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Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Sondra Aguilera, Chief Academic Officer
Wesley Jacques, Executive Director, Academics and Instructional Innovation

Board Meeting Date November 12, 2020

Subject Memorandum of Understanding for the Sharing of Data
Contractor: Northern Alameda Adult Education Collective Joint Power Authority
Services For: Oakland Unified School District

Action Requested and Recommendation Approval by the Board of Education of Memorandum of Understanding for the Sharing of Data between the District and Northern Alameda Adult Education Collective Joint Power Authority (NAC), a consortium of educational institutions, for the latter to facilitate the collection, analysis, and sharing of student data in order to track performance and improve student success from secondary school through college, specifically, by sharing transcript and identification information of certain former and present adult students who have attained a high school or are within reach of attaining a high school diploma or its equivalent, the Parties can streamline admissions processes, lower barriers to entry and enable Educational Institutions to facilitate the movement of students from secondary to postsecondary education, for the period of November 13, 2020 through June 30, 2023, at no cost to the District.

Background The NAC have agreed to the mutual distribution of certain academic data for the purpose of reaching former and present adult students who have attained a high school or are within reach of attaining a high school diploma or its equivalent. The collective educational institutions desire to study, evaluate and improve their respective educational programs through the analysis of academic performance data concerning students who have or who are now attending an Educational Institution. It is necessary for the Parties to share student data on a reciprocal basis for the purpose of evaluating and analyzing the extent to which their respective educational programs improve post-secondary student outcomes.

Fiscal Impact Funding resource(s): No Fiscal Impact

Attachments

- Memorandum of Understanding for Sharing of Data

NORTHERN ALAMEDA ADULT EDUCATION COLLECTIVE JOINT POWER AUTHORITY

**MEMORANDUM OF UNDERSTANDING
FOR THE SHARING OF DATA**

This Memorandum of Understanding for the Sharing of Data, herein referred to as "MOU," is entered into by and between the Parties of the Northern Alameda Adult Education Collective Joint Power Authority ("NAC") listed here on **Exhibit "A"** and those entities who elect to accept its terms pursuant to Section 11 herein (herein collectively "Educational Institutions" or "Parties").

PREAMBLE

WHEREAS, the purpose of the agreement is to facilitate the collection, analysis, and sharing of student data in order to track performance and improve student success from secondary school through college, Specifically, by sharing transcript and identification information of certain former and present adult students who have attained a high school or are within reach of attaining a high school diploma or its equivalent, the Parties can streamline admissions processes, lower barriers to entry, and enable Educational Institutions to facilitate the movement of students from secondary to postsecondary education. To that end, the Educational Institutions agree that the disclosure of data under this MOU complies with the requirements of Education Code sections 49076 and 49076.5, as amended by AB 733 and AB 1584., the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99, as amended), and Student Online Personal Information Protection Act ("SOPIPA") (California Business and Professions Code section 22584), and other state and federal laws and regulations regarding educational or health records (including the Health Information Portability and Privacy Act of 1996 ("HIPAA") governing data privacy and confidentiality, and further agree to adhere to the requirements of such laws and regulations in carrying out their responsibilities under this MOU.

The Parties to this MOU desire to study, evaluate and improve their respective educational programs through the analysis of academic performance data concerning students who have or who are now attending an Educational Institution. It is necessary, therefore, for the Parties to share student data on a reciprocal basis for the purpose of evaluating and analyzing the extent to which their respective educational programs improve post-secondary student outcomes.

THEREFORE, the Educational Institutions agree to the following terms of this MOU:

1. Data Sharing

The Parties shall provide one another with academic data concerning their respective students ("Data"). The Data shall be provided in the manner and form as specified by the NAC Data Sharing Procedures, a copy of which is attached hereto as **Exhibit "B"**. The NAC Data Sharing Procedures may be amended from time to time by the governing board of the Consortium. The Data shall be used only for conducting studies and to assist with the evaluation, design, and delivery of the Parties' educational programs. The Data may include personally identifiable information such as names, date of birth, gender, and ethnicity as well as admissions information, terms of enrollment, courses, transcripts, and grades. Any Data received pursuant to this Memorandum shall be destroyed when it is no longer needed for the studies and no later than ten years from the date the data is first received.

