

Data Sharing Agreement By and Among
The Connecticut State Board of Education,
The Regents of the University of California, and
Cambium Assessment, Inc.

This Data Sharing Agreement (Agreement) is entered into by and among the Connecticut State Board of Education (CSBE) on behalf of the Connecticut State Department of Education (SDE), The Regents of the University of California (UC), as represented by its University of California at Los Angeles (UCLA) and its National Center for Research on Evaluation, Standards and Student Testing (CRESST or UCLA/CRESST, and UC and UCLA are collectively referred to herein as “UC”), located at 300 Charles E. Young Drive North, Los Angeles, California 90095, and Cambium Assessment, Inc., a Delaware corporation (Cambium) located at 1000 Thomas Jefferson St., N.W., Washington, D.C. 20007, for the purpose of sharing information between the parties in a manner consistent with the Family Education Records Privacy Act of 1974, 20 U.S.C. §1232g (hereinafter “FERPA”). UC and Cambium are collectively referred to in this Agreement as the “Contractors.”

FERPA permits a state educational authority to disclose personally identifiable student information (PII) from Education Records to its authorized representative to audit or evaluate a federal- or state-supported education program or to enforce or comply with federal legal requirements that relate to those education programs, as well as to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests. The CSBE and the SDE, as its administrative body, is the Connecticut State Educational Authority. To effect the transfer of data subject to FERPA, the parties agree to the following:

- I. PARTIES. The SDE is a state educational authority authorized to receive information from local educational agencies (“LEAs”) subject to FERPA, as authorized by 34 C.F.R. Section 99.31. UC is a public entity with full powers of governance under Article IX, Section 9 of the California Constitution, and UCLA/CRESST has as its mission the promotion of research, development, applications and training designed to raise the learning of students and the abilities of teachers, and to improve educational institutions through the creation of knowledge, models and tools. Cambium is an American technology company that creates computer software and hardware products serving students, and enabling educators who help them learn.
- II. DESIGNATION OF AUTHORIZED REPRESENTATIVES. The CSBE hereby designates UC and Cambium as its “authorized representatives” pursuant to FERPA for the permitted access and use of PII as set forth within this Agreement.
- III. PURPOSE. The purpose of this Agreement is to document the terms under which the State Educational Authority is authorized to release, without prior consent, certain PII from Education Records to UC and Cambium, as the State Educational Authority’s authorized representatives, for the purposes of Contractors’ developing, validating or administering predictive tests. This Agreement also documents the requirements under FERPA on the use,

further disclosure, protection and destruction of this PII by the authorized representatives. PII from Education Records disclosed to UC and Cambium may be used for purposes of developing, validating or administering predictive tests, and only may be used to evaluate and/or audit education programs if those programs constitute federally- or state-supported programs under FERPA.

Specifically, this data sharing will allow for the design and development of a new, research-based alternate summative English language proficiency assessment (Alt ELPA) for students who are ***English learners with the most significant cognitive disabilities (ELSCDs) in grades K–12***. The Alt ELPA is an outcome of the Collaborative for the Alternate Assessment of English Language Proficiency (CAAELP) project and helps states fulfill a Federal requirement of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) (2015), to annually assess the English proficiency of all students identified as English learners (ELs).

- IV. DEFINITIONS. The following definitions shall be the same as provided in FERPA and the regulations promulgated thereunder, as amended from time to time: Attendance, Authorized Representative, Education Program, Educational Agency, Education Record, Disclosure, Institution of Postsecondary Education, Student, and Personally Identifiable Data (PII). In addition, the following definitions shall apply.
- A. State Assigned Student Identifier (SASID): The SASID is a ten digit unique number that the Connecticut State Board of Education assigns to each student upon enrollment in a Connecticut public school, including publicly funded preschool programs as well as standard elementary, middle and high schools.
 - B. Re-disclosure: Re-disclosure means transfer or disclosure of PII to any other person or entity whose access to PII is not specifically authorized in this Agreement.
 - C. Protected: For the purposes of this Agreement, data shall be deemed protected when on a secure server that is hosted by a Contractor and is password protected by a password that meets the following criteria:
 - 1. Contains at least 8 characters;
 - 2. Is comprised of at least 3 of the following 4 types of characters:
 - a. Lower case letters (i.e., a-z),
 - b. Upper case letters (i.e., A-Z),
 - c. Numbers (i.e., 0-9),
 - d. Special characters (e.g. !@#\$%^&*()_+|~); and
 - 3. Has not been used in the past year.
 - D. Encrypted: For the purposes of this Agreement, data shall be deemed encrypted when the data has been transformed into a form in which there is a low probability of assigning

meaning without use of a confidential process or key and such confidential process or key that might enable decryption has not been breached.

