School-based health care support toolkit: State of Ohio consent form and service agreement templates
The following documents are resources to help get you started in formalizing necessary agreements between parties

The State of Ohio Departments of Education and Medicaid have designed the following documents in this section after considering the main issues that school-based health care partnerships have shared they have encountered in navigating the legal requirements in starting their model:

1) Consent form between a student receiving health care through their school and a school-based health care provider

2) Service agreement between a school-based provider and a school used to formally establish a partnership

3) Data sharing guidance to help partnerships think about what data can be tracked for program evaluation purposes, as well as a memorandum of understanding to establish the extent of data sharing between parties

All of these documents are tools to help your partnership get started formally building relationships between participating parties and create a school-based health care program – these documents are **not intended to serve as legal advice. Please consult your legal advisor before signing any of these agreements.**
SCHOOL BASED HEALTH CARE
CONSENT FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

PLEASE COMPLETE AND SIGN

In order for your child to receive care through our School Based Health Care Program, <insert name of school/health care program> must have a signed consent form from a parent or legal guardian prior to providing services to the child, except in situations where federal and/or state laws allow youth to access such treatment without parent/guardian consent. Youth may independently access reproductive health care at any age; they may independently receive drug and alcohol services and mental health counseling from age thirteen. If necessary, the Centers will inform youth of options for outside care and will assist the youth in discussing these issues with parents/guardians. If your child is enrolled in school, but is not enrolled in the School Based Health Care Program, he/she can continue to receive school nurse services.

I hereby request and authorize that:

Print Child’s Name: ___________________________________________            ______________
First name Middle Initial Last Name Birth date

Receive any and all health care services available from and deemed necessary by the staff of <insert name of school/health care program> and their associated provider agencies. These services may include, but are not limited to the list below. 
<br>Insert list of services offered by the provider agencies. Check boxes can be provided next to each service offered so that the parent/guardian may opt-out their child from specific services. Additional language may be included such as, I do not consent to let my child receive the following services that are checked below.>

Consent is also given for referral of care and, if needed, emergency transportation, to other physicians, health care professionals, hospitals, clinics, or health care agencies as deemed necessary by <insert name of school/health care program> and its staff. This authorization does not allow services to be rendered without the youth’s consent, unless he/she is unable to consent.

When a person consents for his/her own care, all information is kept confidential except in the following circumstances:

1. The client gives permission through a signed release of information.
2. If he/she show risk of suicidal behavior.
3. He/she plans to do serious bodily harm to another person.
4. He/she has a life threatening health problem and is under 18 years old.
5. There is reason to suspect abuse or neglect. This may include any sexual contact with a minor (any person under the age of 18 years old or where there is a 3 year or greater age difference.
6. Certain communicable diseases must be reported to the State Health Division.
I understand the youth’s consent is legally required for release of information about the following kinds of diagnoses and treatment: pregnancy, sexually transmitted diseases (including HIV/AIDS testing), and alcohol and drug or mental health counseling.

The School-Based Health Center encourages each youth to involve his/her parents or guardians in health care decisions whenever possible.

I authorize <insert name of school/health care program> to release information regarding treatment to third party payors, such as Medicaid and private insurance for billing purposes. Additionally, I authorize <insert name of school/health care program> to request medical records/information from any health care provider or facility where my child has been seen. I authorize <insert name of school/health care program> to send results of any treatment to my child’s regular doctor/clinic. I understand that my child’s medical and any other information will only be used in the treatment, payment and health care operations of <insert name of school/health care program> and that all of my child’s information will be kept strictly confidential in accordance with all state and federal laws. I understand that this consent form will be good until my child leaves/graduates school, or until I provide <insert name of school/health care program> with written directions otherwise. I am the legal guardian of the above named child. I understand that a new consent form must be signed by the legal guardian if the guardianship would change and that if I am not this child’s birth parent, it is necessary to attach a copy of proof of legal guardianship.

