



## **Data Access and Use Policy**

**Final: November 21, 2023**

### **Section 1: Purpose**

This policy establishes the rules for governing access, use, and re-disclosure of de-identified data collected, stored, and maintained by the State of New Jersey in the Statewide Data System (NJSDS).

### **Section 2: Authority**

This data access and use policy is authorized under an agreement memorialized in the Memorandum of Understanding between the New Jersey (NJ) Department of Education, the New Jersey Department of Labor and Workforce Development, the New Jersey Office of the Secretary of Higher Education, and the New Jersey Higher Education Student Assistance Authority dated June of 2017 and revised November of 2018.

### **Section 3: Background**

The NJ Department of Education, NJ Department of Labor and Workforce Development, NJ Office of the Secretary of Higher Education, and the NJ Higher Education Student Assistance Authority have partnered together, to develop a common platform of K through 12 education data, higher education data and labor/workforce data within a secure, common data storage and reporting system, called the New Jersey Statewide Data System (NJSDS). This system is intended to enhance the ability of New Jersey state government to efficiently and accurately manage, analyze, and use deidentified administrative data. The NJSDS will help stakeholders to make data-informed decisions to improve outcomes. The NJSDS will be instrumental in defining and fulfilling a research agenda that will help meet the State of New Jersey's respective commitments.

### **Section 4: Definitions**

- A. "Access" means the ability for an authorized individual to view, download and/or extract data in the systems maintained by the state.

- B. “Authorized agency” refers to a public agency that is approved by the NJSDS Executive Leadership Council, unless prohibited by state or federal law, to have access to NJSDS.
- C. “Authorized user” refers to an authorized agency employee or representative who is identified and designated by the authorized agency as having authority to access NJSDS. The authorized user shall meet all state and federal requirements necessary to access information of a data owner in NJSDS. The authorized agency is responsible for notifying The Heldrich Center within one business day when one of their authorized user(s) separates from employment or should otherwise have their access terminated. Authorized users must complete an Authorized User Agreement Form and any additional forms required by the individual data owners prior to gaining access to NJSDS.
- D. “NJSDS Executive Leadership Council” is the governing group, established by the June 2017 Memorandum of Understanding between the New Jersey Department of Education, New Jersey Office of the Secretary of Higher Education New Jersey Department of Labor and Workforce Development, and the New Jersey Higher Education Student Assistance Authority, and charged with developing and carrying out the research agenda and other activities under the NJSDS.
- E. “Confidentiality” means any record or information not open for public inspection or where disclosure is restricted pursuant to relevant federal or state statute or regulation.
- F. “Department of Labor and Workforce Development” refers to the New Jersey state agency providing workforce, employment and unemployment data.
- G. “Data owner” refers to the agency that provides specific data to NJSDS. For purposes of this agreement, the data owner for the NJ Office of the Secretary of Higher Education is the NJ Office of the Secretary of Higher Education; the data owner for the NJ Department of Labor and Workforce Development is the NJ Department of Labor and Workforce Development; the data owner for NJ Higher Education Student Assistance Authority is the NJ Higher Education Student Assistance Authority and the data owner for the NJ Department of Education is the NJ Department of Education.
- H. “Data providers” or “providing agency” means one of the entities that provides data to NJSDS. For purposes of this agreement, the data provider is any entity with a signed data sharing agreement with Rutgers, the State University of New Jersey for being stored within or matched to NJSDS. Data from publicly available sources do not have a data provider under this agreement.
- I. “De-identification” is a process for removing common elements such as names, agency identification numbers, and other unique characteristics from data so that the individual level data can be analyzed without disclosing the identity of individuals.
- J. “Department of Education,” refers to the New Jersey agency providing K through 12 education data.

