



## RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT

### DATA SHARING AGREEMENT

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This Data Sharing Agreement (“Agreement”) is entered into by and between the Rancho Santiago Community College District (“District”), a California community college district and political subdivision of the State of California, with its principal place of business located at 2323 N. Broadway, Santa Ana, CA 92706, on behalf of **Insert College and Department name or District Office** and **Insert name of Data Recipient** (“Data Recipient”) (each a “Party” and collectively the “Parties”), with its principal place of business located at **Insert Data Recipient’s Address**.

#### RECITALS

**WHEREAS**, the Family Educational Rights and Privacy Act (“FERPA”) (20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99) establish a right of privacy for student data based on a rule of non-disclosure of individually-identifiable data to anyone outside the student’s institution or to persons inside the institution who have no legitimate need for the information without the express written permission of the student or, in the case of minors, the student’s legal guardian; and

**WHEREAS**, the FERPA contains certain exceptions to the general rule against disclosure of individually-identifiable data, including an exception when the information is to be used by organizations 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 (20 U.S.C. § 1232g(b)(1)(A)-(L));

**WHEREAS**, the District wishes to disclose a Limited Data Set, as described in **Exhibit A**, which is attached hereto and incorporated herein by this reference, to Data Recipient for use by Data Recipient for the purpose(s) specified in **Exhibit B**, which is attached hereto and incorporated herein by this reference;

**WHEREAS**, Data Recipient’s use of the Limited Data Set falls within an exception to the FERPA;

**WHEREAS**, the District wishes to ensure that Data Recipient will appropriately safeguard the Limited Data Set in accordance with the FERPA and all applicable data privacy laws and regulations;

**WHEREAS**, Data Recipient agrees to use the Limited Data Set solely for the purpose of specified above and to protect the privacy of the Limited Data Set in accordance with the terms and conditions of this Agreement, the FERPA, and all applicable data privacy laws and regulations.

**NOW, THEREFORE**, in consideration of the Recitals and mutual covenants provided in this Agreement, the District and Data Recipient agree as follows:

#### TERMS AND CONDITIONS

1. **Term**: The term of this Agreement shall commence upon the execution of this Agreement by both Parties or **Select Date for Start of Agreement**, whichever is later (“Effective Date”), and shall continue in full force and effect thereafter until **Select Date Agreement Ends**, unless this Agreement is terminated pursuant to the termination provisions set forth in this Agreement. This Agreement shall not be automatically renewed or extended.
2. **Compliance**. The Parties acknowledge and agree to comply with the FERPA, the data privacy

and security provisions of the Health Information Portability and Accountability Act (“HIPAA”), and all other federal, state, and local laws and regulations pertaining to the confidentiality of student data and information, including, but not limited to, Education Code section 76200 *et seq.*

3. Confidentiality. Under the terms of this Agreement, Data Recipient may receive or obtain access to student data, student education records, or other information that is privileged, confidential, and not publicly available, including the Limited Data Set, which is protected by federal or state privacy laws, rules, and regulations, including the FERPA, or which is otherwise considered confidential and protected from disclosure by the policies and regulations of the District (“Confidential Information”). Data Recipient understands and agrees that all Confidential Information shall be preserved, protected, and regarded as privileged and confidential; that Confidential Information shall be held in strict accordance with the terms of this Agreement, all applicable laws, and the District’s policies and procedures; and that Confidential Information shall not be shared with any third party without the express written authorization of the District. Data Recipient shall use reasonable means to ensure the confidentiality of the Confidential Information that are no less protective than the means Data Recipient uses to protect its own confidential, privileged, and proprietary information, including, but not limited to, trade secrets. Data Recipient understands and agrees that it is only permitted to use the District’s Confidential Information for the purpose(s) specified in this Agreement and understands and agrees that non-essential personnel shall not have access to the Confidential Information. IF DATA RECIPIENT BECOMES AWARE OF AN ACTUAL OR SUSPECTED UNAUTHORIZED ACQUISITION, RELEASE, OR MISUSE OF THE CONFIDENTIAL INFORMATION, DATA RECIPIENT SHALL IMMEDIATELY NOTIFY THE DISTRICT’S VICE CHANCELLOR OF BUSINESS SERVICES AND THE ASSISTANT VICE CHANCELLOR OF INFORMATION TECHNOLOGY SERVICES; COMPLY WITH ALL APPLICABLE BREACH NOTIFICATION LAWS; COOPERATE WITH THE DISTRICT IN ANY BREACH INVESTIGATION; AND REMEDY ANY SUCH BREACH. THIS INCLUDES, WITHOUT LIMITATION, COMPLYING WITH ANY LAW CONCERNING UNAUTHORIZED ACCESS OR DISCLOSURE.

