

INTERGOVERNMENTAL AND DATA SHARING AGREEMENT FOR THE PRODUCTION OF THE HIGH SCHOOL FEEDBACK REPORT, AUDIT OR EVALUATION, AND P-20 RESEARCH AND ANALYSIS

THIS INTERGOVERNMENTAL AND DATA SHARING AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2009, by and among the following entities:

- i. The Illinois Community College Board ("ICCB");
- ii. The Illinois State Board of Education ("ISBE");
- iii. The Illinois Board of Higher Education ("IBHE"); and
- iv. Southern Illinois University, as Administrator of the Illinois Shared Enrollment & Graduation File ("ISEG"), (all collectively, the "Parties" and each a "Party")

under the authority of the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*), the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution of 1970, and other authority as provided by law. In view of the mutual covenants herewith contained, the Parties hereby agree as follows:

I. RECITALS.

1. ICCB, IBHE, and ISBE (collectively, the "State Agencies" and each, a "State Agency") and Southern Illinois University, as Administrator of the Illinois Shared Enrollment and Graduation File ("ISEG") own and maintain personally identifiable student data ("Student Data") necessary to audit and evaluate education programs and to perform studies for, or on behalf of, public elementary and secondary schools and institutions of higher education, all in a manner consistent with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) ("FERPA") and the Illinois School Students Records Act (105 ILCS 10/2 *et seq.*) ("ISSRA").
2. ISEG was established by the Illinois higher education community in 1991 as a voluntary, collaborative effort to facilitate analysis of student enrollment, transfer, and graduation behavior among Illinois institutions of higher education. Pursuant to the agreements establishing ISEG, all postsecondary institutions participating in ISEG maintain ownership and control over the data submitted to ISEG. As of the effective date of this Agreement, ISEG contains student-level enrollment and graduation data from all 48 public community colleges, all 12 public universities, and 3 private universities in the State of Illinois.
3. Section 1111(b)(3)(B) of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act, (20 U.S.C. §6311(b)(3)(B)), expressly authorizes state longitudinal data systems to link student test scores, length of enrollment, and graduation records over time.

Execution Version (Draft with revisions - 5/5/09)

4. Since 1989, Illinois law has required public universities to establish a feedback system to monitor the academic progress and success of high school students enrolled in each university (*see* 110 ILCS 660 Sec. 5-80; 10-80; 15-80; 200-80; 25-80; and 35-80).
5. Senate Joint Resolution No. 59, adopted by the General Assembly in 2007, directed IBHE, ISBE, and ICCB to:
 - Develop a plan to utilize the Prairie State Achievement Examination ("PSAE") to gauge students' college readiness;
 - Utilize the PSAE results to shape students' senior-year curricula, including any necessary remediation;
 - Develop a new High School Feedback Report ("HSFB"), in conjunction with testing services, that would better inform high school administrators and education policymakers about students' performance during their first year of postsecondary education; and
 - Ensure that the new HSFB be available to ISBE, IBHE, and ICCB and that the report be public.
6. ISBE has contracted with ACT, Inc. ("ACT") to use various ACT assessments as part of the PSAE and to administer the PSAE.
7. ACT has the capacity to generate a HSFB utilizing information from the institutions of higher education and ISBE, and has provided similar reports in other states.
8. The HSFB prepared by ACT will assist the State Agencies, institutions of higher education, and local education agencies to evaluate the impact of federal, state, and other educational programs on the success of high school graduates in postsecondary education.
9. ISBE is authorized by law to secure, compile, catalog, publish and preserve information and data relative to the public school system of Illinois, making such comparison as will assist the General Assembly in determining the priorities of educational programs to be of value to the public school system of Illinois and of other states (105 ILCS 5/2-3.31).
10. ICCB is authorized by law to provide statewide planning for community colleges as institutions of higher education and coordinate the programs, services and activities of all community colleges in the State so as to encourage and establish a system of locally initiated and administered comprehensive community colleges (110 ILCS 805/2-12).
11. IBHE is authorized by law to cause to be made such surveys and evaluations of higher education as it believes necessary for the purpose of providing the appropriate information to carry out its powers and duties (110 ILCS 205/9.01), and to collect data and conduct studies relating to the participation in and success of minority, women, and handicapped students in education programs and activities (110 ILCS 205/9.16).

12. The Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) and the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution of 1970, permit the Parties to jointly exercise, combine, or transfer any power or function in any manner not prohibited by law. Pursuant thereto, the Parties wish to work cooperatively as equal partners in fulfilling the terms of this Agreement.
13. The Parties wish to enter into this Agreement for the sole and limited purposes of:
 - Fulfilling the requirements of Senate Joint Resolution No. 59 and to develop a new HSFBS to inform schools and districts on their graduates' postsecondary outcomes, with the intent of using this information to inform district and State programs to improve student achievement;
 - Establishing the necessary data sharing arrangements among the Parties to link student test scores, length of enrollment, and graduation records over time;
 - Facilitating the audit or evaluation of education programs by the Parties or other authorized representatives using longitudinal Student Data in a manner permitted by FERPA, ISSRA, and other applicable law ("Audit or Evaluation"); and
 - Facilitating the performance of studies for, or on behalf of, schools and institutions of higher education using longitudinal Student Data in a manner permitted by FERPA, ISSRA, and other applicable law ("P-20 Research").

This Agreement is intended to facilitate the sharing of data among state agencies for purposes of the HSFBS, Audit or Evaluation of state programs, and P-20 research, and is not intended to and does not transfer any ownership rights to any data shared pursuant to this Agreement.

II. PARTICIPATION BY POSTSECONDARY INSTITUTIONS.

Any Illinois postsecondary institution may elect to participate in this Agreement through: (i) its authorization of either ISEG or IBHE to act as its representative for purposes of one or more of the data sharing authorizations described in Section III; and (ii) its submission of Student Data to either ISEG or IBHE. A postsecondary institution, other than a community college, electing to participate in this Agreement (a "Postsecondary Participant", and collectively the "Postsecondary Participants") shall notify either ISEG or IBHE of its election to participate in this Agreement by submitting a notice of participation that includes all of the following:

1. Authorization of either ISEG or IBHE to act as its representative for purposes of one or more of the data sharing authorizations set forth in Section III of this Agreement;
2. Identification of an authorized representative of the institution who will participate in the Postsecondary Policy Group described in Section III.C.4 of this Agreement, and receive all notices and communications relating to this Agreement; and
3. A description of any conditions or limitations on the use of the Postsecondary Participant's Student Data for the data sharing authorizations described in Section III of this Agreement.

