

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	21-1947
Introduction Date	9/8/21
Enactment Number	21-1437
Enactment Date	09/08/2021 CJH



# Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Sondra Aguilera, Chief Academic Officer  
Juan Du, Executive Director, Research, Assessment and Data (RAD)

**Meeting Date** September 8, 2021

**Subject** Data Sharing Agreement - Family Engagement Lab - Research, Assessment and Data Department

---

**Ask of the Board** Approval by the Board of Education of a Data Sharing Agreement between OUSD and Family Engagement Lab authorizing OUSD to share data with the latter, which will allow Family Engagement Lab to conduct a research project, for the period of June 30, 2021 through June 30, 2022, at no cost to the District.

**Background** OUSD will share the following de-identified data: English Language Proficiency Assessments for California (ELPAC) results, Interim Assessment Blocks (IAB) results, Reading Inventory results, i-Ready results, Ages and Stages Questionnaire results, Desired Results Developmental Profile results, attendance rate, number of absences, number of suspensions, days suspended, gender, race/ethnicity, special education flag, home language, language proficiency, school, grade level, student scheduled courses, English language learner status, school-wide Title 1 flag, student courses grades, current year GPA, cumulative GPA, standards-based report card data, site name, dummy teacher ID, teacher demographic data (gender, ethnicity, credential, years teaching experience, highest degree earned), student retention, school-level percentages for free/reduced price lunch eligibility, Gifted and Talented (GATE), courses taken, and GPA in certain courses.

**Discussion** Family Engagement Lab’s technology-based solution, FASTalk (Families and Schools Talk), helps teachers engage families in learning with the goal of improving student outcomes. FASTalk is coordinated with the school’s academic calendar to deliver relevant content to families via SMS throughout the school year. Weekly text messages with standards and curriculum-aligned tips and activities are automatically sent to parents in their home language, from the student’s teacher. All content is pre-loaded and pre-scheduled, which dramatically reduces demands on teacher time. Two-way messaging is also supported to allow for ongoing, reciprocal communication between parents and teachers. The purpose of the current request is to answer the following research questions: 1) Does FASTalk promote positive academic outcomes for students? 2)

Under what conditions and for whom is FASTalk most effective at promoting positive student outcomes?

**Fiscal Impact** Funding resource(s): No Fiscal Impact

**Attachment(s)** Data Sharing Agreement



Board Office Use: <b>Legislative File Info.</b>	
File ID Number	21-1947
Introduction Date	9/8/21
Enactment Number	21-1437
Enactment Date	09/08/2021 CJH

## **DATA SHARING AGREEMENT 2020-2021**

This Data Sharing Agreement (“Agreement”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the below named entity(ies) or individual(s) (“RECIPIENT,” together with OUSD, “PARTIES”):

Family Engagement Lab

The PARTIES hereby agree as follows:

1. **Limited Purpose of Agreement.** This Agreement pertains only to OUSD’s transmission of data to RECIPIENT, and RECIPIENT’s protection of such data. To the extent that OUSD seeks to impose any other legal obligations on RECIPIENT (e.g., RECIPIENT’s provision of services to OUSD), or RECIPIENT seeks to impose any other legal obligations on OUSD (e.g., OUSD payment of compensation to RECIPIENT), such obligations shall be set forth in a separate agreement. If such an agreement exists at the time of execution of this Agreement, the Parties shall identify it in **Exhibit A**.
2. **Data to be Provided.** The Parties shall list the categories of data to be provided in the Schedule of Data, attached hereto as **Exhibit B**, and such data shall be referred to hereinafter as OUSD Data.
3. **Term.**

- a. This Agreement shall start on the below date (“Start Date”):

June 30, 2021

If no Start Date is entered, then the Start Date shall be the latest of the dates on which each of the PARTIES signed this Agreement.

- b. The work shall be completed no later than the below date (“End Date”):

June 30, 2022

If no End Date is entered, then the End Date shall be the first June 30 after the Start Date. For OUSD Data being transmitted as part of research approved by OUSD’s Department of Research, Assessment, and Data, the maximum term is one calendar year, in accordance with Administrative Regulation 6162.8.