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- a. Ownership of the Data. The Parties agree that Data shall be solely owned by the Educational Institution which originally provided the Data.
- b. Student and Parent Access to Data. As applicable, the Parties shall provide a means by which an authorized employee of Educational Institution can search and export Data through reasonable procedures such that that Educational Institution can respond to a parent, legal guardian, or eligible student who seeks to review personally identifiable information on the pupil's records or correct erroneous information. The foregoing notwithstanding, the Parties shall cooperate with that Educational Institution to help insure that this record correction will be consistent with that Educational Institution's policies regarding record correction.
- c. Third Party Access. The Parties shall not distribute Data to any third party without the explicit written consent of the Educational Institutions or as permitted by this MOU, unless required by law. The Parties shall ensure that third parties to all of the provisions of this MOU. The Parties will help ensure that any subcontractor or sub-processor that it engages to process store or access Data has adequate technical security and organizational measure in place to keep Data secure and to comply with the terms of this MOU.

2. Confidentiality

Each Educational Institution shall designate the Parties as "School Officials" for purposes of confidentiality and data privacy laws. The Educational Institutions will maintain the confidentiality of any and all Data exchanged by each as a part of this MOU. The confidentiality requirements under this paragraph shall survive the termination or expiration of this MOU or any subsequent agreement intended to supersede this MOU. To ensure the continued confidentiality and security of the Data processed, stored, or transmitted under this MOU, Educational Institutions shall establish a system of safeguards that will at minimum include the following:

- a. Procedures and systems that ensure all student records are kept in secured facilities and access to such records is limited to personnel who are authorized to have access to said Data.
- b. All designated staff and faculty at consortium Educational Institutions involved in the handling, transmittal, and/or processing of Data will be required to execute a confidentiality agreement requiring said personnel to maintain the confidentiality of all student related personally identifiable information.
- c. Procedures and systems that shall require the use of secured passwords to access computer databases used to process, store, or transmit Data.
- d. Procedures and systems, such as good practices for assigning passwords, shall be developed and implemented to maintain the integrity of the systems used to secure computer databases used to process, store, or transmit Data.
- e. Procedures and systems that ensure that all confidential Data processed, stored, and/or transmitted under the provisions of this MOU shall be maintained in a secure manner that prevents the interception, diversion, or other unauthorized access to said data.

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- f. The procedures and systems developed and implemented to process, store, or transmit Data provided under this MOU shall ensure that any and all disclosures of confidential student data comply with all provisions of the “Family Educational Rights and Privacy Act” and California law relating to the privacy rights of students, such as but not limited to, the Information Practices Act and the California Public Records Act insofar as such laws are applicable to the Parties to this MOU.
- g. Access to any personally identifiable information included in the Data shall be restricted to those individuals with a legitimate need for access in order to carry out the purposes set forth above in this MOU.
- h. Data Breach Notification. Upon becoming aware of any unlawful or unauthorized access to academic data shared pursuant to this MOU, each Party will take the following measures:
 - i. Promptly notify the impacted Educational Institution of the suspected or actual incident.
 - ii. Promptly investigate the incident and provide the Educational Institution with detailed information regarding the incident, including the identity of the affected users.
 - iii. Assist the Educational Institution in notifying the affected users, affected persons legal guardians of commercially reasonable steps to mitigate the effects and to minimize any damages resulting from the incident.

3. Indemnification

Each Party agrees to defend, indemnify, and hold each other Party, its officers, employees, and agents harmless from and against any liability, loss, expense (including attorneys’ fees), or claims of injury or damages arising out of the performance of the terms of this MOU but only in proportion to and to the extent such liability, loss, expense, attorneys’ fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying Educational Institution, and/or its officers, employees or agents.

4. Entire Agreement

This document states the entire agreement between the Educational Institutions with respect to its subject matter and supersedes any previous and contemporaneous or oral representations, statements, negotiations, or agreements.

5. Execution

Each of the persons signing this MOU on behalf of a Party or entity other than a natural person represents that he or she has authority to sign on behalf and to bind such Party.

6. Assignment

None of the signatories to this MOU may assign their rights, duties, or obligations under this MOU, either in whole or in part, without the prior written consent of the other signatories to this MOU.

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7. Severability

If any provision of this MOU is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this MOU such provision shall be fully severable. This MOU shall remain in full force and effect unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this MOU.

8. Waiver

Waiver by any signatory to this MOU of any breach of any provision of this MOU or warranty of representation set forth herein shall not be construed as a waiver of any subsequent breach of the same or any other provision. The failure to exercise any right under this MOU shall not operate as a waiver of such right. All rights and remedies provided for in this MOU are cumulative.

9. Modification and Amendments

This MOU may be amended or modified at any time by written mutual agreement of the authorized representatives of the signatories to this MOU. The Educational Institutions further agree to amend this MOU to the extent amendments are required by an applicable law or policy issued by an appropriate regulatory authority if the amendment does not materially affect the provisions of this MOU. However, if new laws, policies, or regulations applicable to the Educational Institutions are implemented which materially affect the intent of the provision of this MOU, the authorized representatives of the signatories to this MOU shall meet within a reasonable period of time, e.g. 20 business days from the date of notice of such change of law, policy, or regulations, to confer regarding how and/or if those laws, policies, or regulations will be applied or excepted.