A Postsecondary Participant may modify or withdraw its participation in the data sharing authorizations set forth in Section III of this Agreement upon thirty (30) days prior written notice to ISEG, if ISEG has been authorized to act on its behalf, or IBHE, if IBHE has been authorized to act on its behalf. ISEG and IBHE will provide the other Parties with a copy of each notice of participation, modification, or withdrawal of participation received pursuant to this Section within ten (10) days of receipt.

III. DATA SHARING AUTHORIZATIONS.

A. High School Feedback Report.

1. ACT Agreement. ICCB, IBHE, and ISEG hereby authorize ISBE to enter into a contractual agreement with ACT during each State fiscal year of the Term in order for ACT to create a HSFb substantially in the form attached as Exhibit A (the "ACT Agreement"). No student social security numbers may be provided by any Party to ACT under the ACT Agreement. Further, the ACT Agreement must provide that: (i) ISBE will have the authority to control ACT's use of all Student Data received from any Party to this Agreement; (ii) Student Data received by ACT from any Party for use in creating the HSFb shall be limited to the purposes set forth in the ACT Agreement and subject to the data access, use, and security restrictions set forth in Section IV of this Agreement; and (iii) ACT must agree to return the Student Data to ISBE or destroy it when no longer needed for the creation of the HSFb. Nothing in this Agreement is meant to restrict or limit ISBE's or ACT's rights to confidential information, as set forth in their agreement for the PSAE or the EXPLORE and PLAN assessments. The ACT Agreement must include a schedule and process for completion and distribution of the HSFb that is mutually acceptable to ICCB and IBHE. ISBE shall not be required to enter into any ACT Agreement unless and until: (i) the State Agencies have agreed upon each Party's responsibility for funding the HSFb and a process for contributing funds toward the HSFb; and (ii) ISEG, ICCB, or IBHE have agreed to serve as the authorized representative of ISBE and provide staff for purposes of the data merge described in Section III.A.2, which agreements shall be set forth in writing separate from this Agreement.

2. Data for HSFb. During each year of the Term of this Agreement in accordance with a schedule agreed to by the Parties, (a) ICCB will provide to ISBE or ISBE's authorized representative the data specified in Exhibit B for all Illinois public community colleges, (b) ISEG will provide to ISBE or ISBE's authorized representative the data specified in Exhibit C for all Postsecondary Participants that have authorized ISEG to act on its behalf with respect to the HSFb, and (c) IBHE will provide to ISBE or ISBE's authorized representative the data specified in Exhibit C for all Postsecondary Participants that have authorized IBHE to act on its behalf with respect to the HSFb. IBHE may also provide to ISBE or ISBE's authorized representative, postsecondary data which it is otherwise authorized by law to collect. ISBE may utilize its own data,

including but not limited to the ACT Graduation File, in conjunction with the data provided by ICCB, IBHE and ISEG; and may provide a copy of ISBE data to its authorized representative for purposes of performing the merge of data. Staff of ISEG, IBHE, or ICCB, serving as ISBE's authorized representative, will then merge this data into a data file that will be provided to ACT for preparation of the HSFb, subject to the oversight and supervision of authorized representatives of ICCB, ISBE, and IBHE.

3. **Destruction of Data Upon Completion of the HSFb.** Each year, within 90 days after completion of the HSFb, ISBE and its authorized representative will destroy or return to the disclosing Party, data provided pursuant to Section III.A.2. that is no longer needed for purposes of the HSFb. Each year, within 90 days after completion of the HSFb, any authorized representative of ISBE that received ISBE data, shall destroy or return ISBE data to ISBE. Upon the destruction of data pursuant to this paragraph, the Parties shall provide confirmation of such destruction to the disclosing Party.

4. **Public Distribution of HSFb.** The HSFb will be intended for public distribution, and therefore will not include: (i) any personally identifiable student information; or (ii) any cell sizes of less than a minimum number agreed to by the Parties for any and all categories/subcategories of information included in the report.

5. **Future Amendments to HSFb.** The State Agencies may agree to modifications of the form of the HSFb without amending this Agreement, provided such modifications do not require the disclosure of additional data elements by ISBE, ICCB, ISEG, or IBHE.

B. Provision of ISBE Unique Student Identifier to Postsecondary Data Systems.

1. **Provision of Postsecondary Files to ISBE.** The Parties will perform the data matching described in this Section III.B in order to: (i) facilitate Audit or Evaluation (as defined in Recital 13); and (ii) link student test scores, length of enrollment, and graduation records over time. Promptly after the effective date of this Agreement, ICCB, ISEG, and IBHE will each provide ISBE, as their authorized representative, with a data file containing Student Data from records of students who were first-time full-time degree-seeking students in the 2006-07 academic year (a "Postsecondary File"). ISEG will provide to ISBE a data file for all Postsecondary Participants that have authorized ISEG to act on its behalf with respect to the data matching described in Section III.B.2. IBHE will provide to ISBE a data file for all Postsecondary Participants that have authorized IBHE to act on its behalf with respect to the data matching described in Section III.B.2. IBHE may also provide to ISBE postsecondary data which it is otherwise authorized by law to collect. The Parties will mutually determine the data elements needed to facilitate the data matching described in this Section. At least annually, as the Student Data becomes available, ICCB, IBHE, and ISEG will provide an updated Postsecondary File to ISBE containing student records of students who were first-time full-time degree-seeking students for the 2007-08 and subsequent academic years for the purpose of the data matching described in Section III.B.2.