4. **Family Educational Rights and Privacy Act.** Check any of the following that apply:

OUSD Data is limited to student directory information, as defined in 34 C.F.R. § 99.31(a)(11), for those students who have not opted out of disclosure of directory information.

OUSD Data is limited to de-identified student information, as defined in 34 C.F.R. § 99.31(b).

OUSD Data includes personally identifiable information from a student record other than directory information. RECIPIENT is responsible for obtaining parental consent, as defined in 34 C.F.R. § 99.30, and presenting evidence thereof to OUSD.

OUSD Data includes personally identifiable information from a student record, and:

RECIPIENT is a contractor, consultant, volunteer, or

other party to whom OUSD has outsourced institutional services or functions, and RECIPIENT performs an institutional service or function for which the agency or institution would otherwise use employees; is under the direct control of the agency or institution with respect to the use and maintenance of education records; and is subject to the requirements of § 99.31(a) governing the use and redisclosure of personally identifiable information from education records. (See 34 C.F.R. § 99.31(a)(1)(i)(B).)

RECIPIENT is another school, school system, or institution of postsecondary education where an OUSD student seeks or intends to enroll, or where the student is already enrolled, and the disclosure is for purposes related to the student's enrollment or transfer. (See 34 C.F.R. § 99.31(a)(2).)

RECIPIENT is an authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of Education; or State and local educational authorities. (See 34 C.F.R. § 99.31(a)(3).)

RECIPIENT requires the data in order to determine an OUSD student's eligibility for financial aid; amount of aid; conditions for aid; or to enforce the terms and conditions of the aid. (See 34 C.F.R. § 99.31(a)(4).)

RECIPIENT is an organization conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. (See 34 C.F.R. § 99.31(a)(6).) Any RECIPIENT receiving OUSD Data pursuant to this subsection must first submit a research application pursuant to OUSD's Department of Research, Assessment, and Data protocols, and such

application shall be incorporated into this Agreement by reference.

The disclosure is in connection with a health or safety emergency. (See 34 C.F.R. §§ 99.31(a)(10) & 99.36.)

5. **Privacy Compliance.** RECIPIENT shall comply with all applicable state and federal laws and regulations pertaining to data privacy and security, including the Family Educational Rights and Privacy Act, the Children’s Online Privacy Protection Act, the Protection of Pupil Rights Amendment, the Student Online Personal Information Protection Act, AB 1584, and all other California privacy statutes.
6. **Authorized Use.** OUSD Data, including persistent unique identifiers, shall be used for no purpose other than as agreed herein and/or otherwise legally authorized. RECIPIENT shall not make any re-disclosure of any OUSD Data or any portion thereof, including without limitation, meta data, user content or other non-public information and/or personally identifiable information contained in the OUSD Data, without the express written consent of OUSD.
7. **Advertising Prohibition.** RECIPIENT is prohibited from using or selling OUSD Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising, or other commercial efforts by a RECIPIENT; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service to OUSD; or (d) use the OUSD Data for the development of commercial products or services.
8. **OUSD Data Property of OUSD.** All OUSD Data transmitted to the RECIPIENT pursuant to this Agreement is and will continue to be the property of and under the control of OUSD. RECIPIENT acknowledges and agrees that all copies of such OUSD Data transmitted to the RECIPIENT, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this Agreement in the same manner as the original OUSD Data. The Parties agree that as between them, all rights, including all intellectual

property rights in and to OUSD Data contemplated per the Service Agreement shall remain the exclusive property of OUSD.

