

## INTERAGENCY AGREEMENT FOR EXCHANGE OF CONFIDENTIAL INFORMATION

This Agreement is made and entered into by and between the Iowa Department of Education, and the Iowa Department of Human Services, the Iowa Judicial Branch, State Court Administration, Juvenile Court Services, and the Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning. The parties agree as follows:

### Section 1 Identity of Parties

- A. The Iowa Department of Education, referred to in this document as "DE," is the issuing agency for this Agreement. DE's address is Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146.
- B. The Iowa Department of Human Services is referred to in this document as "DHS." DHS address is 1305 East Walnut Street #112, Des Moines, Iowa 50319.
- C. The Iowa Judicial Branch, State Court Administration, Juvenile Court Services, is referred to in this document as JCS. JCS address is Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, IA 50319.
- D. The Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning is referred to in this document as "CJJP." CJJP's address is 321 East 12th Street, Lucas State Office Building-Second Floor, Des Moines, IA 50319.

Section 2 Third Party Beneficiaries. There are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit the parties listed in Section 1.

Section 3 Purpose. Each of the parties understand that improving information sharing regarding children subject to court jurisdiction under Iowa Code chapter 232 will improve outcomes regarding safety, education, family stability, will reduce the need for further court involvement; and will reduce the likelihood of further abuse, neglect, delinquency, and criminal conduct.

This Agreement is entered into by the parties listed in Section 1 to carry out the important powers and duties conferred upon them by provisions of state and federal law, including but not limited to Iowa Code chapters 216A, 232, 237, 256, 256B, and 282, the Individuals with Disabilities Education Act, and Titles IV-B and IV-E of the Social Security Act.

### Section 4 Responsibilities of Parties.

- 4.1 It is the responsibility of the DHS to provide the DE with a list of school-aged youth who have been adjudicated as children in need of assistance under Iowa Code chapter 232 and placed in out-of-home care, including but not limited to relative care, foster care facilities, and other placement types. To the extent available and applicable, the list shall include, at a minimum, the following data elements:
  - Last name
  - First name
  - Middle initial
  - Date of birth
  - Resident district
  - Date student was released or discharged from placement (e.g., reunification, adoption, aged out)
  - JCS or DHS case number

- Termination of parental rights order date (and effective date, if different)

4.2 It is the responsibility of the DE to provide the DHS, to the extent available and applicable, the following data elements for each individual identified in Section 4.1 of the Agreement who have been adjudicated as children in need of assistance under Iowa Code chapter 232.

- Last name
- First name
- Middle initial
- Date of birth
- Local school district, including last school attended
- DE student identification number, if missing or different
- Performance on standardized assessments, including but not limited to the Iowa Assessments and reading assessments to implement Iowa Code section 279.68
- Grades
- Attendance information
- Expulsion or suspension information
- Exit date and reason
- Status as a student with a disability, including whether the student has an individualized education program, an individualized family service plan, or a plan under Section 504 of the Rehabilitation Act of 1973.
- Information related to student plans, including individualized education programs, individualized family service plans, plans under Section 504 of the Rehabilitation Act of 1973, health plans, accommodation plans, or medication administration plans.

4.3. It is the responsibility for JCS to provide to the DE with a list of school-aged youth who have been adjudicated as children who have committed delinquent acts under Iowa Code chapter 232 and placed any form of out-of-home care. To the extent available and applicable, the list shall include, at a minimum, the following data elements:

- Last name
- First name
- Middle initial
- Date of birth
- Resident district
- DE student identification number
- Date, duration, type, and location of placement
- Date student was released or discharged from placement (e.g., discharge of sentence, early release, release to community corrections)
- Name of case worker
- Parents' district of residence
- Termination of parental rights order date (and effective date, if different)
- Medicaid number

4.4. After receiving evidence of parent consent, court order, or other exception to the Family Educational Rights and Privacy Act ("FERPA," 20 U.S.C. § 1232g), it is the responsibility of the DE to provide to JCS, to the extent available and applicable, the following data elements for each individual identified in Section 4.3 of the Agreement who have been adjudicated as children who have committed delinquent acts under Iowa Code chapter 232.