10. Terms of this Memorandum of Understanding

This MOU shall be in effect as of the date set forth below until June 30, 2023 and for any other Educational Institution for the period commencing from the effective date established pursuant to Section 11 until June 30, 2023. Any Party may terminate its participation by delivering written notice to the other Parties no less than thirty (30) days prior to its intent to terminate the agreement. Upon termination, Data or duplicates of Data belonging to the terminating Party shall be destroyed within a reasonable time following the notice of termination. However, termination by any participant(s) listed as a Party will have no force or effect on the rights and responsibilities as to the remaining Parties.

11. Joining of Other Parties

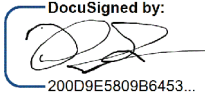
Any high school district, unified school district, community college district, or WASC accredited public or private four-year college or university located in California may become a Party to this MOU with a resolution of approval by the governing board of the Northern Alameda Adult Education Collective Joint Power Authority and the execution of a joinder agreement, the form of which is attached hereto as Exhibit "C".

[Remainder of Page Left Intentionally Blank.]

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IN WITNESS WHEREOF, this Memorandum of Understanding for the Sharing of Data is entered into on the respective dates set forth below by the Parties, to be effective as of [DATE].

Name of Entity: **ALAMEDA OFFICE OF EDUCATION**
Date: September 21, 2020
By: Monica R. Vaughan
Title: Chief of Schools

Name of Entity: **ALAMEDA UNIFIED SCHOOL DISTRICT**
Date: 9/30/2020
By: 
Title: Superintendent

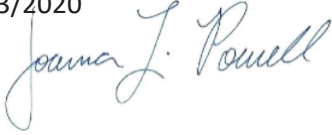
Name of Entity: **BERKELEY UNIFIED SCHOOL DISTRICT**
Date: September 8, 2020
By: [Signature]
Title: Associate Superintendent

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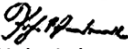
Name of Entity: **OAKLAND UNIFIED SCHOOL DISTRICT**

Approved as to form by OUSD
Staff Attorney Joanna Powell on
10/16/2020.

Date: 
Jody London, President, Board of Education 11/13/2020



By: _____

Title: 
Kyla Johnson- Trammell, Secretary, Board of Education 11/13/2020

Name of Entity: **PERALTA COMMUNITY COLLEGE DISTRICT**

Date: _____

By: _____

Title: _____

Name of Entity: **PIEDMONT UNIFIED SCHOOL DISTRICT**

Date: 9/8/2020

By: 

Title: Superintendent

NORTHERN ALAMEDA ADULT EDUCATION COLLECTIVE JOINT POWER AUTHORITY

EXHIBIT "A"

EDUCATIONAL INSTITUTIONS

as of [DATE OF MOU]

INSTITUTION

CONTACT

ALAMEDA COUNTY
OFFICE OF EDUCATION

MONICA VAUGHN
(510) 670-54590
mvaughn@acoe.org

ALAMEDA UNIFIED
SCHOOL DISTRICT

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BERKELEY UNIFIED
SCHOOL DISTRICT

BAJE` THIARA
(510) 644-8764
bajethiara@berkeley.net

OAKLAND UNIFIED
SCHOOL DISTRICT

WESLEY JACQUES
(510) 879-8200
wesley.jacques@ousd.org

PERALTA COMMUNITY
COLLEGE DISTRICT

SIRI BROWN
(510) 466-7218
sbrown@peralta.edu

PIEDMONT UNIFIED
SCHOOL DISTRICT

RANDALL BOOKER
(510) 594-2614
rbooker@piedmont.k12.ca.su

NORTHERN ALAMEDA ADULT EDUCATION COLLECTIVE JOINT POWER AUTHORITY

EXHIBIT "B"

NAC Data Sharing Procedures

Northern Alameda Adult Education Collective Joint Power Authority

Pursuant to the Memorandum of Understanding for the Sharing of Data, the parties therein (each, a "Member" and collectively, "Members") have agreed to the mutual distribution of certain academic data ("Data") for the purpose of reaching former and present adult students who have attained a high school or are within reach of attaining a high school diploma or its equivalent. This Data Sharing Procedure ("Procedure") shall govern the process by which the Data shall be requested by a Member.

General Sharing

Each Member shall reasonably maintain a database which shall be accessible to each other Member via the internet pursuant to a uniform portal ("Portal"). Each Member shall reasonably make its best efforts to maintain and update the Data to ensure accuracy of its records.