Parent/Guardian Signature: ____________________________________________  Date: ____________

Name and Relationship of Legally Responsible Guardian (Please Print): __________________________________________________________

Parent/Guardian Address: ________________________________________________________________

Home Telephone: (___)____________________  Work Telephone: (___)____________________________
Contract Number: \texttt{CONTRACT\_NUMBER}

\textbf{WHILE THIS DOCUMENT IS BEING PROVIDED AS A TOOL TO HELP THE SCHOOL/DISTRICT CREATE A SCHOOL-BASED HEALTH CARE PROGRAM, IT IS NOT INTENDED TO SERVE AS LEGAL ADVICE. PLEASE CONSULT YOUR LEGAL ADVISOR BEFORE SIGNING THIS AGREEMENT.}

\textbf{AGREEMENT}

This Agreement (hereinafter “Agreement”) is made and entered by and between the \textbf{[INSERT NAME OF THE SCHOOL DISTRICT]} (the “District”), \textbf{[insert address]}, and \textbf{[INSERT NAME OF PROVIDER]} (the “Provider”), \textbf{[insert address]}, with the District and the Provider being collectively referred to as the “Parties”).

\textbf{Background Information}

A. The Parties desire to enter into this Agreement to outline the terms and conditions under which the Provider will support the District’s efforts to create an accessible, connected community of care around each student to keep them in class and learning, with a focus on improving the rate of chronic absenteeism in the School as that metric is tied directly to both health and academic outcomes as well as highly correlated with long-term student success (e.g. increased graduation and lower dropout rates) (the “School-Based Health Care Program”).

B. The Parties further agree that the purpose of this Agreement is to assist both Parties in building a care delivery model that is the best fit for their community and may be used to target additional resources that the Parties determine.

C. As part of this Agreement, the District desires to have the Provider share certain data with the District so that the District can evaluate the effectiveness of its School-Based Health Care Program”).

\textbf{Provisions}

In consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. \textbf{Provider Responsibilities.} The Provider agrees to the following:

   a. Provider will support the District’s School-Based Health Care Program as outlined in the attached Exhibit A.

   Check if on-premises: \textbf{______} \textbf{1} Check if off-premises: \textbf{______}

\footnote{If off-premises, the construction related provisions will not apply.}

\textbf{Agreement} – [insert Provider’s Name]
b. Provider will ensure that the individuals providing the services outlined in Exhibit A are appropriately licensed.

c. Provider will ensure that the individuals providing services under the School-Based Health Care Program have undergone criminal background checks consistent with the governing law and the District’s governing policy.

d. Provider will ensure that its staff members who are on-site within the District will comply with the District’s governing code of conduct.

e. Provider will provide information and data needed to carry out the MOA and data will be maintained in a manner compliant with both HIPAA and FERPA, when applicable.

2. District Responsibilities. The District agrees to provide the following:

a. The District will secure appropriate parental consent for the Provider to provide services for the Program, as described in Exhibit A.

b. The District shall primarily serve students and families through the Program.

c. District will provide, free of charge, reasonable office space within the schools designated by the District for the Provider.

d. Check if applicable: _____ If checked, the District will provide, free of charge, a dedicated space within the schools designated by the District for the Provider (the “Center”).

e. Check if applicable: _____ The District will provide trade services such as; plumbing, electric and handyman services during the construction/renovation of the office space provided for the Center.

f. Check if applicable: _____ The District will supply current site layout in advance

2 If the District has outstanding bond obligations related to this space, this Agreement shall be modified as required to maintain the tax-exempt status of such obligations.

3 If the District has outstanding bond obligations related to this space, this Agreement shall be modified as required to maintain the tax-exempt status of such obligations.
for the Provider’s review and approval as well as work with designated architect to provide final plans and permits for the school project. The District will provide periodic progress reports to the Provider regarding the Center’s construction.

g. Check if applicable: _____ The District will allow the Provider 1-2 days of volunteer screening to identify students in need supporting capacity of any space utilized with the schools identified by the District.

h. Check if applicable: _____ The District will secure appropriate parental consent and manage the logistics of transportation from identified neighboring schools screening referrals to the space made available to the Provider.

i. District is responsible for ensuring the Provider’s services and Center’s capacity (if applicable) are being fully utilized.

3. **Compensation.** Both parties agree that the School-Based Health Care Program is a voluntary collaboration between the Parties and except as other identified herein, the Provider is supporting the School-Based Health Care Program at no cost to the District and any costs associated with the work performed hereunder is at each party’s expense. Notwithstanding the foregoing, this provision is not intended to foreclose the Provider from seeking appropriate compensation provided through insurance or Medicaid programs for the participating students.

4. **Data Sharing.** The Parties agree to comply with the data sharing agreement in the form attached as Exhibit B.

5. **Term.** This MOU is effective on the last date signed below and shall be effective until June 30, 20___ or until terminated by either Party.