2. Linkage to ISBE Unique Student ID. ISBE will use the Postsecondary File for the sole purpose of performing data matching with ISBE databases in order to link the ISBE unique student identifier created by ISBE ("Unique Student ID") to the student records contained within the Postsecondary Files. The only data ISBE is responsible for disclosing is the Unique Student ID. The data matching will be subject to the oversight and supervision of authorized representatives of ICCB, ISEG, and IBHE. Staff of ICCB, ISEG, or IBHE may serve as the authorized representative of ISBE to assist with the data matching described in this paragraph. Immediately upon completion of the data matching: (i) ISBE will return the Postsecondary File to ICCB, ISEG, or IBHE, as applicable, containing all available matches; (ii) ICCB, ISEG, and IBHE shall act as ISBE's authorized representative for purposes of maintaining the Postsecondary File and securing the Unique Student ID therein; (iii) ISBE will establish and maintain a record of its return of the Postsecondary File to ICCB, ISEG, or IBHE; and (iv) ISBE will destroy all records and information provided by ICCB, ISEG, or IBHE pursuant to this Section III.B, and provide confirmation of such destruction to the disclosing Party. Notwithstanding the foregoing, ISBE shall maintain a copy of any returned Postsecondary File containing the Unique Student ID for one-year in order to assist the Parties in addressing questions related to the file. At the end of each year of retention, ISBE shall destroy the copy of the returned Postsecondary File and provide confirmation of such destruction to the disclosing parties. ICCB, ISEG, and IBHE may release a student's Unique Student ID to a community college or institution of higher education in which the student has enrolled, provided the community college or institution of higher education is clearly instructed that the Unique Student ID, (i) is to be treated as a personally identifiable student record subject to FERPA, and (ii) the data exchange between ICCB, ISEG, IBHE and any community college or institution of higher education meets minimum security requirements, including but not limited to, the data being encrypted and provided through a secure FTP site. ICCB, ISEG, and IBHE may not release data files containing the Unique Student ID for any other purpose unless authorized in advance in writing by ISBE's Approval Representatives, as identified in Section III.C.4 below.

C. Evaluation or Research Pursuant to a Data Access Agreement.

1. Data Access Proposal and Agreement Required. In order to perform an Audit or Evaluation and P-20 Research (as such terms are defined in Recital 13) that utilizes data shared between or among the Parties, the Parties may seek to enter into other arrangements to share and transfer such data, including Student Data, subject to the limitations and requirements set forth in this Section III.C and in accordance with FERPA and ISSRA. Before any Student Data can be shared or transferred pursuant to this Section III.C, (i) a Data Access Proposal, as defined below, must be submitted, reviewed, and approved in accordance with this Section III.C., and (ii) a Data Access Agreement, as defined below, must be approved and executed in accordance with this Section III.C.

2. Outside Participants. In addition to the Parties, a Data Access Proposal may be submitted by and a Data Access Agreement may include as a participant (i) a governmental or nongovernmental entity acting as an authorized representative of the

relevant State Agency used to assist with an Audit or Evaluation (an "Outside Evaluator"), or (ii) an individual or organization seeking to perform P-20 Research for non-commercial purposes in a manner permitted by FERPA and ISSRA (an "Outside Researcher"), provided the Outside Evaluator or Outside Researcher agrees to abide by all of the limitations and requirements set forth in this Section III.C. In this Section III.C, the term "Outside Participant" refers to an Outside Evaluator or Outside Researcher. If an Outside Participant improperly rediscloses Student Data in violation of this Agreement, the Outside Participant may not enter into a Data Access Agreement for at least five (5) years from the date of the improper redisclosure.

3. Data Access Proposals. Any Party or Outside Participant seeking to enter into a Data Access Agreement must develop a "Data Access Proposal" that includes information addressing all of the required terms of a Data Access Agreement as set forth in Section III.C.5. Each Data Access Proposal shall be submitted to all of the Parties and the Postsecondary Policy Group, as defined below, for review and comment, even if the proposal does not seek to access data from all Parties. The Parties will have 10 business days to review and comment on a Data Access Proposal before it may be approved; however, unless an expedited review process is requested by a Party, a 30 day review Period will be provided for any Data Access Proposal submitted by an Outside Participant. If a Party comments on a Data Access Proposal, the comments must be provided pursuant to the Notice provisions of this Agreement, set forth in Section VI.A. The State Agencies maintain the authority to request additional information from individuals or organizations filing a Data Access Proposal. The Parties and Postsecondary Policy Group may develop standards and criteria for the review and approval of Data Access Proposals, and may consult with institutional researchers and others with experience conducting technical studies and reports to assist with a proposal's review. The Parties and Postsecondary Policy Group may limit the number of Outside Participant evaluation or research projects that may be undertaken simultaneously if necessary to ensure adequate supervision and oversight for such projects. If the number of Data Access Proposals from Outside Participants is limited pursuant to the preceding sentence, priority will be given to Data Access Proposals for evaluation or research projects submitted by a school district, community college, or Postsecondary Participant.

4. Approval of Data Access Proposals. Data Access Proposals must be approved by the Approval Representatives, as defined in this paragraph, of each Party providing Student Data that will be accessed through the proposed evaluation or research project. In addition, if the proposed evaluation or research project will include the access of Postsecondary Participant Student Data, the Data Access Proposal must be approved by the Postsecondary Policy Group, as defined in this paragraph. The following persons are authorized to approve a Data Access Proposal on behalf of the Parties (each, an "Approval Representative," and collectively, the "Approval Representatives"):

- a. For ISBE, its General Counsel and the State Superintendent, or their respective designee(s);
- b. For ICCB, its Chief Executive Officer, or his or her designee(s);
- c. For IBHE, its Executive Director, or his or her designee(s); and

- d. For ISEG, its Director, or his or her designee(s).

For the Postsecondary Participants that have authorized either ISEG or IBHE to act on their behalf with respect to the data matching described in this Section III.C, ISEG and IBHE will establish a committee consisting of an authorized representative from each institution (the "Postsecondary Policy Group"). A majority of the members of the Postsecondary Policy Group must approve a Data Access Proposal that includes the access of Postsecondary Participant Student Data.

Nothing in this Agreement precludes a Party from designating an advisory committee to review and recommend action on Data Access Proposals to the Party's Approval Representative.

