

**MEMORANDUM OF AGREEMENT
BETWEEN THE CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE
AND THE CALIFORNIA STATE APPROVING AGENCY FOR VETERANS
EDUCATION**

I. INTRODUCTION

This Memorandum of Agreement ("Agreement") is entered into by and between the California Community Colleges Chancellor's Office ("CCCCO"), having offices at 1102 Q Street, Sacramento, CA 95811, and the California State Approving Agency for Veterans Education ("CSAAVE"), a division of the California Department of Veterans Affairs (CalVet), having offices at 1227 O Street, Sacramento, CA 95814, (each singularly referred to as "Party" and collectively referred to as the "Parties"). In accordance with all applicable federal and state laws, this agreement is to certify that CSAAVE has validated the data collection strategy and systems maintained by CCCCCO regarding all career technical education (CTE) certificates. This validation demonstrates that CCCCCO is able to track at the unitary or student level data pertaining to pre-program necessity and post-program outcomes.

II. BACKGROUND

- A. CSAAVE is part of the California Department of Veterans Affairs (CalVet) and operates under the authority of Title 38 of the United States Code, Section 3671.
- B. CCCCCO is a State Educational Authority responsible for administering the California community college system under authority of the California Education Code Section 70900.
- C. CSAAVE is responsible for the oversight and approval of California institutions offering education programs, apprenticeship and on-the-job training, and license and certification exams.
- D. The Code of Federal Regulations (CFR), which is the administrative rules developed by the United States government to carry out federal law, defines programs with a vocational objective as a "Non-College Degree (NCD) program."
- E. 38 CFR 21.7020(a)(22) requires NCDs with a vocational objective must lead to the attainment of a designated professional or vocational objective.
- F. State and federal advertising laws require public claims or statements to be true and maintained as evidence.
- G. The CSAAVE application, which community colleges submit as required to be considered for institutional and programmatic approval for the training of eligible

Title 38 beneficiaries, requires submission of documentation evidencing vocational objective attainment through employment data.

- H. State and federal advertising laws require public claims or statements to be true and documentation maintained as evidence.
- I. The validation by CSAAVE of the data collection strategy of CCCCCO is intended to address state and federal requirements on documentation evidencing vocational objective attainment through employment data.
- J. In the instance where CSAAVE requests this employment data from CCCCCO as provided for in Section III of this Agreement, the federal Family Educational Privacy Rights and Privacy Act ("FERPA"), Title 20 *United States Code* (U.S.C.) section 1232g et seq.; Chapter 6.5 of Part 27 (starting at section 49060 et seq.) and Chapter 1.5 of Part 47 (starting at section 76200) of the *California Education Code* (EC) generally prohibit the CSAAVE and the CCCCCO from disclosing or re-disclosing student records containing Personally Identifiable Information ("PII") without consent of the student or their parent/guardian. It does, however, provides an exception for State Educational Authorities to disclose PII from student records, without consent, when the information is disclosed to an individual or entity designated as the State Educational Authority's Authorized Representative and the information is used to carry out an audit or evaluation of federal- or state-supported education programs or to enforce or comply with federal legal requirements that relate to those programs, so long as the requirements set forth in 34 *Code of Federal Regulations* (CFR) Section 99.35 are met.
- K. This Agreement reflects CSAAVE's review and approval of CCCCCO's data collection strategy and pre-program necessity and post-program performance data methodology to demonstrate compliance with state and federal provisions and requirements.
- L. CCCCCO agrees to share certain PII from student records with CSAAVE in order to conduct audits and evaluations of vocational CTE programs to ensure compliance with federal legal requirements related to those program outcomes and advertised claims.
- M. For purposes of this Agreement only, the CCCCCO appoints the CSAAVE as its Authorized Representative, for purposes of disclosure of certain education records, including PII contained therein, as permitted pursuant to 20 U.S.C. 1232g(b)(1)(c)(i)(III).