6. **Termination.**

   a. **For Convenience:** The District may terminate this Agreement, in whole or in part, at any time and for any reason by providing written notice to the Provider.

   b. **For Breach:** If this MOU is breached, the non-breaching Party may suspend or terminate this MOU immediately upon written notice to the breaching Party. If the breach can be cured, the non-breaching Party may provide in writing to the breaching Party the ability to cure the breach within thirty (30) business days. The
breaching Party must provide the non-breaching Party evidence that it has sufficiently cured the breach.

7. **Indemnification.** Provider shall indemnify, defend and save harmless the District, its agents, and employees, from any claims, demands, suits, actions, proceedings, losses, costs and damages, and attorney fees arising out of the actions or omissions of the Provider, its employees and/or agents or contractors, in the provision of services under this Agreement or relating to this Agreement. This Article shall survive any termination of this Agreement.

Provider shall notify the District immediately upon commencement of any actions brought against the Provider whose outcome may affect the rights of the District granted under this Agreement.

In the event suit is instituted by the District for any default on the part of the Provider, and the Provider is adjudged by a court of competent jurisdiction to be in default, the Provider shall pay to the District all costs and expenses expended or incurred by the District and reasonable attorney’s fees.

8. **Force Majeure.** If because of force majeure either Party is unable, in whole or in part, to perform under this Agreement, this shall not be considered a breach of contract while the inability to perform continues. Rather, the Party shall remedy with all reasonable dispatch such cause preventing the other party from carrying out the obligations under this Agreement. Except as otherwise provided herein, neither Provider nor the District shall be liable to the other for any delay or failure of performance of any provisions contained herein, nor shall any such delay or failure of performance constitute default hereunder, to the extent that such delay or failure is caused by force majeure.

9. **Confidentiality and Family Educational Rights and Privacy Act (FERPA).**

a. Each of the School and the Provider shall comply with all applicable provisions of Ohio and federal laws including the Family Educational Rights and Privacy Act (hereinafter “FERPA”) or its state equivalent. 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. Nothing in this Agreement shall be construed to allow either party to maintain, use, disclose, or share student information in a manner not allowed by either state or federal laws or regulations.
b. As used herein, “confidential information” means all information provided in any form from one party to the other which is, by its nature, information that a prudent business person would maintain as confidential. “Personal information,” as described in 1347.01(E) of the Ohio Revised Code, includes personally identifiable student information or educational records defined by FERPA.

c. Each party shall only use confidential information for purposes of completing the terms of this Agreement as set forth herein. Each party agrees to use reasonable efforts to safeguard confidential information. “Reasonable efforts” means efforts not less than those a party employs to protect its own confidential information and, in any event, efforts not less than those a prudent business person would take to protect his or her own confidential and proprietary information. No party shall, without the prior written approval of the other party, directly or indirectly, disclose confidential information to any person or business entity except its own employees and representatives, including attorneys, accountants, and financial advisors, on a need-to-know basis.

d. If Provider experiences any breach of data security that exposes confidential information, that party shall bear all costs to notify every individual whose confidential information may have been compromised.


a. Provider and District shall comply with all applicable provisions of Ohio and federal laws including the Health Insurance Portability and Accountability Act (hereinafter “HIPAA”) or its state equivalent. HIPAA includes any amendments or other relevant provisions of federal law, as well as all requirements of Chapters 160 through 164 of Title 45 of the Code of Federal Regulations. Nothing in this Agreement shall be construed to allow either party to maintain, use, disclose, or share protected health information (“PHI”) in a manner not allowed by either state or federal laws or regulations.

b. As used herein, PHI means individually identifiable information including but not limited to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future...
payment for health care provided to an individual, as more fully defined under 45 CFR 164.501 and any amendments thereto.

c. Each party shall use PHI only for the terms of this Agreement as set forth herein. Each party agrees to use reasonable efforts to safeguard PHI and shall conform with the Privacy and Security requirements under 45 CFR 165 and 45 CFR 164 to protect the data.

d. If Provider experiences any breach of data security that exposes confidential information, that party shall bear all costs to notify every individual whose confidential information may have been compromised.

11. Independent Contractor. It is expressly understood that Provider and District are contractors independent of one another, and that neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other.

It is further understood that neither Provider nor its employees or agents are “employees” of the District as the term is used in division (F) of section 124.01 of the Ohio Revised Code and, therefore, are not eligible for vacation, medical insurance, sick leave, parental leave, leave of absence, tenure, bumping rights, retirement, or any other benefits or rights, which are incidents of public employment subject to the civil service laws of Ohio. Moreover, Provider is responsible for compliance with any labor laws and contracts as it pertains to any union employees under its employment.

