



Arkansas Department of Higher Education

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Asa Hutchinson
Governor

Dr. Maria Markham
Director

MEMORANDUM OF AGREEMENT BETWEEN THE ARKANSAS DEPARTMENT OF HIGHER EDUCATION AND THE ARKANSAS DEPARTMENT OF HEALTH

This Memorandum of Agreement ("the Agreement") is entered into this 27th day of April by and between the Arkansas Department of Higher Education ("the Department") and the Arkansas Department of Health ("the authorized recipient").

I. **PARTIES.** The Arkansas Department of Higher Education is a state educational agency, authorized to collect and maintain student educational records and to receive information from institution of higher education consistent with applicable state and federal laws and subject to the federal Family Educational Rights and Privacy Act (FERPA), as authorized by 20 U.S.C. § 1232g(b) and 34 CFR Part 99. The Department is headquartered at 423 Main Street, Suite 400, Little Rock, Arkansas, 72201.

The Arkansas Department of health is a state agency, authorized to collect and maintain public health records consistent with applicable state and federal laws. The authorized recipient is headquartered in Little Rock, Arkansas, 72201.

II. **PURPOSE.** The purpose of the Agreement is to document the terms under which the Department is authorized to release student information for approved research projects, and to designate the authorized recipient as the authorized representative of the Department consistent with applicable federal and state laws concerning access to and confidentiality of student record information including FERPA.

As described herein, the authorized recipient, as the Department's authorized representative, may have temporary access to data in the custody of the Department for use in projects identified in addenda to the Agreement and under the terms and conditions described in the Agreement and any addenda to it.

III. AUTHORITY. Consistent with the federal Family Educational Rights and Privacy Act (FERPA) the Department may disclose information from students' education records to its authorized representative without written consent for use in studies initiated or approved by the Department in connection with an audit or evaluation of Federal or State supported education programs; or enforcement of, or compliance with, Federal legal requirements relating to such programs. 34 CFR § 99.31(a)(3), 20 U.S.C. § 1232g(b)(3). The Department may also disclose information to its authorized representative without written consent for the purpose of conducting studies for or on behalf of the Department in order to develop, validate or administer predictive tests; administer student aid programs; or improve instruction. 34 CFR § 99.31(a)(6) and §§ 99.35; 20 U.S.C. § 1232g(b)(1)(F).

The Department designates the authorized recipient as its authorized representative for the purposes of disclosing student information for use in evaluation, enforcement, audit, compliance, or study as described above.

All projects referred to above shall be described in addenda to this Agreement, which shall include project information including but not limited to the scope of the project, the data that will be disclosed to the authorized recipient, the temporary custodian appointed by the Department, applicable timelines, additional terms and conditions specific to each project, and requirements for communication and reporting to the Department.

IV. TERMS AND CONDITIONS. To effect the transfer of data and information that is subject to State and Federal confidentiality laws and to ensure that the required confidentiality of information shall always be maintained, the authorized recipient, agrees to:

1. In all respects comply with the provisions of FERPA. For the purposes of the Agreement and the specific projects conducted pursuant to the Agreement and described in addenda to it, FERPA includes any amendments or other relevant provisions of federal law, as well as all requirements of 34 CFR Part 99 and 20 U.S.C. § 1232g. Nothing in this Agreement may be construed to allow either party to maintain, use, disclose, or share student record information in a manner not allowed under Federal law or regulation.
2. Name a temporary custodian of the Department's data for each project. That custodian shall be able to request and receive data under the Agreement and applicable addenda to it and to ensure the compliance of the authorized recipient with the terms of the Agreement and applicable laws. The Department shall release data only to the named temporary custodian, who shall be responsible for

transmitting all data requests and maintaining a log or other record of all data requested and received pursuant to the Agreement and addenda to it, including confirmation of the completion of the project and the return or destruction of data as required by the Agreement. The Department or its agents may upon request review the records required to be kept by the authorized recipient under this section.

3. Use data shared under the Agreement for no purpose other than the research projects described in the attached addenda, and as authorized under 34 CFR §§ 99.31(a)(6) and 99.35; or 34 CFR § 99.31(a)(3). Nothing in the Agreement or the addenda shall be construed to authorize the authorized recipient to have access to additional data from the Department that is not included in the scope of the Agreement or under the terms of the projects described in the addenda to it or to govern access to the data by entities other than the Parties. The authorized recipient further agrees not to share data received under the Agreement and addenda with any other entity without prior written approval from the Department. The authorized recipient understands the Agreement does not convey ownership of data to the authorized recipient.
4. Require all employees, contractors and agents of any kind to comply with the Agreement, and all applicable provisions of FERPA and other federal and state laws with respect to the data and information shared under the Agreement. The authorized recipient agrees to require of and maintain an appropriate confidentiality agreement from each employee, contractor, or agency with access to data pursuant to the Agreement and addenda to it. Nothing in this section authorizes the authorized recipient to share data and information provided under the Agreement and addenda with any other individual or entity for any purpose other than completing the work as authorized by the Department consistent with this Agreement and addenda to it.
5. Provide the Department with periodic status reports during the project term as described in addenda to this Agreement. Progress reports shall include but not be limited to progress of the project relative to established deadlines. The authorized recipient shall provide the Department with immediate written notice of any changes to project protocols except as consistent with the Agreement and any addenda to it.
6. Maintain all data received pursuant to the Agreement separate from all other data files and not copy, reproduce or transmit data obtained pursuant to the Agreement except to its own agents acting for or on behalf of the Department and as necessary to fulfill the purpose of the project described in the attached addenda. All copies of data of any type,

including any modifications or additions to data from any source that contains information, are subject to the provisions of the Agreement and addenda to it in the same manner as the original data disclosed by the Department to the authorized recipient. The ability to access or maintain data under the Agreement shall not under any circumstances transfer from the authorized recipient to any other individual, institution or entity.

