



## **DATA PRIVACY AND SECURITY ADDENDUM**

The purpose of this addendum is to provide a more detailed review of federal and state data privacy and security compliance measures that apply to this Agreement, specifically addressing the requirements of the Family Educational Rights and Privacy Act (“FERPA”), the Children’s Online Privacy Protection Act of 1998 (“COPPA”), California Education Code Section 49073.1 , and California Business and Professions Code Section 22584, commonly referred to as the “Student Online Personal Information Protection Act” (or “SOPIPA”). All Parties shall comply with all applicable federal and state laws regarding privacy and security of Education Records and Student Data, including but not limited to those identified and discussed in this Data Privacy and Security Addendum (“DPA”). Definitions for capitalized terms are provided at the end of this DPA.

The Foundation for California Community Colleges (“Foundation”), on behalf of its fiscally sponsored project, the California College Guidance Initiative (“CCGI”) (may be referred to as “Foundation” or “CCGI” throughout), receives public funding via the state of California, for the purpose of developing, operating, and maintaining CaliforniaColleges.edu (“CaliforniaColleges Website”). Foundation, on behalf of CCGI, sub-contracts with a third-party vendor (“Vendor”) to perform the development, operation, and maintenance work on the CaliforniaColleges Website. Foundation staff perform data analysis, LEA support, and serve as the direct point of contact for CaliforniaColleges Website users, as well as manage data sharing relationships and technological articulations with institutions of higher education and financial aid providers. CCGI has been authorized by the state of California to provide services to all LEAs in the State of California. In this capacity CCGI operates as an authorized provider of outsourced institutional services (see 34 C.F.R. § 99.31(a)(1)(B)). CCGI’s statewide role is described in California Education Code § 60900.5 and § 10861.

### Foundation Contact for Security Inquiries

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## I. DATA COLLECTION

- A. As the official provider of college and career planning tools and services for the State of California, CCGI collects Student Data pursuant to the method described in the Data Specifications posted at: <https://www.cacollegeguidance.org/tcp/>
- B. CCGI acknowledges and agrees that Education Records, including Student Data, provided by the participating Local Educational Agency (“LEA”) continue to be the property of and under the control of the LEA. However, CCGI, intends to retain LEA Education Records, including Student Data for both current and former students unless deletion is requested by the LEA, in order to perform its function under the Education Code. Current and former students may follow the privacy policy on CaliforniaColleges.edu, which describes the way in which they may view and/or delete their accounts.
- C. A parent, legal guardian, or Eligible Student must contact LEA to correct any erroneous information that was uploaded by LEA into a CaliforniaColleges Website account, as the LEA is responsible for verifying the accuracy of its Student’s Data. Upon receipt of a request to amend erroneous information uploaded by LEA, LEA shall notify Foundation and provide the Foundation an amended transcript file with the correct information. Upon receipt of the amended transcript file, Foundation shall upload the amended transcript file within a commercially reasonable time.
- D. Unless a System User elects to maintain their CaliforniaColleges Website account beyond the Term of this Agreement, any Student Data uploaded by LEA will not be retained or available to Foundation or any third party upon termination of this Agreement, except for the purposes of converting a System User’s account to an account provisioned with data from the California Department of Education.
- E. Handling of Data Following Termination of Agreement
  1. Deletion of Data. Education Records provided under the Agreement shall be destroyed by Foundation and Vendor upon termination of this Agreement or within thirty (30) days from the date on which LEA requests destruction of the data or determines that such Education Records and/or Student Data are no longer needed for the purposes of this Agreement. In order to commence the procedure for requesting destruction of Education Records and/or Student Data, LEA shall provide written notice to the Foundation requesting destruction of the data. Upon receipt of LEA’s written notice, the Foundation and Vendor agree to use reasonable commercial efforts to certify within thirty (30) days after the Termination Date that Education Records and Student Data are no longer retained or accessible to the Foundation and Vendor. This section shall not apply to Education Records or Student Data used by CCGI to convert a System User’s account to an account using California Department of Education data.
  2. Requests for Return of Data to LEA. In lieu of destruction of Education Records, as provided in Section I.E.1 of this DPA, the LEA may request return of the data. In the event