- E. Confidential SDE Information shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential SDE Information shall also include any information that the Department classifies as "confidential" or "restricted," including but not limited to PII from Education Records. Confidential SDE Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
 - F. Confidential Information Breach shall mean an instance where an unauthorized person or entity accesses Confidential SDE Information and/or PII from Education Records in any manner, including but not limited to the following occurrences: (1) any Confidential SDE Information and PII from Education Records that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more unauthorized third parties have had access to or taken control or possession of any Confidential SDE Information or PII from Education Records that is not encrypted or protected without prior written authorization from CSBE, SDE or the State; (3) the unauthorized acquisition of encrypted or protected Confidential SDE Information and/ or PII from Education Records together with the confidential process or key that is capable of decrypting or otherwise compromising the integrity of such information; or (4) the unauthorized acquisition of Confidential SDE Information and/ or PII from Education Records poses a substantial risk of identity theft or fraud to any student, Contractor or other designated authorized representatives, the SDE or the State, or to any employees or representatives of any of the foregoing.
 - G. Collaborative for the Alternate Assessment of English Language Proficiency (CAAELP) is a four-year, federally-funded project under the Competitive Grants for State Assessments Program. Iowa, the lead state for the CAAELP project, is working in collaboration with nine other states to create the new alternate English language proficiency assessment system. The states' collaborative efforts are supported by the project management partner, the National Center for Research on Evaluation, Standards, and Student Testing (CRESST) located at the University of California, Los Angeles.
- V. DATA ELEMENTS. The CSBE shall provide to the Contractors the data elements detailed in Appendix A of this Agreement.

VI. DUTIES OF THE CONTRACTORS.

- A. In all respects, the Contractors shall comply with the provisions of FERPA. For purposes of this Agreement, "FERPA" includes any amendments or other relevant provisions of federal law, as well as all requirements of Chapter 99 of Title 34 of the Code of Federal Regulations, as amended from time to time. Nothing in this Agreement may be construed to allow either party to maintain, use, disclose or share confidential or protected student information in a manner not allowed by federal law or regulation or by this Agreement.
- B. The Contractors shall use the data shared under this Agreement for no purpose other than to carry out the audit, evaluation, enforcement or compliance activities, or the predictive test development, validation or administration activities detailed in this Agreement. Nothing in this Agreement shall be construed to authorize the Contractors to have access to additional PII from Education Records that is not included in the scope of this Agreement.
 - 1. This Agreement does not authorize the Contractors to disclose Confidential SDE Information and PII from Education Records to any other entity or under any other terms and conditions without prior written approval from the CSBE and as otherwise consistent with state and federal law, including FERPA.
 - 2. The ability to access or maintain Confidential SDE Information and PII from Education Records under this Agreement shall not under any circumstances transfer from a Contractor to any other institution or entity.
 - 3. Each Contractor agrees to immediately cease all use of Confidential SDE Information and PII from Education Records shared under this Agreement in the case of a Confidential Information Breach or suspected Confidential Information Breach.
 - 4. Each Contractor agrees to inform the CSBE immediately and cease using all SDE-provided Confidential SDE Information and PII from Education Records should the Contractor be banned by any organization from receiving PII from Education Records during the term of this Agreement. Furthermore, each Contractor agrees that it shall not resume use of the SDE-provided Confidential SDE Information and PII from Education Records without written authorization from the CSBE.
- C. Each Contractor agrees to allow the Office of the State Auditor for the State of Connecticut, subject to FERPA restrictions, access to Confidential SDE Information and PII from Education Records shared under this Agreement and any relevant records of such Contractor for purposes of completing authorized audits of the parties.
- D. Each Contractor shall require all of its employees to comply with all applicable provisions of FERPA and other federal laws with respect to the PII from Education Records shared under this Agreement.
 - 1. Each Contractor agrees to require and maintain an appropriate confidentiality agreement from each employee of such Contractor with access to Confidential SDE Information pursuant to this Agreement and to limit access to Confidential SDE

Information to staff members with legitimate interests related to the purpose of this Agreement.