- K. “Family Educational Rights and Privacy Act” or “FERPA” means the federal law codified at 20 U.S.C. 1232g and its implementing regulations found in 34 C.F.R. Part 99.
- L. “Higher Education Student Assistance Authority,” refers to the New Jersey agency providing financial aid and financial aid application data for students attending New Jersey institutions of higher education.
- M. “Office of the Secretary of Higher Education” refers to the New Jersey state agency established providing post-secondary education data.
- N. “NJSDS” or “New Jersey Statewide Data System” refers to the statewide data system that contains de-identified education, postsecondary education, and workforce data.
- O. “Open records request” refers to a formal request to provide information to a third party in compliance with the New Jersey Open Public Records Act, P.L. 2001, c. 404.
- P. “Participating Institutions of Higher Education” refers to both public and private higher education institutions who send data to the Office of the Secretary of Higher Education or the Higher Education Student Assistance Authority, which is then sent to the NJSDS. These organizations are not considered data owners or data providers.
- Q. “Personally identifiable information” means information contained in an electronic record such as social security number, name, characteristic, or other information that alone or in combination would make an individual’s identity easily traceable.
- R. “Perturbation” refers to procedures to add inconsistencies or noise to the data to shield the identity of individuals without impacting statistical inferences. These include, but are not limited to swapping, suppressing, synthesizing, or grouping data elements in individual records.
- S. “Records match” is the process where records for an individual are brought together from multiple data sources.
- T. “Re-disclosure” occurs when data, that have been disclosed to another party such as when a school district or institution sends identifiable data to a state agency, are then re-disclosed by that agency to a third party that is not under its direct control.
- U. “Research” means a formal investigation designed to develop or contribute to general knowledge.
- V. “Security” includes measures to ensure that records are not lost, stolen, vandalized, illegally accessed, or otherwise rendered useless. Since the data are stored on computers, it is essential that there be a high level of protection that provides integrity and availability commensurate with the level of risk and magnitude of harm.

- W. “Statistical data” refers to data that are not personally or statistically identifiable.
- X. “Statistically identifiable data” refers to data which, because of small cell sizes or unique populations may not be publicly re-disclosed because it may allow re-identification of confidential data.
- Y. “Third party” is a party other than the authorized state agencies, its staff, or its authorized representatives who request access to data or information from the state.
- Z. “Workforce data” refers to data from employment, unemployment, workforce, and workforce preparation programs.
- AA. “The Heldrich Center” refers to the John J. Heldrich Center for Workforce Development within the Edward J. Bloustein School of Planning and Public Policy at Rutgers, the State University of New Jersey who centrally manages the NJSDS Data Use and Access process, and to the staff and office representatives who are employed by and/or under the direct control of the Heldrich Center.

## **Section 5: Policy**

### **A. General**

1. This policy shall apply to all data and information collected, maintained, and created within the NJSDS.
2. Data collected and maintained within the NJSDS shall be managed in a manner that supports state policy-making in New Jersey.
3. Any records request submitted to the state that pertains to a single providing agency’s data, and does not include other agency data, shall be referred to that providing agency for response. Data providers may authorize the analysis of their own de-identified data without linking to other agencies with written notice.
4. This policy will adhere to restrictions on the release of personally identifiable information and statistically identifiable information in the FERPA, 20 U.S.C. 1232g, as well as the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and other relevant state and federal privacy laws.
5. Data access provisions may change if mandated by state law or federal law. The NJSDS Executive Leadership Council may, at its discretion, provide advice regarding changes to this data access and use policy consistent with state and federal law. Changes to the data access provisions must be made only upon agreement of the NJSDS Executive Leadership Council representing the NJ Office of the Secretary of Higher Education, the NJ Higher Education Student Assistance Authority, the NJ Department of Labor and Workforce Development, and the NJ Department of

Education. Prior to any amendment or change, the Heldrich Center shall circulate the draft revised policy to all data providers for review and comment.

6. The Heldrich Center will maintain the NJSDS acceptable use guidelines with rules to ensure that the data from the NJSDS are used in ways that comply with relevant confidentiality statutes and regulations.
7. Authorized users of the NJSDS may not re-disclose personally identifiable information or statistically identifiable data that may result in any individual or employer being identified based on the size or uniqueness of the population received from the NJSDS to any third party except as provided in section 5(E) of this policy.

**B. State Authorized Data Owner and Provider Access and Use**

1. Authorized users from each providing state agency will have full access to all data their agency has provided to the NJSDS.
2. The agency authorized users responsible for developing, operating, and maintaining the records linking and matching processes shall have access to all data provided by the data providers except for personally identifying information. NJSDS includes a persistent random identifier solely for the purpose of linking records together and validating the accuracy of records matching.
3. Following ELC approval on specific research inquiries, the agency authorized users responsible for analyzing the data and developing reports shall have access to data within the NJSDS and may utilize it internally and share results with authorized users to the extent permitted by relevant state and federal privacy laws and the NJSDS acceptable use guidelines.
4. To the extent permitted by state and federal law and in accordance with Section 4.C. of this Policy, and following ELC approval, state agency authorized users shall have access to all statistical data de-identified within the NJSDS and may use such data internally within their office or agency.
5. Reports, publications, and other public presentation of statistical data derived from the NJSDS must adhere to the NJSDS acceptable use guidelines to ensure individual privacy. All reports, publications, and other public presentation of statistical data derived from the NJSDS must undergo review for disclosure risk by an individual who did not work on the project or a Disclosure Review Board committee prior to release.
6. Agency Authorized users shall provide preview copies of all reports, publications, and other statistical data derived from the NJSDS to the Heldrich Center and to the NJSDS Executive Leadership Council prior to a meeting of the Executive Leadership Council. The report will be included in the meeting materials for review. The review period shall occur between Council meetings and shall be voted on at the next meeting. The Executive Leadership Council may waive the review period with unanimous approval. Electronic approval of reports may occur with unanimous consent when Executive