III. DATA COLLECTION AND MAINTENANCE STRATEGY

This Agreement is intended to reflect the validation by CSAAVE of the data collection and maintenance strategy for academic year 2014-15 of CCCCCO for the purpose of a grant of approval of qualifying CTE vocational programs offered at California Community College campuses for which CCCCCO collects and maintains specific program needs assessment and vocational outcome data. CSAAVE will conduct an annual on-site review and validation of data maintained by CCCCCO, to comply with federal administrative regulations 38 CFR 21.7020(a)(22) and satisfy application requirements relating to CSAAVE approval of vocational NCD programs at California Community Colleges. Additionally, CCCCCO agrees to collect and maintain data necessary to address each of the following state and federal requirements:

- A. California Business and Professions Code Section 17500 – Advertising
- B. CFR, Title 38, Chapter 1, Part 21, Subpart D, Sections:
 - a. 21.4252(h) - Erroneous, deceptive, or misleading practices
 - b. 21.4209(a)(2 & 3) – Examination of Records
 - c. 21.4253(f) - Courses not leading to a standard college degree
 - d. 21.7020(22) - Professional or vocational objective

Furthermore, should any warranted issue or complaint arise, CCCCCO agrees to provide CSAAVE data upon request to satisfy each of the requirements.

IV. TERM OF AGREEMENT

This Agreement will be deemed to be effective July 1, 2017, and the Agreement is fully executed by all signatories to the Agreement. This Agreement shall be renewed annually on June 30 and/or upon CSAAVE's validation of data for each subsequent year hereafter and will expire either on the date the Agreement is terminated pursuant to Paragraph B of Section VIII or, if not terminated pursuant to VIII.B upon failure to renew this Agreement, whichever comes first.

V. DEFINITIONS

- A. **"Advertising"** means any publication, proclamation, claim, statement pertaining to the school and/or its program(s)
- B. **"Authorized Personnel"** means those persons employed by the CSAAVE and the CCCCCO who must have access to the Data in order to perform their official duties in connection with the use of Data authorized by this Agreement.

- C. "**Career technical education**" or "**CTE**" means courses or programs at high schools, career centers, community and technical colleges, four-year universities and more which educates students for a range of career options through 16 career clusters and 79+ pathways.
- D. "**CTE Student**" means any student who has completed at least one higher level CTE course (SAM A, B or C) in a given year.
- E. "**Confidential Information**" means Proprietary Information, Personally Identifiable Information (PII), and Student-Level Data, as each are defined below.
- F. "**Course not leading to a standard college degree**" means a program of education leading to a certificate of completion and/or vocational objective.
- G. "**Data**" means any digital or hard copy records or information, whether confidential or publicly available.
- H. "**Erroneous, deceptive, or misleading practices**" means the use of advertising, sales, enrollment practices, or candidate handbooks that are erroneous, deceptive, or misleading by actual statement, omission, or intimation.
- I. "**Examination of Records**" means make available to authorized representatives records and accounts pertaining to eligible Title 38 recipients and other students' records necessary to ascertain compliance with the requirements with applicable standards.
- J. "**Needs Assessment**" or "**Pre-performance Data**" means data demonstrating the geographical (local city/county) occupational need for the program and the viability of the program relative to the employment needs of the local labor market for potential graduates consistent with the CCC Curriculum Streamlining process.
- K. "**Performance Data**" or "**Post-performance Data**" means data demonstrating student outcomes after graduation and employment data relative to the program objective.
- L. "**Personally Identifiable Information (PII)**" means information about an individual, and includes but is not limited to information that, alone or in combination, is linked or linkable to a specific student in a manner that would allow a reasonable person, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. PII includes, but is not limited to name, address, personal identifier (e.g., social security number, student number, biometric record), other indirect identifiers (e.g., date or place of birth, mother's maiden name). "Biometric record" includes a fingerprint, retina or iris pattern, voiceprint, DNA sequence, handwriting sample, facial geometry or other biological or behavioral characteristic used to identify an individual.
- M. "**Professional or vocational objective**" means leading to an occupation and/or attainment of a designated program objective.

- N. **"Security Breach"** means the acquisition, access, use, or disclosure of PII in a manner not permitted under this Agreement, the Family Educational Rights Privacy Act (FERPA), the California *Education Code* (EC), the California Information Practices Act, or any other applicable federal and state law which compromises the security or privacy of the subjects of the PII.
- O. **"Student-Level Data"** means demographic, performance, and other information that pertains to a single student but cannot be attributed to a specific student. Such Data is subject to compliance with laws such as the Family Educational Rights and Privacy Act (FERPA) and the California *Education Code* (EC).