12. Records Maintenance and Access. Provider shall establish and maintain for at least six (6) years after the last day of the Term of this Agreement or earlier termination of this Agreement its records regarding this Agreement, including, but not limited to, financial reports, and all other information pertaining to Provider’s performance of its obligations under this Agreement. Provider also agrees that any records required by District with respect to any questioned costs, audit disallowances, litigation or dispute between District and Provider shall be maintained for the time needed for the resolution of such question or dispute.

At any time during normal business hours and upon not less than twenty-four (24) hours prior written notice, Provider shall make available to District, its agents or other appropriate State agencies or officials all books and records regarding this Agreement which are in the possession or control of Provider, including, but not limited to,
financial reports, and all other information pertaining to Provider’s performance of its obligations under this Agreement. District, its agents and other appropriate State agencies and officials may review, audit, and make copies of such books and records. Any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with Provider’s normal business operations.

13. **Adherence to State and Federal Laws, Regulations.** Provider agrees to comply with all applicable federal, state, and local laws related to Provider’s performance and obligations under this Agreement. Provider accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers’ compensation premiums, all income tax deductions, social security deductions, and all other taxes or payroll deductions required for all employees engaged by Provider in the performance of the requirements of this Agreement.

14. **Governing Law.** This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

15. **Forum and Venue.** All actions regarding this Agreement shall be filed in a court of competent subject matter jurisdiction in __________ County, Ohio.

16. **Entire Agreement.** This Agreement, including its exhibits, appendices and any other documents referred to herein, constitute the complete understanding of the parties and merge and supersede all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof. This is not intended to This Agreement is not intended to modify the systemic responsibilities or authority delegated to the Parties within their organizations or under law and is not intended to override or amend any unrelated agreement the Parties may already have.

17. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

18. **Amendments or Modifications.** Either party may at any time during the term of this Agreement request amendments or modifications. Requests for an amendment or modification of this Agreement shall be in writing and shall specify the requested changes and
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the justification for such changes. Should the parties consent to modify the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement. The amendment must be signed by both parties to be effective.

19. **Headings.** Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

20. **Assignment.** Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by Provider without the prior express written consent of the District.

21. **Electronic Signatures.** Copies of signatures sent by facsimile transmission or provided electronically in portable document format (“PDF”) shall be deemed to be originals for purposes of execution and proof of this Agreement.

The Parties have caused this Agreement to be executed by its authorized representatives on the last day set forth below.

**PROVIDER:**

By: __________________________ Date: __________________________

Print Name: __________________________

[INSERT SCHOOL DISTRICT] (“DISTRICT”)

By: __________________________ Date: __________________________
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Appendix A: Scope of Work
Data Sharing for Program Evaluation

Guidance on Sharing Student-Level Data While Protecting Student Privacy

This document is meant to share:
• Basic information with school districts about the language in federal regulations that allow districts to share and/or use data for “studies” and “audits or evaluations”; and
• High-level guidance and additional resources for districts interested in putting a data sharing agreement in place with a third-party researcher or program evaluator.

The document is divided into the following sections:
• Why Share Data for Program Evaluation?
• Federal Regulations on Sharing Student Education Records
• Recommended Steps and Considerations
• Additional Resources:
  o Data Sharing and Student Privacy
  o Data Sharing and Research
  o Ohio Department of Education Data Sharing Template
  o Data Sharing Template: Considerations for Districts Participating in School-Based Health Care

While the document includes some additional resources on developing strong research partnerships, this is not meant to be a primary focus of the document.

This information is being shared as a courtesy to local districts. Districts should consult their legal counsels about the proper use of this guidance prior to sharing any data with a third party for research and evaluation.

WHY SHARE DATA FOR PROGRAM EVALUATION?

Thoughtful, well-planned program evaluation can give districts the information they need to understand the strategies, activities or interventions that are contributing to improved student outcomes. Some types of rapid-cycle evaluations even enable districts to fine-tune student support strategies while they are being carried out, resulting in almost real-time opportunities for improvement.

While third-party research partners can supplement a district’s existing program evaluation resources with additional capacity and expertise, it is generally only through partnerships with districts or state education agencies that they have access to the kinds of data that will help them carry out a robust and meaningful program evaluation.

