



Data Use Agreement
Colorado Department of Higher Education
And
The Colorado TRIO

This Data Use Agreement is entered into by and between The Colorado TRIO (hereinafter called *{“Data Receiver”}*), and the STATE OF COLORADO (hereinafter called the “State”) acting by and through the Colorado Department of Higher Education (DHE) (hereinafter called the *{“Data Provider”}*). Furthermore, Data Receiver, **The Colorado TRIO**, will, for the purposes of the below outlined audit or evaluation serve as an authorized representative of the Colorado Department of Higher Education.

This agreement will become effective upon being signed by both parties and will remain effective through the end of 2020.

Definitions:

For the purposes of this data use agreement,

- “Identifying information”/“identifying data” shall refer to any data elements that could potentially identify a student or employee, and includes DOB, gender, and race/ethnicity.
- “Confidential information”/“confidential data” shall refer to any non-public information regarding an individual student this can include any of the data elements from SURDS.

FERPA Regulations and Audit or Evaluation Exception:

All data sharing measures will be performed in accordance with the requirements of the federal “Family Education Rights and Privacy Act of 1974 as amended, (20 U.S.C. §1232g) (FERPA). FERPA §1232g(b)(1)(C) provides that education records and personally identifiable information (PII) may be released without student or parental consent to “authorized representatives of the Comptroller General of the United States, the Secretary, or State educational authorities” for use in “connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: Provided, that except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements” (FERPA §1232g(b)(3)). Additionally FERPA regulation 34 CFR §99.31(a)(3) allows disclosure of PII without consent to authorized representatives of a state education authority.



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Data Provider Obligations:

The Data Provider maintains ownership of the data. The Data Receiver does not obtain any right, title or interest in any of the data furnished by the provider. Data Provider ensures that no identifying information will be transmitted through unsecured connections. All data exchanges will be conducted via the DHE FAFSA website at <http://highered.colorado.gov/fafsa/>. Data Receiver will be supplied with a login and password to access the portal and download agreed upon data files.

Data Receiver Obligations/Other:

The receiver of data maintains a stewardship responsibility for the preservation and quality of the data. A data steward is responsible for the operational, technical, and informational management of the data.

- a. *Uses and disclosures as provided in this agreement.* Data Receiver may use and disclose the confidential information provided by the Data Provider only for the purposes described in the research proposal and only in a manner that does not violate local or federal privacy regulations adopted by the Data Provider. Only the individuals or classes of individuals will have access to the data that need access to the confidential information to do the work as presented in the research proposal.
- b. *Nondisclosure Except as Provided in this Agreement.* Data Receiver shall not use or further disclose the confidential data except as stated in the research proposal. The Data Receiver does not have permission to redisclose data to a third party.
- c. *Safeguards.* Data Receiver agrees to take appropriate administrative, technical and physical safeguards to protect the data from any unauthorized use or disclosure not provided for in this agreement. The Data Receiver agrees to abide by all federal regulations, including FERPA. Data Provider must ensure that no identifying information will be transmitted through unsecured telecommunications, including the unsecured Internet connections.
- d. *Reasonable Methods.* Data Receiver agrees to use "reasonable methods" to ensure to the greatest extent practicable that Data Receiver and all parties accessing data are FERPA-compliant. Specifically, this means: 1. PII may only be used to carry out an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with, Federal legal requirements related to these programs. 2. Data Receiver must protect PII from further disclosures or other uses, except as authorized by Data Provider in accordance with FERPA. Approval to use PII for one audit or evaluation does not confer approval to use it for another.
- e. *Confidentiality.* Data Receiver agrees to protect data and information according to acceptable standards and no less rigorously than they protect their own confidential information. Identifiable level data will be not be reported or made public.