5. Development and Execution of Data Access Agreements. Following the approval of a Data Access Proposal, the Parties and any Outside Participant will develop an agreement substantially in the form attached as Exhibit D (a "Data Access Agreement"), that includes and addresses all of the following:

- a. The specific purpose or purposes of the Data Access Agreement, including the evaluation or research questions to be addressed.
- b. An assurance that the evaluation or research will be conducted in a manner that does not permit the personal identification of parents or students by individuals other than the Outside Participant or Party performing the evaluation or research (including by any subcontractors not approved to access such data under the Data Access Agreement).
- c. The data elements and format for data sharing, along with an identification of each Party responsible for providing each data element.
- d. Provisions for oversight and control over the transfer and merge of all Student Data (including transfers and merges involving subcontractors).
- e. A description of the data security measures in place to properly protect the data once it has been transferred (including subcontractors' data security measures).
- f. The schedule for the Audit or Evaluation or P-20 Research to be performed under the Data Access Agreement.
- g. The anticipated outcomes of the evaluation or research (e.g., reports, studies, publications). The description of anticipated outcomes must indicate whether the results of the evaluation or research will be made public, and if not, the identity of all parties with whom the results will be shared. If information is to be made public or shared, the description must also contain provisions on how the information will be provided prior to its disclosure for review by the Parties and Postsecondary Policy Group (for a review period not to exceed 60 days).
- h. Provisions for the return or destruction of Student Data used in the Data Access Agreement once that data is no longer needed for the purposes of the Data Access Agreement.

Execution Version (Draft with revisions - 5/5/09)

- i. The proposed termination date for the Data Access Agreement (which may be extended by mutual agreement of all parties to the Data Access Agreement, but may not extend beyond December 31, 2018).
- j. Incorporation of all of the data sharing restrictions set forth in Section IV of this Agreement.
- k. Any amendments to the Data Access Agreement that require the release of additional data must be submitted to all Parties through the Data Access Proposal process, as set forth in Section III.C.3.
- l. Amendments to Data Access Agreements must be in writing and signed by the participants.

Each Data Access Agreement must be executed by the Approval Representative of each Party providing Student Data that will be accessed through the Data Access Agreement and any Outside Participant included as a participant to such agreement. If an ICCB student identifier is to be provided, the Data Access Agreement must be executed by ICCB's Approval Representative. If ISBE's Unique Student ID is to be provided, the Data Access Agreement must be executed by ISBE's Approval Representatives. In addition, if the Data Access Agreement will include the access of Postsecondary Participant Student Data, the Data Access Agreement must be executed by one individual authorized by the Postsecondary Policy Group to execute Data Access Agreements on its behalf. The Postsecondary Policy Group shall designate an individual to act as its signatory, and shall provide notice to the Parties within 10 days of the selection of the name and address of the signatory.

IV. DATA ACCESS, USE, AND SECURITY.

A. Restrictions on Recipients. The data access, use, and security restrictions set forth in this Section IV shall apply to the receipt, use, disclosure, and maintenance of Student Data by ACT, a Party, or Outside Participant in connection with any of the data sharing authorizations described in Section III of this Agreement (each, a "Recipient").

1. Student Data may only be used for the purpose or purposes authorized pursuant to this Agreement.
2. Each Recipient will restrict access to Student Data to only those persons required to access the data in order to perform the specific purposes authorized by this Agreement. The Recipient will instruct all persons having access to Student Data on the use and confidentiality restrictions set forth in this Section IV, and shall require all subcontractors or agents to comply with all applicable provisions of FERPA and other state and federal laws with respect to the Student Data. Recipients shall upon request produce a written acknowledgement from all such persons verifying that such instruction has occurred. Recipients will require and maintain an appropriate confidentiality agreement from each subcontractor or agent with access to Student Data.
3. A Recipient may not redisclose Student Data to any other person or entity, unless permitted by law and approved in advance under an ACT Agreement or Data Access

Execution Version (Draft with revisions - 5/5/09)

Agreement and, if required by law, the parent or student (if such student may consent to disclosure under FERPA). Redisclosure of Student Data includes, without limitation, disclosure of information, research, or analysis in a manner that permits the personal identification of parents and students, as such terms are defined in the FERPA regulations (34 CFR Part 99) and includes de-identified data in cell sizes of less than a minimum number agreed to by the Parties for each category/subcategory of data.

4. A Recipient may not subcontract any work involving Student Data without prior written consent under an ACT Agreement or Data Access Agreement. All subcontracting must be consistent with FERPA requirements relating to the outsourcing of services or functions involving Student Data.
5. All data transmissions will be encrypted and provided through a secure FTP site; and each Recipient will secure any and all Student Data, retain records of access and use of Student Data, and cooperate with any Party's efforts to verify data security and usage.
6. Each Recipient agrees that all Student Data is the property of, and shall be returned upon request to, the Party that made the initial disclosure of such data under this Agreement (the "Disclosing Entity").
7. Student Data received pursuant to this Agreement shall be disposed of after the purpose of the disclosure is served. Disposal means the return of the data to the Disclosing Entity or destruction of the information, as directed by the Disclosing Entity.
8. Student Data received pursuant to this Agreement shall not be archived or sent to a records center and shall not be retained with personal identifiers for any period longer than the term of the Data Access Agreement or ACT Agreement, as applicable (the "Retention Period").
9. The Recipient agrees to comply with all applicable laws, materials, regulations and all other State and Federal requirements with respect to the protection of privacy, security, and dissemination of student data and education records, including, without limitation, FERPA and ISSRA.
10. The Recipient agrees to retain records of access and use of all Student Data received pursuant to this Agreement and allow any of the Parties on-site inspection and access to all relevant data files and servers to verify data security and usage for a period of three (3) years following the termination of the Retention Period. No fees shall be assessed for such access and review.
11. Each Recipient shall be solely responsible for the unlawful disclosure of Student Data it has received and, to the extent permitted by law, will defend, indemnify and hold harmless the agency or institution that provided that data for any and all claims arising out of or in any way connected to that disclosure.

