

**INTERAGENCY ACCESS TO EDUCATOR DATA AGREEMENT BETWEEN
THE WEST VIRGINIA DEPARTMENT OF EDUCATION
AND
THE WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

1. This Interagency Access to Educator Data Agreement (“Agreement”) is made by and between the **West Virginia Higher Education Policy Commission** (“WV HEPC”) and the West Virginia Department of Education (“WVDE”). The purpose of the agreement is to permit and establish WV HEPC access to certain information about students in West Virginia’s public schools to determine student eligibility for the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program (“PROMISE Scholarship”); the Underwood-Smith Teaching Scholars Program; the West Virginia Engineering, Science, and Technology Scholarship Program; and other state-level student aid programs administered through the WV HEPC upon written approval of the WVDE (collectively, “state-level student aid programs” or “state-level student aid” herein).

2. WV HEPC requires access to certain demographic, academic, and assessment information about students entering and/or enrolled in Grade 12 (or who are preparing to graduate from high school prior to their twelfth grade year) in West Virginia for the purpose of matching academic eligibility information from student records with student-provided application information to determine student eligibility to receive state-level student aid (pursuant to W. Va. Code §§ 18C-7-6, 18C-4-2, 18C-6-3, and other sections of W. Va. Code § 18C, as applicable) as part of student financial aid for postsecondary education.

3. The terms of this Agreement shall commence on **November 15, 2019** and continue in effect until policy or regulatory changes require termination or alteration. This Agreement may be terminated without cause by either party hereto upon thirty (30) days written notice.

4. For purposes of this agreement, the WVDE designates WV HEPC a partner and “authorized representative,” in accordance with the Family Educational Rights and Privacy Act (“FERPA”, 20 U.S.C. 1232g(b)(1)(C)), working with the WVDE to comply with state statute. As set forth in 34 C.F.R. 99.31(a)(3) and 99.31(a)(4); the Student Data Accessibility, Transparency and Accountability Act, W. Va. Code §§ 18-2-5h(c)(2)(A)(i) and 18-2-5h(c)(3)(E); and 126CSR94, “Procedures for the Collection, Maintenance and Disclosure of Student Data” (West Virginia Board of Education Policy 4350), the WV HEPC, as an authorized representative and partner, needs access to certain individual student information in order to perform its required duties described in W. Va. Code §§ 18C-7-5, 18C-7-6, 18C-4-1, 18C-4-2, 18C-6-1, and 18C-6-3 (and other sections of W. Va. Code § 18C, as applicable) to administer state-level student aid programs and determine student eligibility for award. WV HEPC and the WVDE shall comply with the provisions and regulations of FERPA, W. Va. Code § 18-2-5h and Policy 4350 in all respects. Nothing in this Agreement may be construed to allow either party to maintain, use, disclose or share personally identifiable student information in a manner not allowed by state or federal law or regulation. W. Va. Code §18C may be viewed at <http://code.wvlegislature.gov/18C/>; W. Va. Code §182-5h may be viewed at <http://code.wvlegislature.gov/18-2-5H/>. WVBE Policies may be reviewed at wvde.state.wv.us/policies/.

5. “Confidential Information” shall include any and all personally identifiable student information, as that term is defined 34 C.F.R. § 99.3 and Policy 4350, § 4.1.o and confidential student information as that term is defined by W. Va. Code § 182-5h(b)(11) in disaggregated form.

6. "Disclose" or "disclosure" means to permit access to or the release, transfer, or other communication of Confidential Information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

7. The WVDE may disclose necessary Confidential Information to WV HEPC for the purpose of carrying out its statutory responsibilities for determining student eligibility to receive state-level student aid and distributing funds in accordance with eligibility determinations. Redisclosure by WV HEPC of disaggregated Confidential Information to an entity not named in this Agreement, other than the WVDE, the appropriate school districts and schools, and parents or eligible students is prohibited. Attempts to link information provided pursuant to this agreement with other data that may be provided to WV HEPC and/or postsecondary programs through other agreements or data systems (including, but not limited to, the P-20 data system and locally maintained data) are prohibited.

