

# Data Sharing Agreement Between the Utah State Board of Education and Utahns Against Hunger

This Data Sharing Agreement (“**Agreement**” or “**DSA**”) is entered into between the Utah State Board of Education (“**Board**” or “**USB**E”) and [Utahns Against Hunger](#) (“**UAH**”);

**WHEREAS**, USBE has constitutional and statutory authority for the general control and supervision of the public education system pursuant to the Utah Constitution Article X, Section 3 and Utah Code Title 53A Chapter 1;

**WHEREAS**, Utah has been listed in the bottom 10 performing states in the National School Breakfast Program participation compared to National School Lunch Program Participation in the nation. The Utah State Board of Education Child Nutrition Programs is a partner of the Utah Breakfast Expansion Team to analyze school breakfast program participation in schools throughout Utah, identify best practices, provide funding resources and offer program support. An annual report is compiled and released publicly using meal participation data provided by the Child Nutrition Programs.

**WHEREAS**, the Board is subject to the Federal Education Records Privacy Act (FERPA), 20 U.S.C. § 1232g and its implementing regulations, 34 C.F.R., Part 99, and also the Student Data Protection Act (U.C.A. § 53A-1-1401 et seq.) which require written consent for disclosure of personally identifiable information contained in education records unless specific statutory exemptions which allow data sharing are applicable;

**WHEREAS**, the information shared between USBE and UAH will include redacted school breakfast and lunch participation reports.

**WHEREAS**, No student personally identifiable information will be disclosed.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

1. **Purpose:** The purpose of this Agreement is to disclose school-level data for the purposes of evaluating federally funded programs 7 C.F.R., Part 210 and 7 C.F.R., Part 220 and to identify schools and LEAs that are effectively improving breakfast access and participation. This agreement does not involve the disclosure or use of Personally Identifiable Student Data.
2. **Data Sharing:** It is understood that the parties have a valid need for the meal count data listed below. Any data shared between the parties is subject to the requirements and restrictions of this DSA.
  - a. *Disclosure of Data: School Id & Name, LEA Id & Name, October Enrollment, Free/Reduced/Paid Breakfast and Lunch, Free/Reduced/Paid Severe Need Breakfast and*

*Lunch, Number of Breakfast and Lunch Operating Days, Average Dailey Participation (ADP) Breakfast and Lunch, Community Eligibility Program (CEP) or Provision II, Breakfast Meal Service Type, School and LEA Type, Pricing/Non-Pricing*

3. **Term.** This Agreement is effective for five (5) years from the date signed by the parties, unless terminated sooner in accordance with the terms and conditions herein. This Agreement may be renewed for a one-year period for two years thereafter if agreed to at least 30 days in advance of the term expiration date and in writing signed by both parties.
  
4. **Definitions:** The following definitions apply to this Agreement:
  - a. "Education records" includes all information accessed, collected, stored, processed, disclosed, de-identified, created or used, including metadata and Personally Identifiable Information.
  - b. "Metadata" includes all information created manually or automatically to provide meaning or context to other data.
  - c. "Personally Identifiable Information" or "PII" includes both direct identifiers (such as a student's or other family member's name, address, student number, or biometric number) and indirect identifiers (such as a student's date of birth, place of birth, or mother's maiden name). Indirect identifiers that constitute PII also include metadata about student interaction with an app or service, or other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty.
  
5. **Confidentiality and Disclosure:** The parties agree to use data only for the purposes described in this Agreement or as required by law and under the following conditions:
  - a. The parties shall have sufficient safeguards in place to ensure the data obtained is used only for the purpose stated in this Agreement.
  - b. UAH promises that it, nor any of its agents or members, will refrain from taking any measures to obtain PII from the school level data provided
  - c. The parties shall limit access to, and use of, the data to only those persons who have a legitimate interest in the data provided under this Agreement.,
    - i. .
  - d. The parties shall publish the results of their audits and evaluations in a way that protects the privacy and confidentiality of the students who were subjects of the data that was provided. The parties shall ensure that students cannot be directly or indirectly identified in published reports. For example, when publishing tables, cell suppression and other methods of disclosure avoidance shall be used so that students cannot be identified through small numbers displayed in table cells.
  
6. **Security Plans:** The parties shall:
  - a. Store any data provided by the other party in an area that is physically secure from access by unauthorized individuals at all times.

- b. Maintain each other’s data only until such time that the data is no longer needed or upon termination of this Agreement, whichever occurs first. At that point, the data will be destroyed within 30 days, except for disclosed information possessed by any court.
  - c. Refrain from duplicating the data other than as required for disaster recovery.
  - d. Report any data breach to the party that provided the information immediately upon discovery and cooperate to mitigate any concerns.
- 7. **Indemnity:** Both parties to this Agreement are governmental entities as defined in the Governmental Immunity Act of Utah, U.C.A. § 63G-7-101 et. seq. (“Act”). Nothing in this Agreement shall be construed as a waiver by either or both parties of any rights, limits, protections or defenses provided by the Act. Nor shall this Agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Agreement is otherwise entitled. Subject to and consistent with the Act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsuits brought against it. There are no indemnity obligations between these parties.
- 8.
- 9. **Monitoring:** The parties shall permit each other the right of a compliance review to ensure that the provisions of the Agreement are upheld and will maintain a system sufficient to allow an audit of its compliance with the disclosure and confidentiality and access to data sections above this Agreement.
- 10. **Amendments:** This Agreement may only be amended by the mutual written agreement of the parties. No provision in this Agreement may be waived, except pursuant to a writing executed by the party against whom the waiver is sought to be enforced. Any such waiver shall not be construed as a waiver by such party of any subsequent breach under this Agreement.
- 11. **Public Information:** The parties agree that this Agreement will be a public document, and may be available for public and private distribution in accordance with the State of Utah’s Government Records Access and Management Act (“GRAMA”). Each party gives the other express permission to make copies of this Agreement in accordance with GRAMA.
- 12. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
- 13. **Governing Law:** This Agreement shall be governed by the laws, rules, and regulations of the State of Utah.
- 14. **Assignment:** Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party.
- 15. **Independent Contractors:** The parties are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement. Neither party may take any binding action on the other party.

IN WITNESS HEREOF, the parties sign and cause this Interagency Data Sharing Agreement to be executed.

UTAH STATE BOARD OF EDUCATION

By: \_\_\_\_\_

Its: \_\_\_\_\_,

Date \_\_\_\_\_

Utahns Against Hunger

By: \_\_\_\_\_

Its: \_\_\_\_\_,

Date \_\_\_\_\_