12. Each Recipient will fully and promptly report any infraction of the use and confidentiality provisions set forth in this Section IV to the Parties. Further, any breach of the security of any Student Data provided to any person or entity under this Agreement shall be subject to the terms and provisions of the Personal Information Protection Act (815 ILCS 530/1 *et seq.*). Any Party who becomes aware of any infraction of the use and confidentiality provisions of this Section IV, shall fully and promptly report such infraction to the other Parties.
13. The terms and provisions of this Section IV shall apply to the use of Student Data received by the Recipient for so long as the Recipient retains the data, and shall survive the termination of this Agreement, the ACT Agreement, or a Data Access Agreement.
14. Each Recipient shall acknowledge that it would be difficult, if not impossible, to compute the monetary loss which would result from an unlawful disclosure of Student Data, and that accordingly the State Agencies and ISEG are without an adequate remedy at law in the event the Recipient violates any of the terms of this Agreement set forth herein. Each Recipient shall further acknowledge that said terms are reasonable and necessary to protect the confidentiality of the Student Data. Each Recipient expressly agrees that any breach or threatened breach of the terms set forth herein shall entitle the State Agencies or ISEG, in addition to any other remedies available to any of them, to apply to any court for an injunction, temporary and permanent, to prevent any violation of this Agreement.

B. Records of Disclosure. The Parties must create and maintain a record of any disclosure of Student Data made to any other person or entity pursuant to this Agreement. The record of disclosure must record the name of any person or organization serving as a Recipient of the Student Data and the Recipient's legitimate interest in the Student Data for either Audit or Evaluation or P-20 Research. The record must also describe the Student Data included within the disclosure by class, school, district, or other appropriate grouping. Upon request of the educational institution that provided the data, the Party to whom the data was submitted must provide a copy of the record of further disclosures to that educational institution. Furthermore, the Parties must comply with the notice requirements of FERPA when and if they are required to disclose any Student Data in accordance with a lawfully issued subpoena or court order.

C. No Limitation on Independently Owned Data. Nothing in this Agreement restricts the ownership or use of Student Data that a Party (i) independently owns, (ii) independently develops, (iii) obtains from the public domain through no wrongful act of the Party, or (iv) receives from a third party who was free to disclose it.

V. TERM AND TERMINATION.

A. Term. The term of this Agreement ("Term") will become effective on the date of execution by all Parties and shall, subject to any earlier termination as provided herein, continue through December 31, 2013. Upon the expiration of the Term, this Agreement shall, without further action by the Parties, automatically renew for an additional five-year period (January 1, 2014 through December 31, 2018), unless any Party provides notice to the other Parties not less

than 180 days prior to the expiration of the initial Term of its election not to renew this Agreement.

B. Termination for Convenience. A Party may terminate this Agreement upon thirty (30) days prior written notice to all other Parties to this Agreement. Notwithstanding any other provision in this Agreement, the terms of this Agreement regarding the use, confidentiality, and secure maintenance of data shall survive the termination of the Agreement and continue in full force and effect.

Upon termination by a single Party, no further ACT Agreements or Data Access Agreements may include data from the terminating Party, but any ACT Agreement or Data Access Agreement(s) containing the terminating Party's data that were entered into prior to such termination date may continue until the expiration of the term of such other agreement(s). The termination by a single Party will not act to terminate this Agreement with respect to the remaining Parties.

Upon termination by two or more Parties, no further ACT Agreements or Data Access Agreements may be entered by the Parties under this Agreement, but any ACT Agreement or Data Access Agreement(s) entered into prior to such termination date may continue until the expiration of the term of such other agreement(s). The terms of this Agreement incorporated into an ACT Agreement or Data Access Agreement shall survive the termination of this Agreement and continue in full force and effect until the expiration of the term of such other agreement(s).

A Postsecondary Participant may terminate its participation in this Agreement upon thirty (30) days prior written notice to ISEG, if ISEG has been authorized to act on its behalf, or IBHE, if IBHE has been authorized to act on its behalf. Upon termination of participation by a Postsecondary Participant, no further ACT Agreements or Data Access Agreements may include data from the terminating Postsecondary Participant, but any ACT Agreement or Data Access Agreement(s) entered into prior to such termination of participation date may continue until the expiration of the term of such other agreement(s). The terms of this Agreement incorporated into an ACT Agreement or Data Access Agreement shall survive the Postsecondary Participant's termination of participation in this Agreement and continue in full force and effect until the expiration of the term of such other agreement(s).

C. Termination Upon Unauthorized Data Disclosure. Any Party or Postsecondary Participant may immediately terminate its participation in this Agreement if any Student Data disclosed by that party is used in any manner which violates the terms and provisions of Section IV of this Agreement, ISSRA, and/or FERPA.

D. Destruction of Student Data Upon Termination. Unless permitted to do otherwise by FERPA, each Party will upon termination of this Agreement, destroy all records and information that had been provided by another Party, once the records and information are no longer needed for purposes of this Agreement, and provide confirmation of such destruction to the disclosing Party.

VI. GENERAL PROVISIONS.

A. Notices. All notices or other correspondence required to be given pursuant to this Agreement shall be sent by mail or delivered to the following persons: (i) for the Parties, the Approval Representatives set forth in Section III.C.4; and (ii) for the Postsecondary Participants, each participant's authorized representative as provided for in Section II. Receipt shall be presumed to have occurred on the fifth day following mailing.

B. Amendment. An amendment to this Agreement may only occur through a written amendment signed by the Parties. No amendment will be binding on the Postsecondary Participants without their consent thereto.

C. Entirety. This Agreement, together with the Exhibits attached hereto, constitutes the entire Agreement among the Parties with respect to the subject matter hereof, and supersedes any other negotiations, agreements or communications, whether written or oral, that have been made by any Party.

D. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Any claim against the State or a State agency arising out of this Agreement must be filed exclusively with the Illinois Court of Claims (705 ILCS 505/1) when said claim is within the jurisdiction of the Court of Claims.

E. Severability. In case any provision in this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected.

F. Authority to Execute. Each Party represents and warrants to the other Parties that this Agreement has been duly authorized, executed and delivered by and on behalf of each such Party, and constitutes the legal, valid and binding agreement of said Party.

G. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

H. Recitals and Exhibits. The recitals in Section I and the following Exhibits are hereby incorporated into this Agreement by this reference and expressly made a part of this Agreement.

Exhibit A	Form of HSF B
Exhibit B	ICCB Data Elements
Exhibit C	ISEG/IBHE Data Elements
Exhibit D	Form of Data Access Agreement

Execution Version (Draft with revisions - 5/5/09)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written below.