Leadership Council meetings are more than 45 days apart. The NJSDS Executive Leadership Council may object to the publication or presentation for failure to comply with state or federal privacy laws regarding suppression or redaction requirements or the NJSDS acceptable use guidelines, but must provide an opportunity to revise the publication.

7. Statistics not included in an NJSDS report but are used during legislative hearings or are transmitted to a government office outside of a providing agency require electronic approval of all agencies that supplied the data.

## **I. Requests for Statistical Data and Reports by Third Parties**

1. General information requests, requests for aggregated reports, or requests for research purposes contained in NJSDS in either printed or electronic format which pertain to data emanating from a single data provider will be referred to the appropriate data provider.
2. General information requests for statistical data or reports or for research purposes not previously released or already publicly available either in printed or electronic format which involve linked data from multiple agencies will be responded to by the Heldrich Center. The Heldrich Center will provide the Executive Leadership Council a copy of the statistical data or report under the process outlined in section B(6) for approval. Data using only one agency's data will be referred to the provider.
3. Requests for data or information which only include data that has previously been authorized for general public release or is already available may be responded to by the Heldrich Center without requiring advance notification of the Executive Leadership Council or data provider. The Heldrich Center will provide the data owners a copy of the request and a copy or description of the information which was provided.
4. Open public records requests for statistical data or reports either in printed or electronic format will be responded to by the Heldrich Center records custodian or designee in accordance with New Jersey open public records law.
5. To the extent permitted by law, the Heldrich Center may elect to charge a fee to develop and process the statistical data or reports and provide the associated materials to the requestor.
6. Upon approval by the agencies to access de-identified microdata, any estimates, analysis, or reports by external researchers, evaluators, or data analysts need to be approved using the same process as outlined in section B(6) prior to being released from the system. All reports must cite NJSDS and a short brief (or the full report if permitted by copyright law) must be developed by the researchers and posted on the

NJSDS website prior to release to the general public. Embargoes are allowed if approved by the Executive Leadership Council.

## **II. NJSDS Initiated Reports**

1. The Heldrich Center will develop and publish a triennial research agenda and annual deliverables list that provides guiding research aims and planned reports to be circulated to the data providers and general public.
2. The Heldrich Center may develop additional reports, presentations, and other information products in addition as the need arises.
3. All NJSDS reports, publications, and information products must adhere to all relevant state and federal privacy laws, including any executed agreement mandated therein, and the NJSDS acceptable use guidelines to ensure individual and employer privacy.
4. The Heldrich Center shall provide the Executive Leadership Council a copy of the statistical data or report under the process outlined in section B(6) for approval prior to release.

## **III. Security and Audit Requirements**

1. Data owners control access to the personally identifiable information they provide to the data providers for the NJSDS and are responsible for keeping authorizations up to date on who may have access to their data and any additional restrictions.
2. The Heldrich Center shall ensure that data, copies of data, and all reports containing personally identifiable information are maintained in a secure environment to prevent unauthorized access. A secure environment includes any electronic media, computer, server, or network on which the data reside.
3. The Heldrich Center shall ensure that electronic files, reports or documents that contain personally identifiable information are destroyed when they are no longer needed.
4. The Heldrich Center shall use encryption or other best practices when using personally identifiable information, and shall require agencies to use encryption or other best practices when transferring personally identifiable information to the Heldrich Center.
5. The Heldrich Center will develop de-identification standards and processes using modern statistical or perturbation methods to ensure the protection of personally identifiable information when presented in reports or inclusion in files that would allow their re-identification.
6. All reports, publications, and other public presentation of statistical data derived from the NJSDS must undergo review for disclosure risk by an individual who did not work on the project or a Disclosure Review Board committee prior to release.

7. Immediately upon discovery, the Heldrich Center shall notify in writing all data owners of any security breach as outlined in the NJSDS Incident Response Plan as required in the Statewide Information Security Manual.
8. The Heldrich Center shall perform periodic audits on authorized users to ensure compliance with this policy. Authorized users shall maintain records on internal access, denial and cancellation policies, currently permitted authorized user lists, and data accessed for research purposes.