Beyond the inherent value of using data and evaluation to shine a light on what is working in district, the Every Student Succeeds Act (ESSA) (Section 8002) requires greater use of evidence-based strategies in addressing school improvement. By engaging in program evaluation work, districts are contributing to the growing evidence-base in education research.
FEDERAL REGULATIONS ON SHARING STUDENT EDUCATION RECORDS

The sharing and use of individual student education records is regulated by the Family Education Rights and Privacy Act (FERPA) (§34 CFR Part99).

Section §99.30 outlines the circumstances under which educational agencies are required to obtain parental consent prior to disclosure.

Section §99.31 outlines the circumstances under which prior consent is not required to disclose information. There are two exceptions under which prior consent is not required for disclosure:

- The “studies exception” allows for the disclosure of personally identifiable information (PII) to organizations conducting studies “for, or on behalf of” the educational agency.
- The “audit or evaluation exception” allows for the disclosure of personally identifiable information to authorized representatives of FERPA-permitted entities to audit or evaluate a federal- or state-supported education program or to enforce or comply with federal legal requirements related to an education program.

RECOMMENDED STEPS AND CONSIDERATIONS

1. **Learn more** about your responsibility to protect student privacy from national resources such as the U.S. Department of Education’s Protecting Student Privacy website. This website provides a wide range of resources for education agencies interested in understanding FERPA regulations and the impact of those regulations on student data collection, sharing and reporting.

2. **Consult your legal team early in the process.** Your legal team can help you understand your district’s existing policies and practices regarding data sharing. If your district does not have an existing process, your legal team can help you develop the right language for your district.

3. **Involve in your planning processes the IT and data staff** who will play a role if your district decides to share data with a third-party researcher. Who will help you decide which data to share? Who will transfer the data to the researcher? Who will address the researcher’s technical questions about the data?

4. With support from your legal and data teams, **develop the appropriate data sharing agreements.** Data sharing agreements outline the specific terms under which your district is agreeing to share the data with a third party; the data sharing agreement plays a significant role in addressing the technical details that will help ensure student privacy and data security.

   a. The exact details and wording included in data sharing agreements may vary slightly from district to district. The U.S. Department of Education provides several resources to help you develop strong data sharing agreements, including:
      i. [Guidance for Reasonable Methods and Written Agreements](#); and
      ii. [Written Agreement Checklist](#).

   b. Data sharing agreements also can document other, agreed-upon details of the relationship between you and your research partner that can increase the likelihood that you will get the timely, actionable information you need to make decisions. For example, you and the research may agree to:
      - Project kick-off, check-in and wrap-up meetings;
      - Deliverable formats (for example, reports; presentations/discussions with staff); and
      - Frequency of evaluation updates.
Additional Resources

DATA SHARING AND STUDENT PRIVACY

- The **DATA DRIVES School-Community Collaboration: Seven Principles of Effective Data Sharing** is a resource developed by StriveTogether and Data Quality Campaign that, in addition to outlining seven principles of data sharing, also provides links to case studies, sample documentation and additional data sharing resources.

- The **Ohio Department of Education Data Privacy Report** (2014) provides information about how federal and state law effect data collection, sharing and reporting at the state level. The report includes information about how the state approaches data privacy, data security and data sharing.

- The **National Center for Education Statistics (NCES) Forum Guide to Education Data Privacy (2016)** is a resource designed to help states and districts better understand the steps they can take to protect student privacy.

- The U.S. Department of Education’s **Protecting Student Privacy** website provides a wide range of resources for education agencies interested in understanding FERPA regulations and the impact of those regulations on student data collection, sharing and reporting.

DATA SHARING FOR RESEARCH

- While targeted toward state education agencies, the **Data Quality Campaign’s Roadmap for Effective Data Use and Research Partnerships between State Education Agencies and Education Researchers** includes many points relevant to districts as well.

- The **National Center for Education Statistics (NCES) Forum Guide to Supporting Data Access for Researchers: A Local Education Agency Perspective** provides best practices and templates for data sharing with researchers.

- **Research-Practice Partnerships: A Strategy for Leveraging Research for Educational Improvement in School Districts** outlines three major types of research practice partnerships and provides guidance on developing these partnerships.

- The **SEA of the Future: Building Agency Capacity for Evidence-Based Policymaking** is written with state agencies in mind but offers many insights into the importance of carrying out education research and evaluation.