VI. PARTY CONTACTS

- A. The CSAAVE will designate a contact person to act in a liaison capacity throughout the term of this Agreement. The CSAAVE will immediately notify the CCCCCO in writing of any change of the contact person or any change in the contact information. The CSAAVE contact person shall be:

Latanaya Johnson
Educational Administrator
California State Approving Authority for Veterans Education
California Department of Veterans Affairs
1227 O Street,
Sacramento, CA 95814
PHONE: (916) 503-8319
EMAIL: Latanaya.Johnson@calvet.ca.gov

- B. The CCCCCO will designate a contact person to act in a liaison capacity throughout the term of this Agreement. The CCCCCO will immediately notify the CSAAVE in writing of any change of the contact person or any change in the contact information. The CCCCCO contact person shall be:

Gary W Adams
Dean
Division of Workforce and Economic Development
California Community Colleges Chancellor's Office
1102 Q St, Suite 4550
Sacramento, California 95811
PHONE: 916-322-7079
EMAIL: gadams@cccco.edu

VII. RIGHTS AND RESPONSIBILITIES OF THE PARTIES

- A. The CCCCCO agrees to appoint CSAAVE as an Authorized Representative as permitted by 20 US 1232g(B)(1)(c)(i)(III); Title 34 CFR Part 99.35 and EC Sections 49076(a)(1)(C) and 76243(a)(2) and, in so doing, each Party agrees to use, disclose, manage, and protect the Data received in conformance with all applicable federal and state laws and regulations including, but not limited to, FERPA (20 U.S.C. Section 1232g et seq.), the California Information Practices Act (Civil Code section 1798 et seq.), the California Constitution Article I, California EC Section 49060 et seq., and California EC Section 76200 et seq.
- B. The Parties agree to use the Data disclosed by the other Party pursuant to this Agreement only for the purposes expressly set forth in this Agreement and for no other purposes other than those set forth in this Agreement and only as consistent with federal and state law and regulation.
- C. The Parties agree to block access to or to prevent re-disclosure of any of the Data received from the other Party pursuant to this Agreement unless the Data is Aggregated Data and is re-disclosed with the express written approval of the other Party. Subject to this agreed-upon and limited exception of the Data, there will be no further re-disclosure by either Party of any of the Data disclosed pursuant to this Agreement.
- D. Each Party represents that as a State Agency, it has expertise in the area of information security and privacy, including FERPA compliance, and that it will use, collect, store, transmit, and manage the Data disclosed to it by the other Party, in accordance with federal and state laws and with the highest standards of practice and restrict access to the Data to Authorized Personnel who are permitted to have access to the Data for the purposes set forth in this Agreement.
- E. Each Party shall defend, indemnify and hold harmless the other Party from any and all claims arising out of the exchange of Data pursuant to this Agreement or in connection with the transfer, disclosure, re-disclosure, use or handling of the Data.
- F. The Parties agree to destroy all Data obtained under this Agreement when requested by the other Party in writing, when the Agreement is terminated pursuant to Section VIII.B., or when it is no longer needed for the purpose for which it was obtained, whichever comes first. Nothing in this Agreement authorizes the Parties to maintain Data received from the other Party beyond the time period reasonably needed for the purposes of this Agreement but in no event later than June 30, 2019, unless the term of this Agreement is extended by written consent of the Parties. Both Parties will provide written notice of the destruction of the Data to the other Party within thirty (30) days of the date of

Data destruction and will provide the other Party with a description of the method utilized to destroy said Data.

- G. At all times, the Parties maintain sole ownership over their own respective data, shared pursuant to this Agreement. The Parties agree that they do not establish any ownership over the other Party's Data received pursuant to this Agreement and that they will not contact any individuals whose Data has been disclosed.
- H. The Parties agree that in the event of a Security Breach, or what appears to that Party to be the likelihood of a Security Breach, they will act in conformance with the following:
1. If CSAAVE believes that there has been a Security Breach of any data that includes Data that was provided by CCCCCO, CSAAVE will promptly, but in no event more than two hours, report to the CCCCCO Information Security Officer, any incidents, in detail, of any Data received from CCCCCO whose confidentiality has been breached or believed to be breached. CSAAVE will promptly take corrective action to cure a breach of security, including conducting any investigation of any Security Breach and provide the CCCCCO's Information Security Officer with a written report of the investigation of the Security Breach within thirty (30) days of the discovery of the Security Breach. The report on the nature of the Security Breach shall conform to any established procedure of the CCCCCO relating to such an occurrence.