of such a request, the LEA shall provide thirty (30) days advance written notice to the Foundation. Upon request and notice by LEA in accordance with this Section I.E.2 of this DPA, Foundation shall provide assistance with the migration and conversion of historical data in a flat file or other format reasonably requested by LEA and reasonably acceptable to Foundation. LEA shall be responsible for all costs and expenses associated with such requests including but not limited to costs for migration and data conversion and shall otherwise cooperate with Foundation to transfer such data to the LEA.

3. Retention of Student Data by the System User after Termination. The Parties acknowledge and agree that the requirements provided in Section I.E.1 of this DPA shall not apply to data entered or created by the student or the student's parent/guardian onto CaliforniaColleges Website. Foundation shall retain System User access credentials to allow System Users to retain access to their student generated data after termination of this Agreement.

## II. DATA USE

- A. The information described in the Data File Specifications available at <https://www.cacollegeguidance.org/tcp/> is used to create student portfolios on the CaliforniaColleges Website for use in college and career planning and guidance activities.
- B. The Education Records shared with Foundation may only be used as specifically required or permitted by this Agreement.
- C. Foundation shall not sell, use or permit any third party to use Education Records and/or Student Data for commercial purposes or for targeted advertising.

## III. WHO HAS ACCESS TO DATA (AUTHORIZED DISCLOSURE)

- A. The information from student's portfolios is only disclosed to the officials or employees of the following groups who have a legitimate interest in the information for purposes consistent with this Agreement:
  1. Foundation (collects and maintains Student Data).
  2. Vendor (maintains Student Data).
  3. CaliforniaColleges Website and FTP infrastructure (will not access or use content for any purpose other than as legally required and for maintaining services and will not directly process or access content).
  4. Any College or College System to which a System User has applied for admission (can be provided Student Data for the purposes of admission, enrollment, matriculation, placement, and supportive services).



5. System-wide Offices of Educational Segments in California and their employees, contractors, and vendors with a legitimate educational interest in the data for the purpose of performing longitudinal analysis.
  6. Any Financial Aid Organization to which a System User has applied for aid, or with whom the LEA has legally shared Student Data under California law, including, but not limited to, the California Student Aid Commission (“CSAC”).
  7. The LEA’s County Office of Education for the purpose of assisting in planning or preparing for college or a career, seeking admission to college or financial aid for college, and/or research and analysis to help improve instruction and student success.
  8. If the LEA is a charter school, Foundation may provide Student Data to LEA’s charter-authorizing entity pursuant to the Charter Schools Act (Education Code section 47600 et seq.) Upon request by Foundation, Charter schools must provide to Foundation a list of the schools and County-District-School (“CDS”) codes of sites they are authorized to share Student Data with.
  9. Foundation may provide Student Data in an aggregated or non-personally identifiable form, to other contracted entities for the purpose of evaluating the impact and effectiveness of the CCGI program or to inform research and evaluation related to state funded grant programs that require participation in CCGI.
    - a) If the LEA is a participant in a grant funded college and/or career readiness collaborative, funded by a state or local agency, in which provision of accounts on CaliforniaColleges.edu is a grant requirement, Foundation may provide Student Data in an aggregated, non-personally identifiable form, to such state and local entities and any collaborative lead agencies for the purpose of evaluating career college readiness services or streamlining eligibility for services. CCGI will not share LEA data under this section, unless CCGI and the funding entity have entered into an agreement regarding use and security of LEA’s aggregate, de-identified data.
    - b) Foundation may also provide aggregate level data to California public institutions of higher education (“IHE”) in order to support IHE’s in their outreach, admissions, and placement efforts to drive and improve student outcomes.
    - c) Foundation may also disclose aggregate level data to state agencies including, but not limited to: Cradle to Career Data System, CSAC, and the California Department of Education in order to support inter-segmental cooperation and help identify where information or support can help students to optimize their post-secondary opportunities.
- B. The Parties shall maintain policies and procedures for the designation and training of responsible staff members to ensure the confidentiality and security of Student Data. The Foundation provides data security and privacy training upon hire and on an annual basis to staff handling Student Data. The training covers Federal, State, and local regulations for maintenance of Student