9. **Correction of Records.** OUSD shall establish reasonable procedures by which a parent, guardian, or eligible student may review OUSD Data in the pupil's records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of services. RECIPIENT shall respond in a timely manner to OUSD's request for OUSD Data in a pupil's records held by RECIPIENT to view or correct as necessary.
10. **Third Party Request.** Should a Third Party, including law enforcement and government entities, contact RECIPIENT with a request for data held by RECIPIENT pursuant to the Services, RECIPIENT shall redirect the Third Party to request the data directly from OUSD. RECIPIENT shall notify OUSD in advance of a compelled disclosure to a Third Party.
11. **Employee Obligation.** RECIPIENT shall require all employees and agents who have access to OUSD Data to comply with all applicable provisions of this DPA with respect to the data shared under the Service Agreement.
12. **Subprocessors.** RECIPIENT shall enter into written agreements with all Subprocessors performing functions pursuant to this Agreement or any other Agreement identified in **Exhibit A**, whereby the Subprocessors agree to protect OUSD Data in manner consistent with the terms of this Agreement.
13. **No Re-Identification or Re-Disclosure.** RECIPIENT agrees not to attempt to re-identify de-identified OUSD Data and not to transfer de-identified OUSD Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to OUSD who has provided prior written consent for such transfer. RECIPIENT shall not copy, reproduce or transmit any data obtained except as necessary to fulfill the Service Agreement
14. **Disposition of Data.** RECIPIENT shall dispose or delete all OUSD

Data upon written request by OUSD or when it is no longer needed for the purpose for which it was obtained. Disposition shall include (1) the shredding of any hard copies of any OUSD Data; (2) Erasing; or (3) Otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in this Agreement authorizes RECIPIENT to maintain OUSD Data beyond the time period reasonably needed to complete the disposition. RECIPIENT shall provide written notification to OUSD when the OUSD Data has been disposed.

15. **Data Security.** RECIPIENT agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect OUSD Data from unauthorized disclosure or acquisition by an unauthorized person.
16. **Data Breach.** In the event that OUSD Data is accessed or obtained by an unauthorized individual, RECIPIENT shall provide notification to OUSD within a reasonable amount of time of the incident, and not exceeding forty-eight (48) hours. RECIPIENT shall follow the following process:
  - a. The security breach notification shall be written in plain language, shall be titled “Notice of Data Breach,” and shall present the information described herein under the following headings: “What Happened,” “What Information Was Involved,” “What We Are Doing,” “What You Can Do,” and “For More Information.” Additional information may be provided as a supplement to the notice.
  - b. The security breach notification described above shall include, at a minimum, the following information:
    - (i) The name and contact information of the reporting OUSD subject to this section.
    - (ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
    - (iii) If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range

- within which the breach occurred. The notification shall also include the date of the notice.
- (iv) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.
  - (v) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
- c. RECIPIENT agrees to adhere to all requirements in applicable State and in federal law with respect to a data breach related to the OUSD Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
  - d. RECIPIENT further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of OUSD Data or any portion thereof, including personally identifiable information and agrees to provide OUSD, upon request, with a copy of said written incident response plan.
  - e. RECIPIENT is prohibited from directly contacting parent, legal guardian or eligible pupil unless expressly requested by OUSD. If OUSD requests RECIPIENT's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to RECIPIENT, RECIPIENT shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed above. If requested by OUSD, RECIPIENT shall reimburse OUSD for costs incurred to notify parents/families of a breach not originating from OUSD's use of the Service.
17. **Equipment and Materials.** RECIPIENT shall provide all equipment, materials, and supplies necessary for the performance of this Agreement.
18. **Termination.**

- a. For Convenience by OUSD. OUSD may at any time terminate this Agreement upon thirty (30) days prior written notice to RECIPIENT. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was provided, whichever is later.
- b. Due to COVID-19. Notwithstanding any other language of this Agreement, if a shelter-in-place (or similar) order due to COVID-19 is issued or is in effect during the term of this Agreement that would prohibit or limit, at the sole discretion of OUSD, the ability of RECIPIENT to perform the Services, OUSD may terminate this Agreement upon seven (7) days prior written notice to RECIPIENT. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or seven (7) days after the notice was provided, whichever is later.
- c. For Cause. Either PARTY may terminate this Agreement by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate. Cause shall include (i) material violation of this Agreement or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for the correction are made.
- d. Upon termination, RECIPIENT shall provide OUSD with all materials produced, maintained, or collected by RECIPIENT pursuant to this Agreement, whether or not such materials are complete or incomplete or are in final or draft form.

19. **Legal Notices.** All legal notices provided for under this Agreement shall be sent via email to the email address set forth below and shall be either (i) personally delivered during normal business hours or (ii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY at the address set forth below.