4. Responsibilities. Data Recipient agrees to:

A. Access, hold, and use the Limited Data Set and all other Confidential Information only for the authorized purpose of **INSERT PURPOSE.**

B. Limit the use or receipt of the Limited Data Set and all other Confidential Information to the individuals or classes of individuals who need the Limited Data Set/Confidential Information for the performance of the **INSERT SCOPE OF PURPOSE.**

C. Ensure that all individuals who receive or obtain access to the Limited Data Set and other Confidential Information comply with the requirements of this Agreement.

D. Implement reasonable and appropriate administrative, physical, and technical controls to ensure the privacy and security of the Limited Data Set and other Confidential Information.

E. Ensure that the District’s Confidential Information is encrypted when stored by, or in transport by, Data Recipient.

F. Ensure that the District’s Confidential Information is not transferred to any third party without the express written authorization of the District.

5. Early Termination. This Agreement may be terminated as follows:

A. The District may, at any time, terminate this Agreement with or without cause by providing at least thirty (30) days’ written notice to Data Recipient prior to the requested termination date.

B. The District and Data Recipient may terminate this Agreement at any time by their mutual written agreement.

C. Either Party may terminate this Agreement in the event of a material breach by the

other party. To be effective, the Terminating Party must provide written notice of the breach and intent to terminate this Agreement to the Breaching Party. If the Breaching Party does not entirely cure the breach within 15 calendar days of the date of the written notice provided by the Terminating Party, then this Agreement shall be deemed terminated.

D. For the notice contemplated under subsections (A) and (C) above, the notice shall be provided as outlined in Section 19 of this Agreement.

6. FERPA School Official. If the Limited Data Set includes any District student information not defined as “Directory Information” by Board Policy 5040 (located on the District’s website), Data Recipient acknowledges that for the purposes of this Agreement, it is designated as a “school official” with a “legitimate educational interest” in the education records of District students, as those terms have been defined under FERPA and its implementing regulations at 34 CFR 99. Data Recipient agrees to abide by the limitations and requirements imposed by FERPA (including 34 CFR 99.33(a)) on school officials. Data Recipient will not share the data with any third party, except as provided for in this Agreement, as authorized by the District in writing, or as required by law.

7. Data Ownership. The Parties understand and agree that the District shall retain all of its rights, title, ownership, and interest with respect to the Limited Data Set and other Confidential Information provided under this Agreement. Data Recipient is authorized to use the Limited Data Set and other Confidential Information solely for the purpose(s) defined in **Exhibit B** in accordance with the terms of this Agreement.

8. District’s Rights of Access and Inspection. From time to time upon reasonable notice, or upon a reasonable determination by the District that Data Recipient has breached this Agreement, the District may inspect the facilities, systems, books and records of Data Recipient to monitor compliance with this Agreement. The fact that the District inspects, or fails to inspect, or has the right to inspect, Data Recipient’s facilities, systems and procedures does not relieve Data Recipient of its responsibility to comply with this Agreement, nor does the District’s failure to detect or detection of, but failure to notify Data Recipient or require Data Recipient’s remediation of, any unsatisfactory practices constitute acceptance of such practice or a waiver of the District’s enforcement or termination rights under this Agreement.

9. Remedies. If the District determines that Data Recipient has violated a material term of this Agreement, the District may, at its option, pursue any and all of the following remedies:

- A. Exercise any of its rights of access and inspection under Section 8 of this Agreement;
- B. Take any other reasonable steps that District, in its sole discretion, deems necessary to cure such breach or end such violation; and/or
- C. Terminate this Agreement immediately.

10. Injunctions. The District and Data Recipient agree that any violation of the provisions of this Agreement may cause irreparable harm to the District. Accordingly, in addition to any other remedies available to the District at law, in equity, or under this Agreement, in the event of any violation by Data Recipient of any of the provisions of this Agreement, or any explicit threat thereof, the District shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages.

11. Knowledge of Non-Compliance. Any non-compliance by Data Recipient with this Agreement or with FERPA or the FERPA Regulations automatically shall be considered a breach or violation of a material term of this Agreement if Data Recipient knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-compliance. If reasonable steps are not taken

within three (3) calendar days of discovery, it shall be deemed a material breach.