On behalf of CCCCCO, the Information Security Officer is:

Todd Hoig
Director
Management Information Systems
California Community Colleges Chancellor's Office
1102 Q Street
Sacramento, CA 95814

- I. The Parties agree that in the event of a Security Breach, the Party whose system was the subject of the Security Breach shall follow the requirements set forth in the State Administrative Manual and shall work with the other Party whose data was breached to provide any notification that may be necessary pursuant to Civil Code Section 1798.29. The Party that suffered the Security Breach shall bear any and all costs that the other Party, whose Data was breached, may incur as a direct result of the Security Breach.
- J. The Parties agree that this Agreement may be subject to disclosure under the Public Records Act.
- K. The Parties agree that there shall be no charging of any costs associated with the sharing of Data as provided in this Agreement should there be a need to share student-level record data.
- L. The Parties agree that, at all times, the Data provided by CCCCCO to CSAAVE pursuant to this Agreement remains the property of CCCCCO and CSAAVE has no property interest or ownership claim in CCCCCO Data.

VIII. GENERAL PROVISIONS

- A. **Amendments.** This Agreement may be amended at any time by written consent of the Parties to this Agreement. Amendments to this Agreement must be in writing and signed by a representative at a level equal to the level of the representative originally executing this Agreement.
- B. **Termination.** This Agreement may be terminated without need for cause by either CSAAVE or CCCCCO upon written notice delivered to the other Party not less than fourteen (14) days prior to the intended termination date. Either Party may provide to the other Party written notice of immediate termination of this Agreement upon confirmation of fraud, abuse, or violation of any term of this Agreement.
- C. **Entire Agreement.** This Agreement incorporates all the understandings between CSAAVE and CCCCCO concerning the subject matter of the Agreement. Any and all modifications of this Agreement must be in writing and signed by all Parties. No prior agreement, verbal representation or understanding will be valid or enforceable unless embodied in this Agreement.
- D. **Publicity.** With the exception of records sought pursuant to the Public Records Act, no information relative to this Agreement or the services provided for herein will be released by either Party for any purpose without the prior written approval of the other Party.
- E. **Non-Waiver of Rights.** No delay or omission by either Party in exercising any rights under this Agreement will operate as a waiver of that or any other right. A

waiver or consent given by either Party on any one occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion. Nor will a Party's review, approval or acceptance of any term under a separate Agreement be construed to operate as a waiver of any rights or any course of action available under the terms of this Agreement.

- F. **Assignment.** This Agreement may not be assigned or otherwise transferred by either Party in whole or in part without express prior written consent of the other Party.
- G. **Governing Law.** This Agreement is governed by and construed in accordance with the laws of the State of California.
- H. **Severability.** If any part, term or provision of this Agreement is determined to be void, illegal, unenforceable or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions will not be affected thereby.
- I. **Interpretation.** This Agreement is the mutual product of the Parties. Any dispute regarding interpretation of this Agreement will be resolved by applying the most reasonable interpretation under the circumstances.
- J. **Dispute Resolution Process.** If a dispute arises between the Parties, the resolution process outlined below must be followed:
 1. The Party with the dispute, Party 1 Contact, should first informally discuss the problem with the Party 2 Contact.
 2. If the problem cannot be resolved informally at that point, Party 1 must direct the dispute/grievance, in writing, to the Party 2 Division Director or Branch Chief or equivalent thereof.
 3. The Division Director or Branch Chief or equivalent thereof must issue a response in writing within ten (10) working days after receipt of the written dispute/grievance from Party 1.
 4. Should Party 1 disagree with the written decision of Party 2's Division Chief or Branch Chief or equivalent thereof, Party 1 may appeal in writing to the Party 2 Deputy Chancellor or Deputy Director or equivalent thereof. The appeal must include a copy of Party 1's written grievance as well as the written response from Party 2.
 5. Party 2 has ten (10) working days after receipt of the appeal to issue a written decision.
 6. During the dispute process, the Parties will maintain the status quo as it

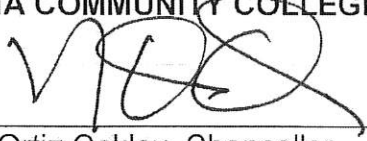
existed prior to the dispute/grievance arising.

IX. EXECUTION

Each of the persons signing this Agreement on behalf of their respective Party represents that he or she has authority to sign on behalf and to bind such Party to this Agreement.

CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE

By:



Eloy Ortiz Oakley, Chancellor
California Community Colleges Chancellor's Office

Dated:

7/7/17

CALIFORNIA STATE APPROVING AGENCY FOR VETERANS EDUCATION

By:



Keith Boylan, Deputy Secretary
California Department of Veterans Affairs

Dated:

7/17/17