Data Request Form Use

Should any aspect of the Data not be available pursuant to the Portal, the requesting Member may request the information pursuant to a Data Request Form, attached hereto as **Attachment "A"** ("DR Form"). The requesting Member may provide a signed DR Form in electronic or physical form to the address specified by the Receiving Member.

In the event that a DR Form is provided, the receiving Member shall make reasonable efforts to provide the information within ten (10) business days of receiving a DR Form in a format so requested by the requesting Member. Should the receiving Member expect that the Data will take substantially longer than ten (10) days, that Member shall notify the requesting Member and provide an estimated timeline to respond to the Data Request Form.

Confidentiality

Each Member shall designate the respective Members as "School Officials" for purposes of confidentiality and data privacy laws. The Members will maintain the confidentiality of any and all Data exchanged by pursuant to the Procedure. To ensure the continued confidentiality and security of the Data processed, stored, or transmitted under this Procedure, Members shall establish a system of safeguards that will at minimum include the following:

- a. Procedures and systems that ensure all student records are kept in secured facilities and access to such records is limited to personnel who are authorized to have access to said Data.
- b. All designated staff and faculty at consortium Educational Institutions involved in the handling, transmittal, and/or processing of Data will be required to execute a confidentiality agreement requiring said personnel to maintain the confidentiality of all student related personally identifiable information.

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- c. Procedures and systems that shall require the use of secured passwords to access computer databases used to process, store, or transmit Data.
- d. Procedures and systems, such as good practices for assigning passwords, shall be developed and implemented to maintain the integrity of the systems used to secure computer databases used to process, store, or transmit Data.
- e. Procedures and systems that ensure that all confidential Data processed, stored, and/or transmitted shall be maintained in a secure manner that prevents the interception, diversion, or other unauthorized access to said data.
- f. The procedures and systems developed and implemented to process, store, or transmit Data shall ensure that any and all disclosures of confidential student data comply with all provisions of the "Family Educational Rights and Privacy Act" and California law relating to the privacy rights of students, such as but not limited to, the Information Practices Act and the California Public Records Act insofar as such laws are applicable to the Members.
- g. Access to any personally identifiable information included in the Data shall be restricted to those individuals with a legitimate need for access in order to carry out the purposes set forth above in this Procedure.
- h. Upon request by another Member, a Member shall provide further information and details pertaining to how ensures confidentiality and security of the Data as set forth in this Procedure.

Data Breach Notification

Upon becoming aware of any unlawful or unauthorized access to academic data shared pursuant to this Procedure, each Member will take the following measures:

- i. Promptly notify the impacted Educational Institution of the suspected or actual incident.
- ii. Promptly investigate the incident and provide the Educational Institution with detailed information regarding the incident, including the identity of the affected users.
- iii. Assist the Educational Institution in notifying the affected users, affected persons legal guardians of commercially reasonable steps to mitigate the effects and to minimize any damages resulting from the incident.

Amendment

This Procedure may be amended from time to time by a majority of the governing board of the Northern Alameda Consortium of Adult Education. Each Member shall receive a notification ten (10) days prior to the effective date of any such amendment.

NORTHERN ALAMEDA ADULT EDUCATION COLLECTIVE JOINT POWER AUTHORITY

EXHIBIT "C"

**JOINDER AGREEMENT TO THE
MEMORANDUM OF UNDERSTANDING
FOR DATA SHARING**

This Joinder agreement ("Agreement") is made as of _____ (the "Effective Date") by and between _____ ("Education Institution"), and the Northern Alameda Adult Education Collective Joint Power Authority ("Consortium", along with Education Institution, the "Parties") pursuant to the Memorandum of Understanding For the Sharing of Data ("MOU").

WHEREAS, per section 11 of the MOU, any high school district, unified school district, community college district, or WASC accredited public or private four-year college or university located in California may become a party to the MOU through execution of this Agreement; and

WHEREAS, the Education Institution has reviewed the terms of the MOU and desires to be legally bound thereby; and

WHEREAS, the Consortium has adopted a resolution approving the Education Institution's joinder to the MOU.

NOW THEREFORE, for and in consideration of the promises herein contained and intending to be legally bound, the Education Institution hereby acknowledges, consents to, joins in and agrees to be bound by the MOU and all of the terms and conditions thereof.

IN WITNESS WHEREOF, this Joinder Agreement to the Memorandum of Understanding For the Sharing of Data is entered into on the respective dates set forth below by the Parties.

[EDUCATION INSTITUTION NAME]

NORTHERN ALAMEDA ADULT EDUCATION
COLLECTIVE JOINT POWER AUTHORITY

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Date: _____

Date: _____