ILLINOIS STATE BOARD OF EDUCATION

State Superintendent Date

Approved

Fiscal Approval Date

Legal Approval Date

ILLINOIS COMMUNITY COLLEGE
BOARD

ILLINOIS BOARD OF HIGHER
EDUCATION

President/CEO Date

Executive Director Date

SOUTHERN ILLINOIS UNIVERSITY,
AS ADMINISTRATOR OF THE
ILLINOIS SHARED ENROLLMENT
AND GRADUATION FILE

By: _____ Date
Its: _____

EXHIBIT A
FORM OF HSFB

EXHIBIT B

ICCB DATA ELEMENTS

Institution and General Student Information File Layout by Term¹

Start	End ²	Length	Element	Description	Format ³	Example	ICCB Data to be Provided to ISBE
<i>Institution Information</i>							
1	4	4	ACT institution code or local code	4 character ACT college code; if ACT code not available, provide local code and crosswalk for identifying code to school name.	9999	4022	Crosswalk to district and college number
6	55	50	Institution name	University or college; include location if satellite	alpha	University of Tennessee at Knoxville	Available by College
57	58	2	State of institution	2 character alpha state abbreviation	alpha	TN	IL public community colleges only
60	62	3	Institution type	2-year or 4-year institution	9	2=2yr; 4=4yr	2yr IL public community colleges only
64	65	2	Institution's definition of undergraduate full time	Indicate the minimum number of hours for undergraduate full time status	99	12	ACT and ICCB to establish decision rule.
<i>General Student Information</i>							
67	75	9	Student Social Security number	SSN preferred (numeric-nine digits with no hyphens or spaces); if information is supplied in multiple tables or files, use SSN/ID as a linking variable/primary key.	999999999	222334444	Available/Restricted Access
77	91	15	Student ID Number	Supply if different than SSN	alpha or numeric	86ZZ2397	Dummy IDs Identified
93	122	30	Student last name	Include hyphens for multiple names	alpha	Jones-Smith	Not available
124	153	30	Student first name		alpha	Mary	Not available
155	155	1	Student middle initial		alpha	M	Not available
157	164	8	Student date of birth	Provide as much information as available using this format	yyyymmdd	19851015	Available
166	166	1	Enrollment term code	1=summer, 2=fall, 3=winter, 4=spring, 5=other ⁴	9	4 (spring)	Available
168	169	2	Enrollment term year	Calendar year of enrollment term (in previous field)	yy	05	Available Fiscal Year
171	176	6	Term start date	Starting enrollment date for term	yyyymm	200408	Not in Database
178	183	6	Term end date	Ending enrollment date for term	yyyymm	200412	Not in Database
185	185	1	Return indicator	Term from which student returned	9	1=summer 2=fall, 3=winter, 4=spring	Not in Database
<i>Student Academic Information</i>							
186	189	4	Term GPA	0.00 to 4.00 scale; for end of term; leave blank if not available; do not placeholder a missing GPA with a zero or other number	9v99	3.66	No Term GPA
191	194	4	Cumulative GPA	0.00 to 4.00 scale; as of end of term; leave blank if not available; do not placeholder a missing GPA with a zero or other number	9v99	3.25	Available/Restricted Access
196	201	6	Credit-bearing term hours attempted		99v99	12	Available
203	208	6	Credit-bearing term hours earned		99v99	12	Available
210	210	1	Remediation in any subject		alpha	Y=Yes;N=no;U=unknown	Available
212	212	1	Remediation in English		alpha	Y=Yes;N=no;U=unknown	Available -- Communications
214	214	1	Remediation in math		alpha	Y=Yes;N=no;U=unknown	Available -- Math
216	216	1	Remediation in reading		alpha	Y=Yes;N=no;U=unknown	Available -- Reading
218	218	1	Remediation in science		alpha	Y=Yes;N=no;U=unknown	Not in Database
220	220	1	Scholarship indicator	Always an indicator of academic excellence; definition of excellence needed	alpha	Y=Yes;N=no;U=unknown	Not available.

¹ Provide all information for each term in a new record (on separate rows); ² Space left between fields to accommodate delimiter if used; ³ 9=numeric variable symbol; v=decimal place; ⁴ Specify in separate documentation (e.g., intercession). ICCB data sharing agreement required to provide the Restricted Access information for agreed upon purposes with the proper safeguards.

EXHIBIT C

ISEG/IBHE DATA ELEMENTS

Institution and General Student Information File Layout by Term¹

<u>Start</u>	<u>End²</u>	<u>Length</u>	<u>Element</u>	<u>Description</u>	<u>Format³</u>	<u>ISEG Data to be Provided to ISBE</u>
<i>Institution Information</i>						
1	4	4	ACT institution code or local code	4 character ACT college code; if ACT code not available, provide local code and crosswalk for identifying code to school name.	9999	FICE Code is used as indicator
6	55	50	Institution name	University or college; include location if satellite	alpha	Cross walked via Fice code
57	58	2	State of institution	2 character alpha state abbreviation	alpha	Only includes IL
60	62	3	Institution type	2-year or 4-year institution	9	2=2yr; 4=4yr
64	65	2	Institution's definition of undergraduate full time	Indicate the minimum number of hours for undergraduate full time status	99	Not in Database
<i>General Student Information</i>						
67	75	9	Student Social Security number	SSN preferred (numeric-nine digits with no hyphens or spaces); if information is supplied in multiple tables or files, use SSN/ID as a linking variable/primary key.	999999999	222334444
77	91	15	Student ID Number	Supply if different than SSN	alpha or numeric	None Listed
93	122	30	Student last name	Include hyphens for multiple names	alpha	No Last Name
124	153	30	Student first name		alpha	No First Name
155	155	1	Student middle initial		alpha	No Middle Initial
157	164	8	Student date of birth	Provide as much information as available using this format	yyyymmdd	Only contains Month and Year
166	166	1	Enrollment term code	1=summer, 2=fall, 3=winter, 4=spring, 5=other ⁴	9	4 (spring)
168	169	2	Enrollment term year	Calendar year of enrollment term (in previous field)	yy	05
171	176	6	Term start date	Starting enrollment date for term	yyyymm	Not in Database
178	183	6	Term end date	Ending enrollment date for term	yyyymm	Not in Database
185	185	1	Return indicator	Term from which student returned	9	Not in Database
<i>Student Academic Information</i>						
186	189	4	Term GPA	0.00 to 4.00 scale; for end of term; leave blank if not available; do not placeholder a missing GPA with a zero or other number	9v99	No Term GPA
191	194	4	Cumulative GPA	0.00 to 4.00 scale; as of end of term; leave blank if not available; do not placeholder a missing GPA with a zero or other number	9v99	3.25
196	201	6	Credit-bearing term hours attempted		99v99	12
203	208	6	Credit-bearing term hours earned		99v99	12
210	210	1	Remediation in any subject		alpha	Not in Database
212	212	1	Remediation in English		alpha	Coded as Language Arts
214	214	1	Remediation in math		alpha	Y=Yes;N=no;U=unknown
216	216	1	Remediation in reading		alpha	Coded as Language Arts
218	218	1	Remediation in science		alpha	Not in Database
220	220	1	Scholarship indicator	Always an indicator of academic excellence; definition of excellence needed	alpha	Not in Database