- DE student identification number, if missing or different
- Performance on standardized assessments, including but not limited to the Iowa

Assessments and reading assessments to implement Iowa Code section 279.68

- Grades
- Attendance information
- Expulsion or suspension information
- Exit date and reason
- Status as a student with a disability, including whether the student has an individualized education program, an individualized family service plan, or a plan under Section 504 of the Rehabilitation Act of 1973.
- Information related to student plans, including individualized education programs, individualized family service plans, plans under Section 504 of the Rehabilitation Act of 1973, health plans, accommodation plans, or medication administration plans.

4.5 Further Information Sharing Authorized. The DE will share confidential information it receives under this agreement with local school districts, area education agencies, and accredited nonpublic schools. The DHS will share confidential information it receives under this Agreement with local and regional offices. JCS will share confidential information it receives under this Agreement with its local and regional offices. Receipt of any information under this Section indicates consent to be bound by the terms of this Agreement and all applicable state and federal law. Consistent with Agreement and with state and federal law, all parties will protect confidential information from redisclosure unless specifically authorized by this Agreement and state and federal law.

4.6 The DE shall ensure that school districts, accredited nonpublic schools, and area education agencies shall provide such information to the DHS as necessary for the DHS to incorporate educational needs and concerns into the case plan or other plan for each child identified in Section 4.1. The DHS shall ensure that its local offices and service areas provide to school districts, nonpublic schools, and area education agencies such information as required for "immediate and appropriate" enrollment in school for each child identified in Section 4.1.

The DE shall ensure that school districts, accredited nonpublic schools, and area education agencies, after receiving evidence of parent consent, court order, or other exception to FERPA, shall provide such information to JCS as necessary for JCS to incorporate educational needs and concerns into the case plan or other plan for each child identified in Section 4.3. JCS shall ensure that its local offices and service areas provide to school districts, accredited nonpublic schools, and area education agencies such information as required for "immediate and appropriate" enrollment in school for each child identified in Section 4.3.

4.7 The parties will provide the data specified in Sections 4.1 through 4.4, inclusive, of this Agreement a minimum of twice per year, unless authorized personnel have been granted access to real-time data. Nothing in this Agreement shall be construed to limit data exchanges to twice per year.

4.8 The DE agrees to disclose information identified in Sections 4.2 and 4.4 to CJJP. This is for the purpose of implementing Iowa Code section 216A.138. The DE has determined this longitudinal data collection is a study to improve instruction.

The DE and CJJP agree that the purpose, scope, and duration of the study or studies is as specified in section 216A.138. CJJP will use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in section 216A.138 and this Agreement; will conduct the study or studies in a manner that does not

permit personal identification of parents and students by anyone other than representatives of CJJP with legitimate interests; will destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted, which shall be defined as the repeal of section 216A.138; and will destroy such information within twelve months of the effective date of any repeal of section 216A.138.

4.9 The exchange of information being beneficial to all parties and any costs being negated by the information provided by other parties, no fees will be charged by any party to any other party.

4.10 This MOU will allow data sharing at the state level for purposes of "study". Local level data sharing is required/expected and monitored by DE, but will require an MOU at that level. The DE acknowledges that school districts and area education agencies are obligated to ensure immediate and appropriate enrollment of students who are subject to this Agreement, as defined in Iowa Code section 280.29.

## Section 5 Agreement Administration

5.1 Authorized Personnel. Each party will identify a minimum of one individual to administer this Agreement.

5.2 Confidentiality. Consistent with state and federal laws on confidentiality and privacy, the parties agree to share all information and data necessary to implement this Agreement. The parties recognize that consent will always allow for the sharing of private or confidential information; however, the parties also recognize there are instances in which such consent is not required.

- A. The parties, and their employees, agents, and subcontractors, shall be allowed access to confidential information to the extent necessary for performance of their responsibilities under this Agreement. The parties shall presume all personally identifying information received pursuant to this Agreement is confidential unless otherwise designated by the sending party.
- B. The parties shall establish and enforce policies and procedures for safeguarding the confidentiality of such data, including but not limited to staff safeguards, physical safeguards, and technical safeguards. Individuals may be held civilly or criminally liable for improper disclosure.
- C. No confidential information collected, maintained, or used in the course of performance of this Agreement shall be disseminated by any party, except as authorized by law. Each party shall promptly notify the others of any breach of confidential information.