2. Each Contractor shall employ reasonable restrictions on access to Confidential SDE Information such that authorized employees only access the Confidential SDE Information for legitimate purposes related to the purpose of this Agreement.
3. Each Contractor shall maintain a security policy for all employees related to the storage, access and transportation of Confidential SDE Information.
4. Each Contractor shall implement a process for reviewing its policies and security measures annually.
5. Each Contractor shall employ an active and ongoing employee security awareness program that requires participation of all employees who may have access to Confidential SDE Information, which includes advising employees of the safeguards required to protect such Confidential SDE Information and any applicable penalties for failing to comply with federal and state law.

- E. Each Contractor shall maintain all Confidential SDE Information obtained pursuant to this Agreement in a secure computer environment that is hosted by such Contractor on secure drives where access is restricted to authorized persons.
1. A Contractor shall not store Confidential SDE Information on stand-alone computer/notebook hard disks or portable storage devices like external/removable hard drives, flash cards (such as SD, Compact Flash), flash drives (also known as thumb or jump drives), compact disks or digital video disks.
 2. A Contractor shall not copy, reproduce or transmit Confidential SDE Information except as necessary to fulfill the purpose of this Agreement.
- F. Each Contractor shall implement, maintain and update security and breach investigation procedures that are reasonably designed to protect Confidential SDE Information from unauthorized access, use, modification, disclosure, manipulation or destruction.
- G. Each Contractor agrees that all copies of Confidential SDE Information of any type, including but not limited to any modifications or additions to Confidential SDE Information from any source that contains PII regarding students, are subject to the provisions of this Agreement in the same manner as the original Confidential SDE Information.
- H. UC assures CSBE that it will not disclose any Confidential SDE Information obtained under this Agreement in a manner that could identify an individual student to any entity that is not a designated authorized representative at any time during the term of this Agreement. Cambium assures CSBE that it will not use or disclose any Confidential SDE Information obtained under this Agreement in violation of FERPA or any other laws applicable to the protection, use or disclosure of such Confidential SDE Information.
- I. Each Contractor agrees that it shall not provide any Confidential SDE Information obtained under this Agreement to any party ineligible to receive data protected by FERPA or

prohibited from receiving data protected by FERPA from any entity by virtue of a finding under Subsections (c) through (e), inclusive, of 34 C.F.R. Section 99.67.

- J. UC agrees not to release to any entity except the CSBE and Cambium any group data based on Confidential SDE Information provided hereunder where the cell size of the group reported would be less than or equal to five (5). In the case of assessment data, each Contractor agrees to a minimum cell size of ten (10).
- K. Each Contractor agrees to provide the CSBE a thirty (30) day review and approval period prior to publishing or otherwise sharing any results or findings developed under this Agreement beyond such Contractor's staff and the CSBE. Should a Contractor not receive either a written approval or disapproval of publishing of the results from the CSBE within thirty (30) days, the release of the results shall be considered approved.
- L. Each Contractor shall completely and securely erase and delete and render permanently inaccessible all Confidential SDE Information obtained under this Agreement and all confidential or protected data related to the purpose of this Agreement that may contain Confidential SDE Information when it is no longer needed for the purpose for which it was obtained or if the Agreement is cancelled per Section VIII of this Agreement, but no later than the end date of the Agreement.
 - 1. Nothing in this Agreement authorizes a Contractor to maintain Confidential SDE Information beyond the time period reasonably needed to complete the purpose of this Agreement.
 - 2. All Confidential SDE Information no longer needed shall be destroyed or returned to the CSBE in compliance with 34 C.F.R. Section 99.35(b)(2).
 - 3. Each Contractor shall provide written verification to the CSBE within 30 days of such destruction.
 - 4. Each Contractor agrees to require all of its employees to comply with this provision.
 - 5. Each Contractor agrees that its failure to abide by the destruction requirements of this Agreement shall constitute a Confidential Information Breach by such Contractor, which will be subject to the breach-related requirements detailed in Section VII to this Agreement.