- The **William T. Grant Foundation** has published a wide range of resources designed to educate districts, state education agencies and researchers on how to leverage research-practice partnerships.
Memorandum of Understanding by and between the Ohio Department of Education and [Name of Institution]

1. Introduction

The Ohio Department of Education (herein, “ODE”) will on occasion engage external researchers to supplement ODE’s internal capacity to conduct high quality studies of conditions, programs, policies and practices affecting students in Ohio. This pursuit of knowledge and evidence is meant to inform ODE and educators throughout the state, toward advancing Ohio’s Strategic Plan for Education.

This agreement is entered into by ODE and [Name of Institution] (herein, “Researcher”) for the purpose of sharing information between the parties in a manner consistent with the Family Educational Rights and Privacy Act of 1974 (“FERPA”).

ODE is a state education agency (“SEA”) authorized to receive information from local educational agencies subject to FERPA, as provided under Chapter 99 of Title 34 of the Code of Federal Regulations (“CFR”). FERPA describes circumstances under which the SEA is permitted to release data from an education record, including for the conduct of studies for, or on behalf of, the SEA in accordance with the requirements of 34 CFR 99.31(a)(6). Ohio Revised Code (“ORC”) § 3301.12 gives authority to the State Superintendent of Public Instruction (herein, “State Superintendent”) to undertake, or contract for, research projects as necessary or desirable for the improvement of public school education in Ohio. Such studies may include analysis of data contained in the Education Management Information System (“EMIS”) established in ORC § 3301.0714, provided that student confidentiality with respect to that data is maintained at all times, unless otherwise authorized by state or federal law.

Researcher is [type of entity] and, through the mutual desire of the State Superintendent, seeks to use student level data from ODE in the conduct of studies designed to provide beneficial knowledge for the improvement of public education. In accordance with the Scope of Work in Appendix A, these studies pertain to [topics of research].

2. Effective Dates

This agreement is executed as of the day and year of latest signature and expires on [date], unless otherwise extended through an amendment signed by both parties. The data sets obtained pursuant to this agreement and any subsequent data by-products will be destroyed no later than [date]. A data by-product is any file derived from the original data that includes student-level data or aggregate data with a cell size of fewer than 10. Researcher’s use of the data sets and data by-products will discontinue on the expiration date, with written confirmation provided by the Researcher.

Researcher must provide ODE all findings intended for publication or other dissemination, based in whole or in part on data obtained under this agreement, at least 21 days prior to initial release of those findings, inclusive of any form of publication or presentation, embargoed release, or submission for journal review.

ODE may cancel this agreement at any time for reasonable cause, upon 30-day written notice to the Researcher. ODE reserves the right to immediately cancel this agreement if ODE, in its sole discretion, determines non-compliance with any applicable provision within this agreement.
3. Compensation

While no compensation will be paid to the Researcher, the Researcher acknowledges that the execution of this agreement serves as an inducement to ODE to provide the data.

4. Compliance with Law

   A. Researcher agrees to comply with all applicable provisions of Ohio and federal laws and regulations in conducting studies performed pursuant to this agreement. For purposes of this agreement, FERPA includes all requirements of 34 CFR Chapter 99, other associated provisions of federal law, and any amendments thereto. Researcher further agrees to require compliance by all employees, contractors, and agents and to maintain appropriate and binding confidentiality assurances for all individuals who have access to the student level data. Nothing in this agreement may be construed to permit either the Researcher or ODE to maintain, use, disclose, or share student information in a manner disallowed by state or federal law or for any purpose other than completing Researcher’s work as authorized under this agreement.

   B. Researcher agrees that data obtained under this agreement will be used exclusively for the studies described in the Scope of Work in Appendix A and for no purposes beyond those authorized under 34 CFR Section 99.31(a)(6). In compliance with 34 CFR Section 99.31(a)(6)(iii)(C)(4), all data will be safeguarded in possession and then securely destroyed when no longer needed or by the date designated in Section 2 of this agreement.

   C. Researcher agrees not to disclose any data obtained under this agreement in a manner that could identify an individual student to any other entity, including through published aggregate results, unless otherwise authorized by state or federal law. Researcher further agrees not to 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, including employees and contractors of Researcher not named in this agreement. Researcher further agrees to contact ODE promptly in the event of a breach or potential breach of the security of, or loss of, student data in accordance with Section 6 of this agreement.

   D. Researcher agrees to allow the Office of the State Auditor, subject to FERPA restrictions, access the data shared under this agreement and any relevant records of Researcher for purposes of completing authorized audits of the parties. Researcher shall be liable for any audit exception that results solely from its acts or omissions in performance of this agreement. ODE shall be liable for any audit exception that results solely from its acts or omissions in the performance of this agreement. If the audit exception results from the acts or omissions of both parties, the financial liability for the audit exception shall be shared by the parties in proportion to their relative fault.

