



**STATE OF WEST VIRGINIA
INTERAGENCY DATA TRANSFER AGREEMENT
BETWEEN
WEST VIRGINIA DEPARTMENT OF EDUCATION
AND
WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH, DIVISION OF IMMUNIZATION SERVICES**

This **DATA TRANSFER AGREEMENT** ("Agreement") made as of the 12th day of December, 2016 ("Effective Date") by and between the West Virginia Department of Education ("WVDE"), having its primary offices at Building 6, 1900 Kanawha Boulevard East, Charleston, West Virginia 25301, and West Virginia Department of Health and Human Resources, Bureau for Public Health, Division of Immunization Services ("DIS"), having its primary offices at 350 Capitol Street, Charleston, West Virginia 26301, (each a "Party" and, collectively, the "Parties").

WHEREAS, the West Virginia Statewide Immunization Information System ("WVSIIS") is a statewide electronic data system maintained by the Bureau for Public Health for reporting and tracking administration of vaccines. Health care providers are required to report all administrations of vaccines as defined in *W.Va. Code* § 16-3-4, 64 CSR 7 and 64 CSR 95.);

WHEREAS, West Virginia Code § 16-3-4 establishes compulsory immunization of school children and those attending state-regulated child care centers. Historically, the immunization records of students enrolling in public schools were entered into the West Virginia Education Information System ("WVEIS"). See Policy 2343, 126 CSR 151 § 5.2 (2007);

WHEREAS, in 2012, the West Virginia Board of Education amended its policy to declare immunization records to be public health records that should be entered into WVSIIS and reviewed annually. This requirement is embodied in the most current version of Policy 2343 at § 6.2;

WHEREAS, beginning in 2015, the WVDE and DIS developed a procedure to allow school nurses access to WVSIIS to confirm an enrolling student had received his/her vaccinations or, in the case where vaccinations have been administered in another state, to enter data from paper records provided by the parents/guardians into the system. Therefore, WVEIS is no longer the repository for current student immunization records. It has historical immunization records dating back to at least 1990;

WHEREAS, it is the intent of this Agreement to facilitate a one-time transfer of all historical immunization records from WVEIS to WVSIS, so that WVSIS becomes the exclusive repository of all immunization records. The historical immunization information contained in WVEIS, which remains the property of the counties, will be archived as static data, accessible only to the individual counties; and

WHEREAS, the Parties agree that the exchange of data will comply with federal and state laws pertaining to Protected Health Information.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and other valuable and good consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following:

1. **CONFIDENTIALITY**

1.01 With respect to the historical immunization records it receives from the WVDE, the WVDHHR/BPH will comply with all confidentiality requirements placed upon it by applicable state, federal and administrative laws.

1.02 The WVDE will archive the historic immunization records in WVEIS into static data files that cannot be modified or deleted so that counties may still access their own records if needed. The WVDE will abide by all confidentiality requirements placed upon it by applicable state, federal and administrative laws.

2. **THE DATA**

2.01 **Definition of Data.** Data shall mean the data produced by WVDE to DIS pursuant to this Agreement and will include, without limitation, the specific description and data elements set forth in Attachment A to this Agreement.

2.02. **Data Transmission.** Upon the execution of this Agreement by the Parties, WVDE create one data file that will then be uploaded to a secure FTP server. The DIS will be provided with the appropriate credentials to access and download the file to a DIS server.

2.03. **Data Ownership.** Upon transfer of the Data, WVDE hereby acknowledges that the DIS shall be the exclusive owner of the Data and any rights therein to Data transferred to WVSIS. County boards of education shall still have the ability to access their own static data files in WVEIS.

3. **DURATION OF AGREEMENT**

This Agreement is effective upon signing by both parties. Following the one-time transfer of data, the parties will have no further obligations to each other. Each

state agency will continue to be bound by its respective laws and regulations for data use and data privacy.

4. NOTICE

All notices under this Agreement shall be in writing and shall be deemed delivered as follows: (1) if by personal delivery or electronic mail, upon receipt; (2) if by Federal Express or by another national overnight courier, upon the second business day after deposit with such courier; or (3) if by US certified mail, return receipt requested, upon the fifth day after deposit in the mail. All notices shall be sent to the names and addresses set forth below. Either Party may change its contact information by notice to the other; any such change shall take effect immediately upon delivery of such notice. Any notice pursuant to this Agreement shall be given or made to the respective Parties as follows:

For WVDE:

West Virginia Department of Education
1900 Kanawha Boulevard East Building 6
Charleston, West Virginia 25305

For DIS

West Virginia Bureau for Public Health
Division of Immunization Services
350 Capitol Street
Charleston, West Virginia 25301

5. MERGER CLAUSE

This Agreement and any exhibits hereto constitute the entire understanding of the Parties and merges all prior discussion, agreements or understandings into it. No prior agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties.

6. MODIFICATION

6.01. This Agreement may, from time to time, be modified by a writing signed by authorized representatives of the Parties. It may not be altered, modified, rescinded or extended orally.

6.02. The Exhibits hereto may be modified upon written agreement by the Parties without the need to amend this Agreement in its entirety.

7. NON-ASSIGNMENT CLAUSE

The DIS agrees that it may not subcontract, assign, transfer, convey or otherwise dispose of its obligations under this Agreement except by operation of law, without the prior written consent of the other party.

8. NO THIRD PARTY BENEFICIARY

Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties, any rights, remedies, obligations, or liabilities whatsoever, *Provided*, that county boards of education shall retain access to static data files as set forth in § 2.03 above.

9. ADDITIONAL PROVISIONS

9.01 **Jurisdiction, Venue, and Applicable Law.** This Agreement shall be governed, construed, applied and enforced in accordance with the internal laws of the State of West Virginia.

9.02. **No Data Warranties.** Nothing contained herein shall constitute any representation, warranty, or guarantee to the DIS with respect to the value or accuracy of the Data or information exchanged or that such exchanged information does not infringe any rights of third parties.

9.03. **Counterparts.** This agreement may be executed in one or more counterparts.


9.04. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Parties to maintain the confidentiality and security of the Data.

9.05. **Severability.** If any provision of this Agreement is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity may not render this Agreement unenforceable or invalid as a whole and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.


9.06. **Supersedes.** This Agreement supersedes all prior and contemporaneous agreements and understandings, written or oral, relating to the use of the Data that is the subject matter of this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto have executed this Agreement as of the day and date first written above.

WEST VIRGINIA DEPARTMENT OF EDUCATION

By: 
Michael J. Martirano, Ed.D.
State Superintendent of Schools

WEST VIRGINIA BUREAU FOR PUBLIC HEALTH

By: 
Rahul Gupta, MD, MPH, FACP
Commissioner & State Health Officer

ATTACHMENT A – DATA POINTS

The WVDE will transfer to the DIS the following data elements, which comprise a public health record on immunization

Student Last Name
Student Middle Name
Student First Name
Student I.D. Number
Student Date of Birth
Student Address
County
School Name
Grade
Immunizations and dates administered