**OUSD**

Name: Joshua R. Daniels  
Site/Dept: Office of General Counsel  
Address: 1000 Broadway, Suite 300  
City, ST Zip: Oakland, CA 94607  
Phone: 510-879-8535  
Email: ousdlegal@ousd.org

**RECIPIENT**

Name: Elisabeth O’Byron  
Title: Co-founder, Chief Impact Officer  
Address: 548 Market Street, #42210  
City, ST Zip: San Francisco, CA 94104  
Phone: 301.213.8113  
Email: elisabeth@familyengagementlab.org

Notice shall be effective when received if personally served or emailed or, if mailed, three days after mailing. Either PARTY must give written notice of a change of mailing address or email.

20. **Status.**
- a. This is not an employment contract. RECIPIENT, in the performance of this Agreement, shall be and act as an independent contractor. RECIPIENT understands and agrees that it and any and all of its employees shall not be considered employees of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which

OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. RECIPIENT shall assume full responsibility for payment of all Federal, State, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to RECIPIENT's employees.

- b. If RECIPIENT is a natural person, RECIPIENT verifies all of the following:
  - (i) RECIPIENT is free from the control and direction of OUSD in connection with RECIPIENT's work;
  - (ii) RECIPIENT's work is outside the usual course of OUSD's business; and
  - (iii) RECIPIENT is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for OUSD.
  
- c. If RECIPIENT is a business entity, RECIPIENT verifies all of the following:
  - (i) RECIPIENT is free from the control and direction of OUSD in connection with the performance of the work;
  - (ii) RECIPIENT is providing services directly to OUSD rather than to customers of OUSD;
  - (iii) the contract between OUSD and RECIPIENT is in writing;
  - (iv) RECIPIENT has the required business license or business tax registration, if the work is performed in a jurisdiction that requires RECIPIENT to have a business license or business tax registration;
  - (v) RECIPIENT maintains a business location that is separate from the business or work location of OUSD;
  - (vi) RECIPIENT is customarily engaged in an independently established business of the same nature as that involved in the work performed;
  - (vii) RECIPIENT actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from OUSD;
  - (viii) RECIPIENT advertises and holds itself out to the public as available to provide the same or similar services;
  - (ix) RECIPIENT provides its own tools, vehicles, and equipment to perform the services;

- (x) RECIPIENT can negotiate its own rates;
- (xi) RECIPIENT can set its own hours and location of work; and
- (xii) RECIPIENT is not performing the type of work for which a license from the Contractor’s State License Board is required, pursuant to Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code.

21. **Certificates/ Permits/ Licenses/ Registration.** RECIPIENT’s employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.

22. **Coronavirus/COVID-19.**

- a. Through its execution of this Agreement, RECIPIENT declares that it is able to meet its obligations and perform the Services required pursuant to this Agreement in accordance with any shelter-in-place (or similar) order or curfew (or similar) order (“Orders”) issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
- b. Consistent with the requirements of the paragraph titled Incident/Accident/Mandated Reporting, RECIPIENT agrees to notify OUSD, via email pursuant to the paragraph titled Legal Notices, within twelve (12) hours if RECIPIENT or any employee, subcontractor, agent, or representative of RECIPIENT tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to RECIPIENT possible COVID-19 exposure.
- c. RECIPIENT agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols including, but not limited to, providing OUSD with information regarding possible exposure of OUSD employees to RECIPIENT or any employee, subcontractor, agent, or representative of RECIPIENT and information necessary to perform contact tracing.
- d. RECIPIENT shall bear all costs of compliance with this Paragraph, including but not limited to those imposed by this Agreement.

23. **Assignment.** The obligations of RECIPIENT under this Agreement shall not be assigned by RECIPIENT without the express prior written

consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.

24. **Non-Discrimination.** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, RECIPIENT agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code section 12900 and Labor Code section 1735 and OUSD policy. In addition, RECIPIENT agrees to require like compliance by all its subcontractor (s). RECIPIENT shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
25. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, RECIPIENTS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
26. **Waiver.** No delay or omission by either PARTY in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Agreement.
27. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
28. **Conflict of Interest.**
  - a. RECIPIENT shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. RECIPIENT shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.
  - b. RECIPIENT affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between

RECIPIENT's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing.