12. Return or Destruction of Records. Upon expiration or termination of this Agreement for any reason, Data Recipient shall return or destroy, as specified by the District, the Limited Data Set and other Confidential Information that Data Recipient received from the District and maintains in any form, and shall retain no copies of the Limited Data Set and other Confidential Information. If the District, in its sole discretion, requires that Data Recipient destroy the Limited Data Set and other Confidential Information, Data Recipient shall certify to the District that the Limited Data Set and other Confidential Information have been destroyed. If return or destruction is not feasible, Data Recipient shall inform the District of the reason it is not feasible and shall continue to extend the protections of this Agreement to such Limited Data Set and other Confidential Information, and limit further use and disclosure of such Limited Data Set and other Confidential Information to those purposes that make the return or destruction of such Limited Data Set and other Confidential Information infeasible. Each Party's obligations to comply with the FERPA, as it pertains to the student data disclosed hereunder, will survive the termination of this Agreement.

13. Waiver of Warranty. WITH RESPECT TO THE LIMITED DATA SET, THE DISTRICT DISCLAIMS ALL WARRANTIES OF ANY KIND. DATA IS PROVIDED ON AN "AS-IS" BASIS. THE DISTRICT SHALL NOT BE LIABLE FOR ANY INACCURACY OR LACK OF COMPLETENESS OF THE LIMITED DATA SET UNDER ANY CIRCUMSTANCES WHATSOEVER.

14. Independent Contractors. Nothing in this Agreement shall be deemed to create a partnership or agency or any formal business organization or legal entity among the Parties.

15. Trademark/Logo Use. Data Recipient must obtain written approval from the District to use the District's name and/or logos in any advertisements, promotions, press releases or other media. In the event such permission is extended, the District will furnish Data Recipient with camera-ready artwork for such use. The District, at its sole discretion, may limit or otherwise place conditions on Data Recipient's use of the District's name and/or logos in which case such limitations shall be incorporated into this Agreement. Data Recipient shall not revise, change, or otherwise alter any material related to the District's name and/or logo without written consent from the District.

16. Indemnification/Hold Harmless. To the fullest extent allowed by law, Data Recipient shall defend, indemnify and hold the District, its officials, trustees, officers, agents, employees, volunteers, and representatives ("Indemnitees") free and harmless from any and all claims, losses, expenses, and damages, including reasonable attorneys' fees and legal fees (collectively, "Claims") resulting from, or relating to, the acts or omissions of Data Recipient in connection with this Agreement, Data Recipient's representations, duties, and obligations hereunder, and with its use, receipt, handling, storage, transfer, disposal, and other activities relating to the Limited Data Set and other Confidential Information. This indemnification shall apply during the term of this Agreement and shall survive the termination of this Agreement. All non-monetary settlements of Claims that require an admission of fault by or impose obligations upon the District or any of its personnel are subject to District's prior written consent.

17. Assignment. The obligations of Data Recipient pursuant to this Agreement shall not be assigned by Data Recipient without the express, written approval of the District. Any attempted transfer or assignment of obligations of this Agreement shall be void ab initio.

18. Entire Agreement/Amendment. When signed by both Parties, this Agreement (and any attached exhibits) constitutes the final and entire Agreement. This Agreement supersedes all prior and contemporaneous oral or written communications between the Parties, their agents, and representatives. There are no representations, promises, terms, conditions, or obligations other than those contained herein.

19. Notices. All notices or demands to be given under this Agreement by either Party to the other

Party shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by certified or registered mail, return receipt requested, with postage prepaid. Service shall be considered given when received, if personally served, or, if mailed, on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either Party may be changed by written notice given in accordance with the notice provisions of this Section. At the date of this Agreement:

District: Rancho Santiago Community College District  
Vice Chancellor of Business Services  
2323 N. Broadway  
Santa Ana, CA 92706

With a copy to: (District Department Responsible for Contract)  
Insert Name of District/College Contact  
Insert title of contact  
Insert address of contact  
Insert City, State, Zip

Data Recipient: Insert Name of Contact  
Insert address  
Insert City, State, Zip

20. 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.

21. Exhibits. All exhibits referenced herein and attached hereto shall be deemed incorporated into and made a part of this Agreement by each reference as though fully set forth in each instance in the text hereof.