Data, as well as best practices. All new staff undergo data security and privacy training prior to gaining access to CaliforniaColleges.edu. All data is encrypted both at rest and during transmission using commercially reasonable practices.

#### **IV. UNAUTHORIZED DISCLOSURE**

- A. The Foundation agrees to maintain an incident response program for purposes of memorializing Foundation's obligations under applicable law in the event Foundation detects any loss due to a Data Breach, or unauthorized access or use of Education Records or Student Data. Upon confirmation of a Data Breach, Foundation will notify LEA in accordance with its obligations under applicable law, but in any event within one business day of discovery of a Data Breach.
- B. LEA is responsible for any notices to parents as may be required under applicable law and for providing the parent(s), guardian(s) or student(s) with an opportunity to inspect and challenge the contents of the Student Data in question. The Foundation shall cooperate with the LEA in providing such notices and opportunities to review and challenge the content of the Student Data.
- C. LEA agrees to cooperate fully with Foundation to ensure Foundation can comply with any notification obligations Foundation may have to student or any other parties for which notification by Foundation may be required under FERPA and any other applicable law.

#### **V. DEFINITIONS**

The following capitalized terms when used in this Agreement shall have the meanings ascribed to them respectively, in this Definitions section, unless such term is otherwise expressly defined in this Agreement.

“Confidential Information” shall mean any and all information, data, Software (as defined below), know-how and intellectual property of a confidential or proprietary nature, including but not limited to, information, data, Software, know-how and intellectual property relating to (a) technical, scientific, developmental, marketing, manufacturing, sales, operating, performance and cost matters, (b) processes, (c) designs and (d) techniques, in any and all forms in which the foregoing may appear including, but not limited to, all record-bearing media containing or disclosing any of the foregoing.

“Data Breach” shall mean actual evidence of the loss or unauthorized access to, or unauthorized use of Student Data (as defined below) uploaded to the CaliforniaColleges Website.

“Education Record” shall have the meaning as set forth in 34 CFR §99.3 or under applicable state law. Education Records are those records that directly relate to a student and are maintained by an education agency or institution or by a party acting for the agency or institution. The term Education Record shall not include records that are otherwise excluded under 34 CFR §99.3 or applicable state laws.

"Eligible Student" shall mean a student who has reached 18 years of age or is attending an institution of postsecondary education.

"Party" or "Parties" shall mean either Foundation, on behalf of CCGI, or LEA, or both as applicable.

"Student Data" shall mean any information (a) contained in a student's Education Record maintained by or for the LEA and provided to the CaliforniaColleges Website by an employee or agent of the LEA; or (b) acquired directly from a student or parent or legal guardian of the student through the use of the CaliforniaColleges Website, as assigned to the student or parent or legal guardian by LEA. Student Data includes Personally Identifiable Information. Student Data does not include information created by a student, including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of that information.

"Services" means the services and levels of support offered by Foundation and accepted by LEA, as described in Section IV.C of the K-12 Data Sharing and Services Partnership Agreement.

"Software" shall mean, at a minimum, the computer programs, in machine-readable object code and source code, created by Vendor, pursuant to its separate agreement with the Foundation, in order to develop, operate and maintain the CaliforniaColleges Website.

"Personally Identifiable Information" or "PII" shall have the meaning specified in FERPA regulations, 34 CFR §99.3.

"System User" shall mean any student or parent/guardian whose Student Data are disclosed to the CaliforniaColleges Website by the LEA or by a student or parent/guardian who is assigned to use the CaliforniaColleges Website by the LEA.