¹ Provide all information for each term in a new record (on separate rows); ² Space left between fields to accommodate delimiter if used; ³ 9=numeric variable symbol; v=decimal place; ⁴ Specify in separate documentation (e.g., intercession)

EXHIBIT D

FORM OF DATA ACCESS AGREEMENT

**Authorized by the
Intergovernmental and Data Sharing Agreement for the Production of the High School
Feedback Report, Audit or Evaluation, and P-20 Research and Analysis dated
[_____, 200_] (the "Master Agreement")**

This Data Access Agreement (this "Agreement") is authorized by Section III.C of the above-referenced Master Agreement and entered into on this _____ day of _____, 20__ by and among the following participants:

- | | |
|---|---|
| <input type="checkbox"/> Illinois Board of Higher Education | <input type="checkbox"/> Southern Illinois University, as Administrator of the Illinois Shared Enrollment & Graduation File |
| <input type="checkbox"/> Illinois Community College Board | <input type="checkbox"/> Illinois State Board of Education |
| <input type="checkbox"/> _____ ("Outside Participant") | |

(collectively, the "Participants" and each, a "Participant").

The following authorized representatives of the Participants hereby execute this Agreement and agree to all of the terms and provisions set forth herein.

Illinois Board of Higher Education

Illinois Community College Board

Executive Director Date

President/CEO Date

**Southern Illinois University, as Administrator
of the Illinois Shared Enrollment &
Graduation File**

Illinois State Board of Education

Its: _____ Date

State Superintendent Date

Postsecondary Policy Group

General Counsel Date

Date Approved: _____

By: _____

[*Outside Participant (if applicable)*]

Its: _____ Date

Agreement Terms

1. Subject to Master Agreement.

This Agreement is subject to all of the terms and provisions of the Master Agreement, which are hereby incorporated into this Agreement. Capitalized terms used in this Agreement having the meaning set forth in the Master Agreement. In the event of any conflict or inconsistency, the terms of the Master Agreement prevail over the terms of this Agreement. For ease of reference, the data access, use, and security provisions contained in Section IV of the Master Agreement are set forth on Exhibit 1 to this Agreement.

2. Term and Termination.

This Agreement will be effective on the date specified on the first page, and, unless extended by the mutual agreement of all Participants, will terminate on [*Insert date (must terminate on or before December 30, 2018)*]. This Agreement may be terminated at any time for the convenience of any Participant by providing thirty (30) days advance written notice to the other Participants. This Agreement may also be terminated immediately if a Recipient of Student Data violates any of the data access, use, and security restrictions set forth in this Agreement or the Master Agreement.

3. Purpose.

This Agreement is entered into for the following specific purpose or purposes:

Audit or Evaluation: The purpose of this Data Access Agreement is to facilitate the audit or evaluation of education programs by the Parties or their authorized representatives using longitudinal Student Data in a manner permitted by FERPA and ISSRA.

Using the space below or on an exhibit, specify and describe the State or Federal education program(s) being audited or evaluated, and include the audit or evaluation questions to be addressed.

P-20 Research: The purpose of this Data Access Agreement is to perform a study or studies for, or on behalf of, schools and institutions of higher education represented by the Parties using longitudinal Student Data in a manner permitted by FERPA and ISSRA.

Using the space below or on an exhibit, describe the specific purposes and scope of the research project, including the research questions to be addressed. Describe how the study or studies are for, or on behalf of, schools or institutions of higher education. Specifically indicate whether the research is intended to advance one or more of the following purposes authorized by FERPA: (i) to develop, validate, or administer predictive tests; (ii) to administer student aid programs; or (iii) to improve instruction.

4. Data Elements and Format.

In the space below or on an exhibit(s), specify the data elements and format of the data elements to be shared as part of this Data Access Agreement. For data disclosures to Outside Participants, consideration should be given to providing de-identified data. The Disclosing Entity must be identified for each element of Student Data to be disclosed, e.g. ISBE must always be identified as the Disclosing Entity if the Unique Student ID is to be provided.

5. Oversight and Control Over Transfer and Merge of Student Data.

In the space below or on an exhibit, describe the procedures that will be used by the Participants to (a) transfer and merge all Student Data, and (b) ensure Student Data is protected in accordance with Section IV of the Master Agreement. The description must indicate: (i) how the data Recipient's access to and use of Student Data will be under the direct control of the Parties disclosing the Student Data; and (ii) how the evaluation or research will be performed in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization conducting the research. The description must include information on any subcontractors that will be utilized (name, address, need/purpose of subcontracting, specific services to be provided); the process for limiting unnecessary disclosure of Student Data to subcontractors; subcontractor's security measures for maintaining data; the required use of a confidentiality agreement with subcontractors, prohibiting redisclosure of Student Data; and a destruction process and schedule for any Student Data disclosed to subcontractors.

6. Schedule.

In the space below or on an exhibit, describe the time frame for the various aspects of the Data Access Agreement, including dates by which particular portions of the data sharing will begin and be complete.

7. Outcomes.

In the space below or on an exhibit, describe the anticipated outcomes of the Data Access Agreement, including any anticipated reports, studies, or publications. The description should explain how anticipated reports, studies, or publications will be shared for review by the Parties, allowing time for the Party's comment prior to publication.