- c. Through its execution of this Agreement, RECIPIENT acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event RECIPIENT receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, RECIPIENT agrees it shall notify OUSD in writing.

29. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Through its execution of this Agreement, RECIPIENT certifies to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).

30. **Limitation of OUSD Liability.** OUSD shall have no financial obligations under this Agreement other than as provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this Agreement for the Services performed in connection with this Agreement.

31. **Indemnification.**

- a. To the furthest extent permitted by California law, RECIPIENT shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("OUSD Indemnified Parties") from any and all claims or losses accruing or resulting

from injury, damage, or death of any person or entity arising out of RECIPIENT's performance of this Agreement. RECIPIENT also agrees to hold harmless, indemnify, and defend OUSD Indemnified Parties from any and all claims or losses incurred by any supplier, RECIPIENT, or subcontractor furnishing work, services, or materials to RECIPIENT arising out of the performance of this Agreement. RECIPIENT shall, to the fullest extent permitted by California law, defend OUSD Indemnified Parties at RECIPIENT's own expense, including attorneys' fees and costs, and OUSD shall have the right to accept or reject any legal representation that RECIPIENT proposes to defend OUSD Indemnified Parties.

- b. To the furthest extent permitted by California law, OUSD shall indemnify, defend, and hold harmless RECIPIENT, its Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("RECIPIENT Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OUSD's performance of this Agreement. OUSD shall, to the fullest extent permitted by California law, defend RECIPIENT Indemnified Parties at OUSD's own expense, including attorneys' fees and costs.
32. **Audit.** RECIPIENT shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of RECIPIENT transacted under this Agreement. RECIPIENT shall retain these books, records, and systems of account during the term of this Agreement and for three (3) years after the End Date. RECIPIENT shall permit OUSD, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all records and other data related to Services covered by this Agreement. Audit(s) may be performed at any time, provided that OUSD shall give reasonable prior notice to RECIPIENT and shall conduct audit(s) during RECIPIENT'S normal business hours, unless RECIPIENT otherwise consents.
  33. **Litigation.** This Agreement shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws

regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.

34. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this Agreement are incorporated herein by reference. RECIPIENT agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Professional Services Contract, the terms and provisions of this Professional Services Contract shall govern.
35. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the PARTIES and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both PARTIES.
36. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
37. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
38. **Captions and Interpretations.** Section and paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a PARTY because that PARTY or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the PARTIES.
39. **Calculation of Time.** For the purposes of this Agreement, “days” refers to calendar days unless otherwise specified and “hours” refers to hours regardless of whether it is a work day, weekend, or holiday.
40. **Counterparts and Electronic Signature.** This Agreement, and all

amendments, addenda, and supplements to this Agreement, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving PARTY may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this Agreement, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

41. **Agreement Publicly Posted.** This Agreement, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
42. **Signature Authority.**
  - a. Each PARTY has the full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each PARTY has been given the proper authority and empowered to enter into this Agreement.
  - b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel has authority to sign contracts for OUSD and only under limited circumstances, which required ratification by the OUSD Governing Board. RECIPIENT agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Agreement or as legally binding in any way.
43. **Contract Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Agreement unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code or Board Policy, and no payment shall be owed or made to RECIPIENT absent such formal approval or valid and proper execution.

REST OF PAGE IS INTENTIONALLY LEFT BLACK

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

**RECIPIENT**

Name: Elisabeth O'Bryon Signature:   
Position: Co-founder, Chief Impact Officer Date: 07 / 07 / 2021

**OUSD**

Name: Juan Du Signature:   
Position: Executive Director, Research, Assessment & Data Date: 7/26/2021

- Board President
- Superintendent
- Chief/Deputy Chief

Name: Kyla Johnson-Trammell Signature:   
Position: Secretary, Board of Education Date: 09/09/2021

Approved as to form by OUSD Staff Attorney Joanna Powell on 6/3/21.



## EXHIBIT A

### 1) Anticipated Use of Data: Describe the purpose for which the Recipient seeks access to the OUSD Data identified in Exhibit B.