VII. CONFIDENTIAL INFORMATION BREACH.

- A. Each Contractor, at its own expense, has a duty to and shall protect from a Confidential Information Breach any and all Confidential SDE Information which it comes to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- B. Each Contractor shall implement and maintain a comprehensive data-security program for the protection of Confidential SDE Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential SDE

Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the CSBE or State concerning the confidentiality of such information. Such data-security program shall include, but not be limited to, the following:

1. A security policy for employees related to the storage, access and transportation of records containing Confidential SDE Information;
2. Reasonable restrictions on access to records containing Confidential SDE Information, including access to any locked storage where such records are kept;
3. A process for reviewing policies and security measures at least annually;
4. Creating secure access controls to Confidential SDE Information, including but not limited to passwords; and
5. Encrypting of Confidential SDE Information that is being transmitted electronically.

C. In the case of an actual or suspected Confidential Information Breach related to this Agreement, a Contractor shall, upon becoming aware of the breach:

1. Notify the other Contractor, the CSBE and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours after becoming aware of or suspecting that any Confidential SDE Information the Contractor possesses or controls has been subject to a Confidential Information Breach or suspected breach;
2. Immediately cease all use of the Confidential SDE Information provided by the CSBE or developed internally by the Contractor; and
3. Within three (3) business days after providing notification hereunder, present to the Office of the Attorney General and the CSBE either:
 - a. A report detailing the breach and a plan to mitigate the effects of the breach and specifying the steps taken to ensure future breaches do not occur, or
 - b. A report detailing why, upon investigation, the Contractor believes no breach in fact occurred.
4. Based on the report and, if appropriate, plan provided, the CSBE will decide, in its sole discretion, whether to permit the Contractor to restart use of the Confidential SDE Information or to terminate this Agreement as to such Contractor.

D. Each Contractor acknowledges that if the United States Department of Education's Student Privacy Policy Office determines pursuant to 34 C.F.R. 99.67 that such Contractor has improperly redisclosed PII from Education Records, the CSBE may not allow such Contractor access to PII from Education Records for at least five (5) years.

VIII. PARTIES' REPRESENTATIVES.

A. UC identifies the following single individual to serve as its representative under this Agreement:

Frank Masur
Title: IT Manager

Address: UCLA GSE&IS Building 326
300 Charles Young Drive North
Los Angeles, CA 90095-1522

Email: masur@cresst.ucla.edu

Office: (310) 794-9144

- B. Cambium identifies the following single individual to serve as its representative under this Agreement:

Name: Carsten Wilmes, Ph.D.

Title: Program Director, Cambium Assessment, Inc.

Address: 1000 Thomas Jefferson St, NW, Washington, DC, 20007

Email: carsten.wilmes@cambiumassessment.com

Office: (202) 403-5617

Mobile: (312) 718-2444

- C. The aforementioned representatives shall be responsible for transmitting all data requests and maintaining a log or other record of all data requested and received pursuant to this Agreement, including confirmation of the completion of any projects and the return or destruction data as required by this Agreement. The CSBE or its agents may upon request review the records required to be kept under this section.

- D. CSBE names the following individual as its contact person:

Ajit Gopalakrishnan, Chief Performance Officer

Performance Office

Connecticut State Department of Education

450 Columbus Boulevard

Hartford, CT 06103

Phone: (860) 713-6888

Fax: (860) 713-7033

Email: ajit.gopalakrishnan@ct.gov

- IX. RELATED PARTIES. Each Contractor represents that it is authorized to bind to the terms of this Agreement, including its provisions on confidentiality and destruction or return of student data, all of its employees who may have access to Confidential SDE Information or may own, lease or control equipment or facilities of any kind where Confidential SDE Information is stored, maintained or used in any way. This Agreement takes effect only upon acceptance by CSBE and by authorized representatives of each Contractor, by which each institution agrees to abide by its terms and return or destroy all Confidential SDE Information upon completion of the research for which it was intended or upon the termination of CSBE's current relationship with such Contractor.

In addition, notwithstanding that UC and Cambium have substantially similar obligations under this Agreement, or that "Contractor" is used throughout this Agreement to refer to UC and/or to Cambium "Contractors" is at times used to refer collectively to UC and Cambium, UC and Cambium are unrelated parties and are wholly independent of one another, and nothing in this Agreement will be construed as constituting or deemed to constitute a partnership, joint venture, or agency relationship between the UC and Cambium. For the avoidance of doubt, UC and Cambium will each be solely responsible for its performance of this Agreement, and neither UC nor Cambium has the authority to act in any way as the representative of the other party, to bind the other party to any obligations or agreements hereunder, or to answer for or otherwise have any liability arising out of any acts or omissions of the other party, whether or not related to or arising out of this Agreement.