Will the outcomes be made public? Yes No. If "No," identify all individuals or entities with whom the results will be shared: _____

Describe the anticipated methods of releasing the outcomes of the Data Access Agreement:

Execution Version (Draft with revisions - 5/5/09)

The minimum cell size for any data presented in the results will be (*set out the minimum cell size for all data, or the minimum cell size by category/subcategory*): _____

The Parties and Postsecondary Policy Group will have _____ days to review and comment on the outcomes of the evaluation or research under the Data Access Agreement prior to any release.

8. Return or Destruction of Student Data.

In the space below or on an exhibit, specify the methods and time frame planned for the return or destruction of Student Data once it is no longer needed for the purposes of the Data Access Agreement.

9. Acknowledgements by Recipients of Student Data.

- a. All Recipients of Student Data pursuant to this Agreement hereby represent and warrant to the Parties that the evaluation or research activities conducted hereunder will be conducted in a manner that does not permit the personal identification of parents or students by individuals other than the Outside Participant or Party performing the evaluation or research.
- b. All Recipients of Student Data pursuant to this Agreement acknowledge and agree that authorized representatives of the Parties and the Postsecondary Policy Group will have direct, joint supervision and oversight of the evaluation or research activities authorized by this Agreement.

10. Exhibits.

The following Exhibits are hereby incorporated into this Agreement:

Exhibit 1 Data Access, Use, and Security Restrictions

[*List other Exhibits*]

11. Amendments.

Any amendments to the Data Access Agreement that require the release of additional data must be submitted to all Parties through the Data Access Proposal process, as set forth in Section III.C.3. of the Master Agreement. All amendments to the Data Access Agreement must be in writing and signed by the Participants.

Exhibit 1

Data Access, Use, and Security Restrictions

[From Section IV of the Master Agreement]

The data access, use, and security restrictions set forth in this Section IV shall apply to the receipt, use, disclosure, and maintenance of Student Data by ACT, a Party, or Outside Participant in connection with any of the data sharing authorizations described in Section III of this Agreement (each, a "Recipient").

1. Student Data may only be used for the purpose or purposes authorized pursuant to this Agreement.
2. Each Recipient will restrict access to Student Data to only those persons required to access the data in order to perform the specific purposes authorized by this Agreement. The Recipient will instruct all persons having access to Student Data on the use and confidentiality restrictions set forth in this Section IV, and shall require all subcontractors or agents to comply with all applicable provisions of FERPA and other state and federal laws with respect to the Student Data. Recipients shall upon request produce a written acknowledgement from all such persons verifying that such instruction has occurred. Recipients will require and maintain an appropriate confidentiality agreement from each subcontractor or agent with access to Student Data.
3. A Recipient may not redisclose Student Data to any other person or entity, unless permitted by law and approved in advance under an ACT Agreement or Data Access Agreement and, if required by law, the parent or student (if such student may consent to disclosure under FERPA). Redisclosure of Student Data includes, without limitation, disclosure of information, research, or analysis in a manner that permits the personal identification of parents and students, as such terms are defined in the FERPA regulations (34 CFR Part 99) and includes de-identified data in cell sizes of less than a minimum number agreed to by the Parties for each category/subcategory of data.
4. A Recipient may not subcontract any work involving Student Data without prior written consent under an ACT Agreement or Data Access Agreement. All subcontracting must be consistent with FERPA requirements relating to the outsourcing of services or functions involving Student Data.
5. All data transmissions will be encrypted and provided through a secure FTP site; and each Recipient will secure any and all Student Data, retain records of access and use of Student Data, and cooperate with any Party's efforts to verify data security and usage.
6. Each Recipient agrees that all Student Data is the property of, and shall be returned upon request to, the Party that made the initial disclosure of such data under this Agreement (the "Disclosing Entity").
7. Student Data received pursuant to this Agreement shall be disposed of after the purpose of the disclosure is served. Disposal means the return of the data to the Disclosing Entity or destruction of the information, as directed by the Disclosing Entity.
8. Student Data received pursuant to this Agreement shall not be archived or sent to a records center and shall not be retained with personal identifiers for any period longer than the term of the Data Access Agreement or ACT Agreement, as applicable (the "Retention Period").
9. The Recipient agrees to comply with all applicable laws, materials, regulations and all other State and Federal requirements with respect to the protection of privacy, security, and dissemination of student data and education records, including, without limitation, FERPA and ISSRA.

Execution Version (Draft with revisions - 5/5/09)

10. The Recipient agrees to retain records of access and use of all Student Data received pursuant to this Agreement and allow any of the Parties on-site inspection and access to all relevant data files and servers to verify data security and usage for a period of three (3) years following the termination of the Retention Period. No fees shall be assessed for such access and review.
11. Each Recipient shall be solely responsible for the unlawful disclosure of Student Data it has received and, to the extent permitted by law, will defend, indemnify and hold harmless the agency or institution that provided that data for any and all claims arising out of or in any way connected to that disclosure.
12. Each Recipient will fully and promptly report any infraction of the use and confidentiality provisions set forth in this Section IV to the Parties. Further, any breach of the security of any Student Data provided to any person or entity under this Agreement shall be subject to the terms and provisions of the Personal Information Protection Act (815 ILCS 530/1 *et seq.*). Any Party who becomes aware of any infraction of the use and confidentiality provisions of this Section IV, shall fully and promptly report such infraction to the other Parties.
13. The terms and provisions of this Section IV shall apply to the use of Student Data received by the Recipient for so long as the Recipient retains the data, and shall survive the termination of this Agreement, the ACT Agreement, or a Data Access Agreement.
14. Each Recipient shall acknowledge that it would be difficult, if not impossible, to compute the monetary loss which would result from an unlawful disclosure of Student Data, and that accordingly the State Agencies and ISEG are without an adequate remedy at law in the event the Recipient violates any of the terms of this Agreement set forth herein. Recipient shall further acknowledge that said terms are reasonable and necessary to protect the confidentiality of the Student Data. Recipient expressly agrees that any breach or threatened breach of the terms set forth herein shall entitle the State Agencies or ISEG, in addition to any other remedies available to any of them, to apply to any court for an injunction, temporary and permanent, to prevent any violation of this Agreement.