Family engagement in education is linked to wide-ranging benefits for students, including positive academic outcomes (Henderson & Mapp, 2002; Jeynes, 2005), improved social and behavioral skills (McWayne, Hampton, Fantuzzo, Cohen, & Sekino, 2004), and improved attitudes toward school (Christenson & Havy, 2004; Patrikakou, Weissberg, Redding, & Walberg, 2005). Meta-analyses identify specific family engagement practices that are most effective in promoting positive outcomes. These effective practices include engaging in at-home learning activities, supporting child reading, and communicating the importance of education (i.e., maintaining high expectations, discussing future educational aspirations, etc.; Fan & Chen, 2001; Hill & Tyson, 2009; Jeynes, 2005; Jeynes, 2007).

While high-impact family engagement activities have been shown to promote positive student outcomes across racial and socioeconomic lines (e.g., see Hill & Tyson, 2009; Jeynes, 2005), higher-SES families are investing more time and resources in their children's learning outside of school (Reardon, 2011) with children in poverty being significantly less likely to be exposed to learning activities such as reading at home (Bradley, Corwyn, McAdoo, & Garcia Coll, 2001). Barriers that inhibit effective engagement include parents' lack knowledge of effective ways to build upon classroom activities and curriculum (Daugherty, Dossani, Johnson, & Wright, 2014); low levels of self-efficacy when it comes to their ability to support learning at home (Drummond & Stipek, 2004); as well as language and cultural barriers.

As a highly trusted source for parents on how to support their children's learning (Deloitte, 2016), teachers are uniquely positioned to help overcome barriers that limit effective family engagement. However, a recent Scholastic survey of nearly 5,000 educators revealed that while 99% of teachers report that it is important to student success that families are involved in learning, 84% of teachers in high-poverty schools need help engaging their students' families (Scholastic, 2016).

Our technology-based solution, FASTalk (Families and Schools Talk), helps teachers engage families in learning with the goal of improving student outcomes. FASTalk is coordinated with the school's academic calendar to deliver relevant content to families via SMS throughout the school year. Weekly text messages with standards- and curriculum-aligned tips and activities are automatically sent to parents in their home language, from the student's teacher. Unlike other solutions, all content is pre-loaded and pre-scheduled, which dramatically reduces demands on teacher time. Two-way messaging is also supported to allow for ongoing, reciprocal communication between parents and teachers.

The purpose of the current request is to answer the following research questions:

- Does FASTalk promote positive academic outcomes for students?
- Under what conditions and for whom is FASTalk most effective at promoting positive student outcomes?

**2) Description of Existing Agreements between OUSD and Recipient:**  
*To the extent that OUSD and Recipient have entered separate agreements imposing legal obligations in addition to data sharing, list their date, Enactment Number (if applicable), and a brief summary below.*

20-1705 (10/14/2020) - Provide FASTalk System and will work with District's English Language Arts/Literacy team, Early Childhood Education team, and other District leaders as needed to select and send text messages that coordinate with District's academic scope and sequence to support home activities that promote literacy development

20-1808 (10/14/2020) - Provide FASTalk Program, for the sending of grade-level (Pre-K) appropriate activities via text messages to increase parent understanding of their child's development, and prompting engagement in learning at home

18-1909 (12/12/2018) - Data Sharing Agreement between Family Engagement Lab and OUSD for data sharing and FASTalk pilots, ends June 30, 2021. File number 18-2382.

Approved research applications with RAD (file IDs 180723 and 200706)

**3) Site/Department to Provide Data** (e.g., Research, Assessment, & Data Department, Tech Services Department, specific school site):

Research, Assessment, and Data Department

## EXHIBIT B

Please indicate each data element requested below.