5.3 Authorization. Each party in this Agreement represents and certifies to the other that:

- A. It has the right, power, and authority to enter into and perform its obligations under this Agreement;
- B. It has taken all requisite action (statutory or otherwise) to approve execution, delivery, and performance of this Agreement; and
- C. This Agreement constitutes a legal, valid, and binding obligation upon each party in accordance with its terms.

5.4 Amendments. This agreement may be amended in writing from time to time by mutual

consent of the parties. All amendments to this Agreement shall be fully executed in writing by all parties.

- 5.5 Notice. Whenever this Agreement requires or permits notice to be given, such notice shall be in writing and addressed to each party's address as listed in Section 1.
- 5.6 Additional Provisions. The parties agree that if an addendum, attachment, or exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.
- 5.7 Services Termination. The obligations under this section shall survive termination or expiration of this Agreement.

## Section 6 Protection of Information from Unauthorized Access

- 6.1 Security. Each party will safeguard information it receives from any other party in accordance with each participating organization's security plan. Each party and its authorized agents shall not allow public disclosure of any information received under this Agreement in a manner that identifies any specific individual.

Each party shall institute procedures to ensure that adequate safeguards are established to provide protection against unauthorized access or disclosure of all information received pursuant to and in accordance with this Agreement. Each party agrees to advise all authorized individuals who access and utilize the aforementioned information that it shall only be utilized solely for the administrative purposes for which said information is being provided, or for such purposes as specifically agreed to by the parties to this Agreement.

All information will be kept in a secure, restricted area that is physically safe. No employee shall disclose security access passwords and/or codes to other employees or allow unauthorized access to restricted data. Employees are responsible for keeping passwords secure. Terminals that are signed on shall not be left unsecured. No employee shall obtain information through the computer or other means for any purpose other than official department business.

Confidential information provided under the terms of this agreement will be destroyed when no longer needed for the purpose for which it was obtained or the period necessary to comply with state and federal audit requirements.

- 6.2 Physical Safeguards. The information received in accordance with this Agreement shall be held physically safe from access by unauthorized persons during duty and non-duty hours, when in use or not in use.
- 6.3 Technical Safeguards. The information received in accordance with this Agreement will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the information and in such a way that unauthorized persons cannot retrieve any such records by means including, but not limited to computers.

The information will be transported under appropriate safeguards. No employee will remove the information from a secure site on a laptop, CD, or other portable information storage device. No confidential information will be sent by employees to any home or

other location through electronic transmission.

Each party agrees that for the duration of, and as condition of the Agreement, it will be in compliance with all applicable confidentiality laws and regulations of the state of Iowa and the federal government, according to the 2014 Code of Iowa and subsequent amendments.

6.4 Exchange of Confidential Information for Audit Purposes. The parties understand that any provision of FERPA-protected information by the DE to any other party for audit purposes, must comply with and be subject to the limits imposed by FERPA (see 34 C.F.R. § 99.31(3)).

6.5 Exchange of Confidential Information for Study and Evaluation Purposes. The parties understand that any provision of FERPA-protected information by the DE to any other party for study and evaluation purposes, including studies to "improve instruction," must comply with and be subject to the limits imposed by FERPA (see 34 C.F.R. § 99.31(5)). A disclosure under this provision requires a separate agreement. Use of information obtained under Section 4 of this Agreement for study purposes shall require a separate agreement that complies with the terms of this provision and with FERPA.

6.6 Subpoena. In the event that a subpoena or other legal process is served upon a party for records that are confidential under this section, the party receiving such legal process shall immediately provide written notice to all other parties and cooperate with any party's lawful efforts to protect such records from disclosure.

6.7 Survives Termination. The obligations under this section shall survive termination or expiration of this Agreement.

Section 7 Duration of Agreement. This Agreement shall be effective upon the date signed by all of the parties, shall be reviewed annually, and shall remain in effect for a period of six (6) years, unless terminated earlier in accordance with Section 8 of this Agreement.

Section 8 Termination

8.1 Termination for Cause. Any party shall give at least thirty (30) calendar days advance notice to all other parties in order to terminate this agreement for cause.

