruction, including shredding, burning or certified/witnessed destruction for physical materials and verified erasure of magnetic media using approved methods of secure electronic file destruction.

J. GENERAL UNDERSTANDING

1. This Agreement contains the entire understanding of the parties and may only be amended in writing signed by the parties.
2. This Agreement shall be governed by and construed under the laws of the State of California, without regard to its conflict of law rules.
3. Either party's failure at any time to enforce any default or right reserved to it, or to require performance of any of the Agreement's terms, covenants, or provisions by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.
4. If any term or provision of this Agreement shall be found illegal or unenforceable, this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken.
5. Original copies of this Agreement shall be executed by the respective party's authorized signatory(ies). This Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement, but all of which shall be considered one instrument and shall become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.

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