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- f. *Reporting.* Data Receiver shall report to Data Provider within 48 hours of Data Receiver becoming aware of any use or disclosure of the confidential information in violation of this agreement or applicable law.
- g. *Public Release.* No confidential information will be publicly released.
- h. *Data Retention/Destruction of Records at End of Activity.* Records must be destroyed in a secure manner or returned to the Data Provider at the end of the work described in the work proposal. Data Receiver agrees to send a written certificate that the data have been properly destroyed or returned within 30 days of the end of the work as described in the proposal. However, any de-identified data may be retained for future use. As a courtesy, Data Provider requests to be informed of future uses of de-identified data.
- i. *Proper Disposal Methods.* In general, proper disposal methods may include, but are not limited to:
 - a. For PII in paper records, shredding, burning, pulping, or pulverizing the records so that PII is rendered essentially unreadable, indecipherable, and otherwise cannot be reconstructed.
 - b. For PII on electronic media, clearing (using software or hardware products to overwrite media with non-sensitive data), purging (degaussing or exposing the media to a strong magnetic field in order to disrupt the recorded magnetic domains), or destroying the media (disintegration, pulverization, melting, incinerating, or shredding).
 - c. Other methods of disposal also may be appropriate, depending on the circumstances. Organizations are encouraged to consider the steps that other data professionals are taking to protect student privacy in connection with record disposal.
- j. *Minimum Necessary.* Data Receiver attests that the confidential information requested represents the minimum necessary information for the work as described in the research proposal and that only relevant individuals will have access to the confidential information in order to perform the work.
- k. *Institutional Review Board (IRB).* If necessary, the Data Receiver agrees to furnish all documentation concerning IRB reviews, and to submit required documentation to an IRB or Privacy Board should research protocols change. Data Receiver agrees to submit to the Data Provider any change in waiver status or conditions for approval of the project by an IRB relating to the work described in the research proposal.
- l. *Authorizations.* The Data Receiver agrees to secure individual authorizations to use the confidential information. Documentation must be provided to DHE prior to receipt of the confidential information.
- m. *Data Ownership.* Data Provider is the data owner. Data Receiver does not obtain any right, title, or interest in any of the data furnished by Data Provider.
- n. *Publication/release requirements.* If applicable, Data Receiver will notify Data Provider when a publication or presentation is available and provide a copy upon request.



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- o. Data Breach.* In the event of a data breach the Data Receiver will be responsible for contacting and informing any parties, including students, which may have been affected by the security incident. It should be noted that by signing this written agreement on behalf of Data Receiver, the signatory accepts responsibility for data security.
- p. Non-Financial Understanding.* This agreement is a non-financial understanding between DHE and The Colorado TRIO. No financial obligation by or on behalf of either of the parties is implied by a party's signature at the end of this agreement.
- q. Liability.* Each Party to this Agreement shall be liable for the actions and omissions of its respective officers, agents, employees and subcontractors, to the extent provided by the Colorado Governmental Immunity Act. This obligation shall survive termination of this Agreement.
- r. Oversight.* The Data Provider shall maintain copies of this agreement and all future inquiries of authorized users. The Data Provider may, at its discretion, monitor the Designated Entities' records, processes, procedures, and electronic systems for compliance with the terms of this agreement. The Data Provider also may, at its discretion, perform on-site inspections of the Designated Entity to monitor compliance with the terms of this agreement.

Purpose:

Under the *FAFSA Completion Initiative* the Data Provider is authorized to provide limited FAFSA information to high schools, school districts, and to certain "designated entities." In this agreement **The Colorado TRIO** is the designated entity and is a public or nonprofit entity that the U.S. Department of Education has designated as eligible to receive FAFSA Filing Status Information and is alignment with the following purpose:

- (iv) permit the Data Provider to disclose limited ISIR information to local educational agencies (LEAs), secondary schools, or Designated Entity, to determine the completion status of a student's Free Application for Federal Student Aid (FAFSA) and facilitate providing assistance to such students in completing the FAFSA.

Scope of Work

The Parties desire to cooperate with each other in sharing information contained in student education records for the purposes of study and research to assist the Local Education Agency in identifying students who have or will complete a Free Application for Federal Student Aid (FAFSA) as defined by the U.S. Department of Education.

All data exchanges will be conducted via the DHE FAFSA website (pg. 2). Data Receiver will be supplied with a login and password to access the portal and download agreed upon data files. Additionally, the files are downloadable in Excel file format through the portal.

The designated signatory assumes responsibility for all Data Custodians included in this agreement. Data Provider will provide access to up to five Data Custodians per agreement. If Data Receiver would like additional Data Custodians, Data Receiver must assign their Primary Data Custodian as a Local Access Manager. The Local Access Manager can then assign additional Data Custodian access to agreed upon files.