8.2 Termination for Impossibility of Performance. If a change in state or federal law or binding interpretation of state or federal law renders this agreement completely unenforceable, this agreement shall terminate by operation of law on the effective date of such change or binding interpretation.

8.3 Termination for Breach in Confidentiality. Whenever any party, in its judgment, concludes a breach of confidentiality of information provided under this Agreement has occurred, or may occur in the future, that party may immediately suspend this Agreement and stop providing information. That party shall provide notice of its action to the participating organization in question within ten (10) days after service is terminated. That party may resume providing information and reactivate this Agreement when it, in its judgment, concludes that any breach of confidentiality has been cured. In the event the breach or potential breach cannot be cured to the satisfaction of either organization, that party shall provide Notice of Termination of the Agreement to all other parties.

8.4 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable, or void in any respect; the invalidity, illegality, unenforceability, unlawful, or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable, or void provision had never been included herein.

Section 9 No Indemnification. The state of Iowa shall not be responsible for action taken by any party, its employees, officers, elected or appointed officials, or its agents in a knowing violation of federal, state, or municipal law.

Section 10 Dispute Resolution. Whenever there is a dispute among or between two or more parties to this Agreement, an unaffiliated individual or individuals, chosen by the parties to the dispute and based on the nature of the interagency dispute, shall attempt to help the parties resolve the dispute, and the parties commit to pursue good faith efforts to resolve disputes voluntarily. In resolving such an interagency dispute, the parties may request technical assistance from a variety of sources. If the dispute involves legal issues, the parties to the dispute may request available assistance from the Office of the Attorney General. If all other attempts at dispute resolution fail, the dispute shall be submitted to a board of arbitration pursuant to Iowa Code section 679A.19. The decision of the board of arbitration shall be final.

Section 11 Statutory Authority. The statutory authority for DE's exchange of information is FERPA, especially 20 U.S.C. § 1232g(b)(1)(L). The statutory authority for DHS's exchange of information is Iowa Code § 217.30 and for JCS is Iowa Code § 232.147. The statutory authority for CJJP's exchange of information is Iowa Code § 216A.138.

For and behalf of the Iowa Department of Education

By: Brad Buck Date: 2/10/15  
Brad Buck, Director

I, Nicole M. Proesch hereby certify that I am the legal counsel for the Iowa Department of Education, that Brad A. Buck, who signed this Agreement on behalf of the DE was then director of the state agency and that he/she is authorized to enter into agreements of this nature on behalf of the state agency, and that there is authority under the laws of the State of Iowa to carry out all the functions to be performed by the DE as provided herein, and to comply with the terms of the Agreement.

Nicole M. Proesch  
2/10/15

For and behalf of the Iowa Department of Human Services

By: Charles Palmer  
Charles Palmer, Director

Date: 2-12-15

I, Brian W. Stahl hereby certify that I am the legal counsel for the Iowa Department of Human Services, that Charles Palmer, who signed this Agreement on behalf of the DHS was then director of the state agency and that he/she is authorized to enter into agreements of this nature on behalf of the state agency, and that there is authority under the laws of the state of Iowa to carry out all the functions to be performed by the DHS as provided herein, and to comply with the terms of the Agreement.

For and behalf of the Iowa Judicial Branch, State Court Administration

By: David K. Boyd  
David K. Boyd, State Court Administrator

Date: 2/19/15

I, Betty Buitenwerf hereby certify that I am the legal counsel for the Iowa Judicial Branch, State Court Administration, that David K. Boyd, who signed this Agreement on behalf of the Iowa Judicial Branch was then state court administrator and that he/she is authorized to enter into agreements of this nature on behalf of the state agency, and that there is authority under the laws of the state of Iowa to carry out all the functions to be performed by JCS as pervaded herein, and to comply with the terms of the Agreement.

For and behalf of the Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning

By: Steve Michael  
Steve Michael, Division Administrator

Date: 2/26/15

I, Lawrence Fefferman hereby certify that I am the legal counsel for the Iowa Department of Human Rights, that Steve Michael, who signed this Agreement on behalf of the Department of Human Rights was then a division administrator within said agency and that he/she is authorized to enter into agreements of this nature on behalf of the state agency, and that there is authority under the laws of the state of Iowa to carry out all the functions to be performed by CJJP as provide herein, and to comply with the terms of the Agreement.