22. Interpretation. In interpreting this Agreement, it shall be deemed to have been prepared by the Parties jointly, and no ambiguity shall be resolved against the District on the premise that it or its attorneys were responsible for drafting this Agreement or any provision hereof. The captions or headings set forth in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any Sections or other provisions of this Agreement. Any reference in this Agreement to a Section, unless specified otherwise, shall be a reference to a Section of this Agreement.

23. Governing Law. The terms and conditions of this Agreement shall be governed by the laws of the State of California, without regard to its principles of conflicts of laws, with venue in Orange County, California. The parties expressly consent to personal jurisdiction in Orange County, California.

24. Amendments. This Agreement may be amended only by written instrument signed by both the District and Data Recipient which writing shall state expressly that it is intended by the parties to amend the terms and conditions of this Agreement.

25. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Any such counterpart containing an electronic, digital or facsimile signature shall be deemed an original. Execution of this Agreement signifies the Parties' mutual consent to conduct transactions electronically. Pursuant to the California Uniform Electronic Transactions Act ("UETA") (Cal. Civ. Code § 1633.1 *et seq.*) and California Government Code 16.5, the District reserves the right to conduct business electronically, unless otherwise communicated by the District to stop such electronic transactions, including without limitation to the use of electronic or digital signatures.

26. Authority to Execute. The individuals executing this Agreement on behalf of the District and Data Recipient are duly and fully authorized to execute this Agreement on behalf of the District and Data Recipient, and to bind the District and Data Recipient to each and every term, condition, and covenant of this Agreement.

IN WITNESS WHEREOF, the Parties hereby agree.

Rancho Santiago Community College District	DATA RECIPIENT
BY: _____ Signature of Authorized Person	BY: _____ Signature of Authorized Person
Print Name: _____	Print Name: _____
Print Title: _____	Print Title: _____
Date: _____	Date: _____

## Exhibit A

### Description of data that constitutes the Limited Data Set

Category of Data	Types of District Restricted Data	Elements	Source
Personal information	District Restricted Data	<input type="checkbox"/> Full Names <input type="checkbox"/> Full Address <input type="checkbox"/> Telephone Number <input type="checkbox"/> Email Address <input type="checkbox"/> Signature <input type="checkbox"/> Religious or Philosophic beliefs	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Demographics	District Restricted Data	<input type="checkbox"/> Race <input type="checkbox"/> Ethnicity <input type="checkbox"/> Date of Birth (excluding students who are a member of an athletic team) <input type="checkbox"/> Place of Birth <input type="checkbox"/> Gender <input type="checkbox"/> Sexual Orientation	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Government-issued Identification Number	Highly-Sensitive Personal Information	<input type="checkbox"/> Social Security Number <input type="checkbox"/> Taxpayer Identification Number <input type="checkbox"/> Passport Number <input type="checkbox"/> Driver's License or other federal/state issued identification number	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Financial Data	Highly-Sensitive Personal Information	<input type="checkbox"/> Account Number <input type="checkbox"/> Credit or Debit Card Number <input type="checkbox"/> Credit Report Information <input type="checkbox"/> Personal Identification Password or password that would permit access to an individual's financial account	<input type="checkbox"/> Students <input type="checkbox"/> Employees

Precise Geolocation Data	Highly-Sensitive Personal Information	<input type="checkbox"/> Precise personal location data obtained from cell tower or WiFi triangulation techniques or latitude-longitude coordinates obtained through GPS technology if such data is sufficiently precise to locate an individual or device	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Personal Characteristics	Highly-Sensitive Personal Information	<input type="checkbox"/> Photographic images (particularly of face or other identifying characteristics)	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Biometric Data	Highly-Sensitive Personal Information	<input type="checkbox"/> Retina scans, voice signatures or facial geometry <input type="checkbox"/> Fingerprints <input type="checkbox"/> Genetic data	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Medical Information	Highly-Sensitive Personal Information	<input type="checkbox"/> Individual's medical history, mental or physical condition, medical treatment or diagnosis by a health care professional	<input type="checkbox"/> Students <input type="checkbox"/> Employees
Health Insurance Data	Highly-Sensitive Personal Information	<input type="checkbox"/> Individual's health insurance policy number or subscriber identification number <input type="checkbox"/> Any unique identifier used by a health insurer to identify an individual <input type="checkbox"/> Any information in an individual's application and claims history, including any appeals records.	<input type="checkbox"/> Students <input type="checkbox"/> Employees

**Exhibit B**

Activities for which the Limited Data Set may be used

[Describe]