### Top of Form

Category	Elements	Check if Requested
Application Technology Metadata	IP Addresses of users, use of cookies, etc.	<input type="checkbox"/>
	Other application technology metadata - please specify	<input type="checkbox"/>
Application Use Statistics	Metadata on user interaction with application	<input type="checkbox"/>
Assessment	SBAC results	<input type="checkbox"/>
	ELPAC results	✓
	IAB Results	✓
	Local benchmark assessment results	✓ <b>Additional assessment data requested:</b> Reading Inventory (grades 3-8) i-Ready (grades K-2) Ages and Stages Questionnaire (preschool) Desired Results Developmental Profile (DRDP) (preschool)
Attendance	Attendance rate	✓
	Number of absences	✓
Communications	Online communications that are captured (emails, blog entries)	<input type="checkbox"/>
Conduct	Number of Suspensions	✓
	Days suspended	✓
Demographics	Gender	✓

	Race/Ethnicity	<input checked="" type="checkbox"/>
	Special ed. flag	<input checked="" type="checkbox"/>
	Home language	<input checked="" type="checkbox"/>
	Language proficiency	<input checked="" type="checkbox"/>
	Birth country	<input type="checkbox"/>
Enrollment	School	<input checked="" type="checkbox"/>
	Grade level	<input checked="" type="checkbox"/>
	Other - please specify	<input type="checkbox"/>

Bottom of Form Parent/Guardian Contact Information	Name	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
Schedule	Student scheduled courses	<input checked="" type="checkbox"/>
	Teacher names	<input type="checkbox"/>
Special Indicator	English language learner	<input checked="" type="checkbox"/>
	Low income status (only available if data requested is de-identified)	<input type="checkbox"/>
	Title 1 flag (schoolwide)	<input checked="" type="checkbox"/>

	Other - please specify	<input type="checkbox"/>
Student Contact Information	Name	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
Local Identifiers	Local student ID number	<input type="checkbox"/>
	Teacher ID number	<input type="checkbox"/>
	State student ID number	<input type="checkbox"/>
	Provider/App assigned student ID number	<input type="checkbox"/>
	Student app username	<input type="checkbox"/>
	Student app password(s)	<input type="checkbox"/>
	Dummy identifiers (please check here if data requested are de-identified)	<input checked="" type="checkbox"/>
Student In App Performance	Program/application performance (typing program - student types 60wpm, reading program - student reads below grade level) - Please specify	<input type="checkbox"/>
Student Work	Student generated content; writing, pictures etc.	<input type="checkbox"/>
	Other - please specify	<input type="checkbox"/>
Transcript	Student course grades	<input checked="" type="checkbox"/>

	Current year GPA	<input checked="" type="checkbox"/>
	Cumulative GPA	<input checked="" type="checkbox"/>
Transportation	Student bus assignment	<input type="checkbox"/>
	Student pick up and/or drop off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>
	Other - Please specify	<input type="checkbox"/>
Other	Please list each additional data element used, stored, or collected	<p>Standards-based report cards, all standards (fall, midyear, spring marking periods)</p> <p>Site Name</p> <p>Dummy Teacher ID</p> <p>Teacher demographic data (gender, ethnicity, credential, years teaching experience, highest degree earned)</p> <p>Student Retention</p> <p>School level percentages for free/reduced price lunch eligibility</p> <p>Gifted and Talented (GATE)</p> <p>Courses Taken</p> <p>GPA in certain courses</p>

<b>TITLE</b>	OUSD DSA
<b>FILE NAME</b>	OUSD DSA_template_2021_FEL 6.1klv.eo.pdf
<b>DOCUMENT ID</b>	6b9e51449cdde349bf77b9e1b346fdda2d697944
<b>AUDIT TRAIL DATE FORMAT</b>	MM / DD / YYYY
<b>STATUS</b>	● Completed

## Document History



SENT

**07 / 07 / 2021**

19:09:33 UTC

Sent for signature to Elisabeth O&#39;Bryon  
 (elisabeth@familyengagementlab.org) from  
 marci@familyengagementlab.org  
 IP: 75.26.233.126



VIEWED

**07 / 07 / 2021**

19:17:00 UTC

Viewed by Elisabeth O&#39;Bryon  
 (elisabeth@familyengagementlab.org)  
 IP: 108.28.194.233



SIGNED

**07 / 07 / 2021**

19:17:26 UTC

Signed by Elisabeth O&#39;Bryon  
 (elisabeth@familyengagementlab.org)  
 IP: 108.28.194.233



COMPLETED

**07 / 07 / 2021**

19:17:26 UTC

The document has been completed.