5. Technical Requirements

   A. Researcher agrees to maintain the confidentiality of and prevent unauthorized use or access to all data obtained pursuant to this agreement through use of appropriate administrative, technical, and physical safeguards. Do not copy, reproduce or transmit data obtained pursuant to this agreement except as necessary to fulfill the Scope of Work in Appendix A. All copies of data of any type, including any modifications or additions from any source that contain information regarding students, are subject to the provisions of this agreement in the same manner as the data provided by ODE under this agreement.
B. Researcher agrees to ensure that computing services where the data obtained under this agreement is stored and processed operate at the moderate level baseline as defined in the National Institute of Standards and Technology (NIST) 800-53 (current, published version) moderate baseline requirements and are consistent with Federal Information Security Management ACT (FISMA) requirements.

C. Researcher agrees to encrypt all data obtained under this agreement while the data are in transit and are at rest. Encryption must comply with the State of Ohio data encryption standard ITS-SEC-01, Data Encryption and Cryptography and conform to NIST Federal Information Processing Standard (FIPS) 140-02 as demonstrated by a valid FIPS certificate number.

6. Unauthorized Disclosure and Security Incident Responsibilities

A. Incident Reporting: Researcher shall immediately report to ODE's Chief Legal Counsel and Chief Information Officer the following:

1. Any use or disclosure of personal information which is not in compliance with the terms of this agreement or applicable law of which Researcher becomes aware; or

2. Any security incident of which Researcher becomes aware. For purposes of this agreement, "security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

Immy Singh, or successor
Chief Legal Counsel
614-387-2247

Beth Fletcher, or successor
Chief Information Officer
614-752-8368

B. Within 24 hours of discovery of a suspected reportable incident as described in (A) above, Researcher shall notify ODE of the existence and nature of the incident as understood at that time. Researcher shall immediately investigate the incident and within 72 hours of discovery shall provide ODE, in writing, a report describing the results of Researcher's investigation, including the following:

- What data elements were involved, the extent of the data involved in the incident and, if applicable, the identification of affected individuals;
- A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed personal information, or to have been responsible for the incident;
- A description of where the personal information is believed to have been improperly transmitted, sent or utilized;
- A description of the probable causes of the incident;
- A description of the proposed plan for preventing similar future incidents, including ongoing risk remediation plan approval; and
- Whether Researcher believes any federal or state laws requiring notifications to individuals are triggered.

C. Mitigation: Researcher agrees to mitigate, to the extent practicable, any harmful effect that is known to Researcher of a use or disclosure of personal information by Researcher in violation of the requirements of this agreement, and report its mitigation activity back to ODE. Researcher shall preserve evidence.
D. Coordination: Researcher will coordinate with ODE to determine additional specific actions that will be required of Researcher for mitigation of the incident, which may include notification to the individuals, entities or other authorities. Researcher will cooperate and provide reasonable assistance to ODE, at no charge, in the investigation of such breach or loss. Notifications, if any, will be made at the direction of ODE.

E. Incident Costs: Researcher shall bear all actual and reasonably incurred costs associated with the incident that may be attributed solely to the negligent actions of Researcher. This may include, but not be limited to, costs associated with notifying affected individuals. It also may include the cost of investigation, remediation and assistance to individuals including services such as a standard level of credit-monitoring such as AllClear ID's standard service or other comparable service available to Ohio agencies under state term schedule. Researcher's obligation to cover these costs, as set forth above, is conditioned on Researcher receiving from ODE prompt written notice of any incident costs or claims and reasonable cooperation in its investigation and defense. Researcher may defend said claims at own expense with legal counsel of own choice. Notwithstanding the above, Researcher will not be required to cover any costs with respect to losses or expenses caused by ODE's own negligence or willful misconduct.

7. Other Provisions

A. Data Requests: ODE may decline to comply with a request if it determines that providing the data in the manner requested would violate FERPA or other applicable laws or would not be in the best interests of current or former students in Ohio public schools.

B. Data Quality: ODE makes no warranty concerning the completeness or accuracy of data provided pursuant to this agreement and does not assert that these data are the sole or optimal means of answering the research questions specified in Appendix A.