7. Not disclose data contained under the Agreement or addenda to it in any manner that could identify any individual student to any entity other than the Department, or authorized employees, contractors and agents of the authorized recipient working as the Department's authorized representative on projects approved by the Department consistent with this Agreement and described in addenda to it. Persons participating in approved projects on behalf of the Parties under this Agreement shall neither disclose or otherwise release data and reports relating to an individual student, nor disclose information relating to a group or category of students without ensuring the confidentiality of students in that group. Publications and reports of this data and information related to it, including preliminary project descriptions and draft reports shall involve only aggregate data and no personally identifiable information or other information that could lead to the identification of any student. **No report of these data containing a group of students less than ten (11) shall be released to anyone other than the Department.** The authorized recipient shall require that all employees, contractors and agents working on this project abide by that statistical cell size.
8. Not provide any data obtained under this Agreement to any entity or person ineligible to receive data protected by FERPA, or prohibited from receiving data from any entity by virtue of a finding under 34 CFR § 99.31(a)(6)(iii).
9. Destroy all data obtained under the Agreement and addenda to it when no longer needed for the purpose for which it was obtained. Nothing in this Agreement authorizes the authorized recipient to maintain data beyond the time period reasonably needed to complete the projects described in the addenda to this Agreement. Upon termination of the Agreement or publication of reports generated under this Agreement and addenda to it, as authorized by the Department, whichever occurs first, the authorized recipient shall return all data files and hard copy records to the Department and purge any copies of data from its computer systems in compliance with 34 CFR §§ 99.31(a)(6)(ii)(b) and 99.35(b)(2). The authorized recipient agrees to require all employees, contractors, or agents of any kind to comply with this provision. No other entity is authorized to continue research using the data obtained under the Agreement upon the

termination of the Agreement and projects described in addenda to it.

10. Provide the Department with one electronic and, upon written request, at least one paper copy of the final versions of all approved, released reports and other documents associated with this project. The Department reserves the right to distribute and otherwise use the final approved, released report and associated documents as it wishes, in sum or in part.

V. RELATED PARTIES. The authorized recipient represents that it is authorized to bind to the terms of the Agreement, including confidentiality, maintenance, publication, and destruction or return 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.

VI. FEES. There shall be no cost or fees charged to or paid by any party participating in this Agreement unless agreed to in writing by an authorized representative of each organization.

VII. TERM. This Agreement takes effect upon last dated signature by the authorized representative of each Party and shall remain in effect until completion of the projects described in the addenda or until canceled by either Party upon 30 days' written notice, whichever occurs first. The Agreement is renewable upon written approval by the authorized representative of each Party.

VIII. This Agreement expresses the entire agreement of the parties and shall not be modified or altered except in writing executed by the authorized representatives of the Department and the authorized recipient, and in a manner consistent with applicable Arkansas and Federal laws.

IX. Execution

Arkansas Department of Higher Education

Printed Name: Maria Markham, Ph.D.

Title: Director

Signature:

Date:



Arkansas Department of Health - "The Authorized Recipient"

Printed Name: Namvar Zohoori, MD, MPH, PhD

Title: Deputy State Health Officer & Chief Science Officer

Signature:



Date: April 27, 2021

Addendum A

Description/Scope of Work

The purpose of this research is to determine the rate of vaccination for Covid-19 among Arkansas Higher Education Institution students. The data provided will be used to match with the Arkansas Department of Health database. All data results will be in aggregate in a manner consistent with both FERPA and HIPAA regulations.

Timeline of Work & Destruction Date

Research will commence in April of 2021 and end in April of 2022. Data destruction is to be no later than June 2022 with confirmation email sent to the Department that all data has been destroyed.

Data Sets for Study

Student enrollment by term for the current term in progress. This includes all matriculated undergraduate and graduate students for whom the Student Confidentiality Flag is marked "No". It does not include high school concurrent or high school dual enrolled students.

1. Demographic Variables

Student First Name, Student Last Name, Student Middle Initial, Student Date of Birth, Student Gender, Student Race

2. Academic Variables

Student major, Undergraduate or Graduate Level

3. Other Variables

Institution Name, Academic Year, Term

Principal Investigator(s) (Temporary Custodian)

Name: Dr. Michael Cima, PhD

Position: Director of Outbreak Response Epidemiology

Address: 4815 West Markham St., Little Rock, Arkansas 72205

Office: 501-683-6596