- X. TERM and CANCELLATION. This Agreement takes effect upon signature by the authorized representative of each party and, unless sooner terminated in accordance with the terms hereof, will remain in effect until June 30, 2025. The parties further understand that the CSBE may cancel this Agreement at any time, upon reasonable written notice. The CSBE specifically reserves the right to cancel this Agreement without notice should the CSBE, in its sole discretion, determine that Confidential SDE Information has been released in a manner inconsistent with this Agreement, has not been maintained in a secure manner, or that substantially similar data access has become generally available for research purposes through any other mechanism approved by the CSBE, and such access is available to the Contractors under terms no less favorable than the terms set forth in this Agreement.
- XI. AMENDMENTS. Any amendment to this Agreement must be in writing, and shall not be effective until executed by all parties to this Agreement, and where applicable, the Attorney General. Such amendments shall be required for extensions to the final date of this Agreement specified in Section X above, and for any amendments to terms and conditions specifically stated in this Agreement, including but not limited to revisions to the maximum contract payment, to the unit cost of service, to the contract's objectives, services or plan, to due dates for reports, to completion of objectives or services, and to any other contract revisions determined material by the CSBE.
- XII. CONTRACT ASSIGNMENT. No right or duty, in whole or in part, of a Contractor under this Agreement may be assigned or delegated without the prior written consent of the CSBE.
- XIII. SEVERABILITY. If any provision of this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.
- XIV. ENTIRE AGREEMENT. This Agreement, together with its attachments, constitutes the entire agreement among the parties with respect to the subject matter hereof, and no other terms and conditions in any document, acceptance or acknowledgment shall be effective or binding unless expressly agreed to in writing by CSBE and the Contractors.

ACCEPTANCES AND APPROVALS:

By UC:



Signature (Authorized official)

5/3/21 / ____
Date

Brian Roe, Director Industry Research and Material Transfer
Name, Title (Authorized Official)

By Cambium Assessment, Inc.:



Signature (Authorized official)

05 / 04 / 2021
Date

Christopher Lowe, Director, Contracts
Name, Title (Authorized Official)

By the Connecticut State Board of Education:



Signature (Authorized official)

5 / 6 / 21
Date

Desi Nesmith, Deputy Commissioner of Education
Name, Title (Authorized Official)

APPENDIX A:

Process, Planned Research, and Data Needs

COLLABORATIVE FOR THE ALTERNATE ASSESSMENT OF ENGLISH LANGUAGE PROFICIENCY (CAAELP) PROJECT

Below are the lists of data elements that will be provided by CSBE under this Agreement, in order to allow UC and Cambium to conduct the following studies for or on behalf of CSBE, to ensure that the assessment system is providing accurate characterizations of student English language knowledge and skills.

All data will be provided for the 2021-22 through 2024-2025 school years.

Data collected will include student demographic and item response data typical of assessment development, field testing, and operational assessments. The researcher will request statewide assessment records as they become available from the State Department of Education, including:

1. State through-year and end-of-year Alt ELPA summative assessments for ELSCDs in grades K–12:

- a. Alt ELPA student files
- b. Alt ELPA item files
- c. Alt ELPA audio files (recordings of student responses to speaking items)

2. Student Demographics and Enrollment Information

- a. grade of enrollment
- b. school of enrollment
- c. home language
- d. parent education
- e. socioeconomic status indicator
- f. IEP status
- g. 504 plan status
- h. English Learner (EL/LEP) status (program, date of entry, and date of exit/reclassification)
- i. graduation/persistence indicator
- j. alternate assessment status/eligibility
- k. primary IDEA disability label
- l. primary classroom setting
- *m. information about student characteristics related to student's
 - expressive communication
 - receptive language
 - assistive technology and AAC devices
 - sensory needs and sensory aids
 - motor function, mobility, and mobility needs

- health or behavior issues that impact instruction/attendance
- skills related to reading
- skills related to writing
- skills related to mathematics

** These data represent fields typically collected via a Learner Characteristics Inventory (LCI).
These data will be collected via teacher survey conducted by CRESST*