8. WV HEPC shall not: (i) disclose any Confidential Information to any unauthorized third party; (ii) make any use of Confidential Information except to perform its obligations under this Agreement; or (iii) make Confidential Information available to any of its employees, officers or agents under its direct supervision except those individuals who have been authorized by WV HEPC to use the information as a component of their project assignments. This includes the employees, officers or agents under the direct supervision of WV HEPC, all component offices, and postsecondary institutions. The term "unauthorized third party" for purposes of this Agreement does not include employees, officers, or agents of the WVDE who are authorized to have access to the Confidential Information and the hosting service provider with security controls acceptable to WVDE.

9. The WVDE will disclose to WV HEPC under this Agreement the following information about students, some of which is considered Confidential Information and which is necessary for the WVDE to carry out its duties and for WV HEPC to carry out its duties in administering the state-level student aid programs, pursuant to state statute:

- District Name and Code
- School Name and Code
- School Federal ID (NCES) Code
- High School College Entrance Examination Board (CEEB) Code
- Student Name (First, Middle Initial, Last)
- Social Security Number
- Universal Student ID Number
- Date of Birth (Month, Day, Year)
- Student Sex/Gender
- Address (Street, City, State, Zip)
- Phone Type(s) and Number(s)
- Graduation Date
- Current Class Year
- Grade Point Average (GPA), Core and Cumulative
- State High School Assessment Results (Overall and component scores)
- WV Course Work Indicator (Greater than 50% of course work completed in WV)
- Guardian Name(s) (First Initial, Last)
- Guardian Email (if available)
- Counselor Review Indicator
- Date of Data Collection/Verification

No other personally identifiable information will be disclosed to WV HEPC under this agreement.

10. WV HEPC understands that the Confidential Information is protected under state and federal law and agrees to immediately notify the WVDE if any of the Confidential Information is improperly disclosed, either intentionally or inadvertently.

11. WV HEPC and the WVDE shall identify at least one authorized representative or data custodian from their respective agencies who shall be responsible for processing and responding to data requests from the other party.

12. Upon request of the WVDE, WV HEPC shall agree to permit the WVDE to review or shall provide written assurances to the WVDE regarding the use of Confidential Data under this Agreement. The purpose of this provision is to ensure that appropriate policies and procedures are in place to protect the Confidential Information and that there has been no further disclosure of the Confidential Information.

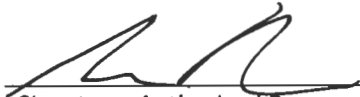
13. All employees, officers, and agents under direct supervision of the WV HEPC, its component offices, and postsecondary institutions who may collaborate with WV HEPC with access to the Confidential Information must acknowledge that they are aware of and will abide by the provisions of this Agreement by executing the non-disclosure certification appended to this Agreement. Electronic signatures are acceptable. WV HEPC agrees to remove any person from performing work who has, or is suspected to have, violated the terms of this Agreement.

14. By disclosing Confidential Information to WV HEPC, the WVDE is in no way assigning ownership of the Confidential Information to WV HEPC. Upon the termination of this Agreement for any reason, WV HEPC, its component offices, and postsecondary institutions that have collaborated with WV HEPC to receive data about student state-level student aid program eligibility shall immediately return all Confidential Information, including all copies, to the WVDE or destroy all Confidential Information in its possession, custody, or control unless otherwise agreed to in writing by both parties. Upon request, WV HEPC will provide the WVDE with affidavits to this effect.

15. This Agreement shall be governed by and construed in accordance with the laws of West Virginia. Any lawsuit pertaining to or affecting this Agreement shall be venued in the West Virginia Court of Claims and the Circuit Court of Kanawha County, West Virginia.

16. Violation of this Agreement may be cause for immediate termination of this Agreement. The WVDE reserves the right, in addition to terminating this Agreement to seek legal redress.

In witness hereto the parties signify their agreement by signature below:



Signature, Authorized Representative
West Virginia Higher Education Policy Commission (WV HEPC)

Dr. Sarah Tucker
Printed Name and Role, WV HEPC

11/18/19
Date



Signature, Authorized Representative
West Virginia Department of Education (WVDE)

Steven L. Kaine
Printed Name and Role, WVDE

11/20/19
Date