C. Authorized Representative: Researcher shall designate a single authorized representative responsible for transmitting all data requests and maintaining a log of data requested and received pursuant to this agreement. Authorized representative must also document the dates of project completion and destruction of data as required by this agreement. ODE may upon request review this documentation.

D. Related Parties: Researcher represents that it is authorized to bind to the terms of this agreement, including confidentiality and destruction of data, all related or associated institutions, individuals, employees or contractors 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 by Researcher.

E. Breach and Default: Upon breach or default of any provision, obligation, or duty embodied in this agreement, the parties may exercise any administrative, contractual, equitable, or legal remedy available, without limitation. The waiver of any occurrence of breach or default is not a waiver of such subsequent occurrences, and the parties retain the right to exercise all remedies mentioned herein.

F. Amendment: This agreement may be modified or amended provided that any such modification or amendment is in writing and is signed by both parties. It is agreed, however, that any amendments to
laws, rules, or regulations cited herein will result in the correlative modification of this agreement, without the necessity for executing a written amendment.

G. Assignment of Rights: Neither this agreement, nor any rights, duties, or obligations described herein shall be assigned by Researcher without the prior express written consent of ODE.

H. Entirety of Agreement: All terms and conditions of this agreement are embodied herein and in the attached Appendix A (Scope of Work) and Appendix B (Requested Data). No other terms and conditions will be considered a part of this agreement unless expressly agreed upon in writing and signed by both parties.

The parties hereto have caused this agreement to be executed and effective as of the day and year last written below.

Stephanie Siddens
Interim State Superintendent of Public Instruction
Ohio Department of Education

[ODE Signatory]
[Title]

[Printed Name – authorized signatory for agreement] Date
[Title]
[Name of organization]
Appendix A. Scope of Work
Appendix A. should be a maximum of three pages. If desired by the Researcher, additional materials may be submitted alongside the agreement.

A. Research Questions
State the specific research questions.

B. Research Methods
Provide a brief summary of the planned analyses using data provided under this agreement and how those analyses fit within the full research project.

C. Contribution of Project
Describe how the study will contribute to the field of knowledge. As applicable, describe how the study relates to Ohio’s Strategic Plan for Education, such as its strategies, central goal, and commitment to equity.

D. Coordination with ODE
This project will be a partnership between the Researcher and ODE. Please outline a coordination plan, recommended to include a description of the topics below.

- Overall project timeline
- Project “launch” meeting
- Requested schedule for data provision
- Procedures for assessing data completeness and quality as related to the research
- Plan for connecting with ODE contacts about identified questions or concerns
- Schedule of interim check-ins on progress
- Estimated completion dates for analyses
- Review of findings with department
- Coordination of Research and ODE communications timing related to publications
- Project close-out procedures
Appendix B. Requested Data

List the data items requested in order to conduct the Scope of Work described in Appendix A.
DATA SHARING TEMPLATES: CONSIDERATIONS FOR DISTRICTS PARTICIPATING IN SCHOOL-BASED HEALTH CARE

The Ohio Department of Education’s standard data sharing template solely focuses on sharing educational records. Districts that are engaged in school-based health care initiatives and intend to share data with a third party for program evaluation of those initiatives also will want to consult with their legal counsels to better understand how to appropriately address Health Insurance Portability and Accountability Act-related (HIPPA) regulations.

Sample language that districts may want to consider adding to data sharing agreements designed to support program evaluation of school-based health care programs may include:

Confidentiality and the Health Insurance Portability and Accountability Act

a. Provider and District shall comply with all applicable provisions of Ohio and federal laws including the Health Insurance Portability and Accountability Act (hereinafter “HIPAA”) or its state equivalent. HIPAA includes any amendments or other relevant provisions of federal law, as well as all requirements of Chapters 160 through 164 of Title 45 of the Code of Federal Regulations. Nothing in this Agreement shall be construed to allow either party to maintain, use, disclose, or share protected health information (“PHI”) in a manner not allowed by either state or federal laws or regulations.

b. As used herein, PHI means individually identifiable information including but not limited to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual, as more fully defined under 45 CFR 164.501 and any amendments thereto.

c. Each party shall use PHI only for the terms of this Agreement as set forth herein. Each party agrees to use reasonable efforts to safeguard PHI and shall conform with the Privacy and Security requirements under 45 CFR 165 and 45 CFR 164 to protect the data.

d. If Provider experiences any breach of data security that exposes confidential information, that party shall bear all costs to notify every individual whose confidential information may have been compromised.