

BOCES-District

Memorandum Of Understanding (MOU)

This MOU must be signed by the agency's head or his/her designee and submitted to the appropriate governing body for consideration.

ASSIGNMENT: CDE/BOCES/DISTRICT REPRESENTATIVES

Purpose

The purpose of this agreement is to establish conditions, safeguards, and requirements under which Boards of Cooperative Educational Services (BOCES) and its member districts agree to exchange information to each other, with the Colorado Department of Education (CDE), and to ensure the confidentiality and security of all data provided and received under this agreement.

Definitions

"Aggregate" information or data refers to any collection of unit record data, including confidential information that is combined in a manner that results in the data no longer representing individual records.

"Anonymized" information or data refers to Unit record data from which directly personally identifiable information has been removed and an anonymous unique identification number has been substituted.

"Confidential Information" refers to personally identifiable educational records, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and its implementing regulations in 34 C.F.R. Part 99, that are exempt from public disclosure pursuant to sections 1002.22, 1002.221, and 1002.225, Colorado Statutes; and information that is otherwise confidential under Colorado law and therefore exempt from public disclosure.

"Disclosing Party" refers to the party disclosing data.

"Receiving Party" refers to the party receiving data.

"Student Records Laws" refers to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99.

Confidentiality, Security, Privacy Rights, and Public Access

1. The Parties acknowledge that, during the term of this Agreement, certain confidential information of a special and unique nature may be disclosed to each other. Accordingly, each Party must protect confidential and exempt records received from the other Party in a manner that will not permit the personal identification of a student or his or her parent by persons other than those authorized to receive the records.
2. To the extent authorized by law, each Party covenants and agrees that neither it nor its employees shall at any time during or following the term of this Agreement, either directly or indirectly, (a) disclose, or allow to be disclosed, to any person, organization, or entity in any manner whatsoever any confidential information except as specifically authorized hereunder, or (b) use any confidential information for any purpose whatsoever, except as strictly necessary to perform its duties as specified in this Agreement. Each Party shall restrict disclosure of confidential information to its employees with a need to know such information in order to perform its duties as specified in this Agreement and shall advise such employees of their obligations with respect to the confidential information and the potential sanctions for violation thereof. Each Party shall protect the other Party's confidential information using the same standard of care it uses to protect its own confidential and proprietary information, but in any event not less than a reasonable standard of care and in accordance with state and federal law, regulations, and the respective agency's information security policies.
3. A Party shall immediately notify the other Party in writing in the event of any unauthorized use or disclosure of confidential information and assist in remedying such unauthorized use or disclosure, as requested by the Party whose information has been disclosed (which shall not limit other remedies provided herein or by applicable law). In the event of a breach of this Agreement, the Party whose confidential information has been disclosed, in addition to and not in limitation of any of the rights, remedies or damages available to it by law or in equity, shall be entitled to a temporary or permanent injunction to prevent or restrain any such breach by the other Party.
4. All confidential information shall be and remain the property of the disclosing Party notwithstanding the subsequent termination of this Agreement. The receiving Party shall, within ten (10) days of the disclosing Party's written request, return all confidential information (including any copies thereof) or certify in writing that all confidential information (including any copies thereof) has been destroyed using a method designed to ensure confidentiality and permanently delete such confidential information from any computer hardware, media or other equipment.
5. All data will be transferred and maintained in a secure manner in accordance with all applicable federal and state requirements relating to privacy and confidentiality including, but not limited to, U.S.C. section 552(A) (The Privacy Act of 1974, Public Law 93-579). Each file sent by the BOCES and in the possession of the CDE, and each file sent by the CDE and in possession of the BOCES that contains personally identifiable information as to a pupil or student, and each hard copy of such information, shall be stored in a secure location, such as a locked desk or file cabinet, except when in use for the purposes for which it was provided. Automated records shall be stored in secured computer facilities with strict Automatic Data Processing (ADP) controls, protecting access to confidential information to those with access authorization.
6. Each Party acknowledges that it has a responsibility to perform its responsibilities in accordance with the Federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, as implemented by regulations of the U.S. Department of Education, 34 CFR Part 99, and in accordance with section 1002.22, F.S. These federal and state statutes and federal regulations are hereinafter collectively referred to as "student records laws."
7. Each Party acknowledges that it has a responsibility to perform its responsibilities in accordance with the Confidential Free and Reduced-Price Information as allowed by Section 9(b)(2)(C)(iv) of Public Law 103-448 for the Child Nutrition Program. Children's names and eligibility status for free or reduced-price meals may be disclosed, without consent, to persons directly connected with the administration or enforcement of only federal and state educational programs administered by CDE. A child's name, grade, and free and reduced-price eligibility information may also be released to authorized school officials for purpose required by the No Child

Left Behind Act (NCLB) as authorized by the National School Lunch Act (NSLA). Further disclosure or unauthorized use is prohibited. A person, who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by federal law any information obtained under this provision may result in a fine of not more than \$1,000 or imprisonment of not more than one year, or both, as stipulated in the NSLA.

8. The Parties agree that each file submitted by the BOCES and any unit record data provided by CDE may include personally identifiable information from "education records" as defined in 20 U.S.C. Section 1232g(a)(4)(A). Accordingly, such information is confidential and exempt from public inspection under section 119.07 (1), F.S.; and, may only be disclosed as provided in the student records laws.
9. CDE and authorized representatives thereof may have access to this information as necessary in connection with the audit and evaluation of education programs or to improve instruction. (20 U.S.C. Sections 1232g(b)(1)(F); section 1002.221 and 1002.225, F.S.).
10. Under no circumstances shall the receiving Party disclose personally identifiable information received from the disclosing Party under this Agreement as to a student to any third Party except as provided by FERPA and Section 1002.22, Colorado Statutes and in accordance with this Agreement.

Duration

1. This Agreement replaces all prior data sharing agreements that may have been entered into between the BOCES and the member districts.
2. Term. This Agreement shall commence upon the date of the last signature of the Parties to this Agreement, and shall continue in effect for 1 year thereafter unless and until terminated in accordance with its provisions. An annual review and renewal of this Agreement will be required with approvals from all Parties.
3. Termination. Upon termination, all work associated with this Agreement shall also be terminated and the Parties who are required to destroy confidential data shall certify in writing that such data (including any copies thereof) has been destroyed using a method designed to ensure confidentiality and permanently delete such confidential information from any computer hardware, media or other equipment. The Colorado Department of Education shall not be required to destroy personally identifiable data received pursuant to this Agreement.

Cost

The data sharing activities under this Agreement are not expected to result in charges among the Parties. Parties shall bear their own costs. If the activities conducted under this Agreement become unduly burdensome or cost prohibitive, the Agreement may be renegotiated.

Applications

This Agreement shall apply to all CDE applications with understanding and care of the student level data described herein, unless an exception is documented within this Agreement.

Please specify any application exceptions for this Agreement:	
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Approval and Submission to CDE

Upon completion of the affirmations from all Parties, please submit the Agreement to CDE by FAX or to the following address:

Colorado Department of Education
Office of the Commissioner
c/o Information Management Services
201 E. Colfax Ave
Denver, CO 80203
FAX: 303-866-6888

Upon review and acknowledgement by the Office of the Commissioner (c/o Information Management Services), the agreement will be processed by the CDE Identity Management Team within the Information Management Services unit.

Affirmations

BOCES Name	
BOCES Executive Director	
BOCES Address	
BOCES Phone Number	
BOCES Organization Number	
Signature	
Date	

District Name	
District Superintendent	
District Address	
District Phone Number	
District Organization Number	
Signature	
Date	