



TENNESSEE DEPARTMENT OF

EDUCATION

Confidential Data Approval Procedures

December 23, 2013

Purpose: In accordance with Public Chapter 905 Section 6 (C), this document outlines “criteria for the approval of research and data requests from state and local agencies, the general assembly, and the public.” The document describes the department’s current processes for handling confidential data requests from researchers and the protective measures required on any data that we provide for research purposes.

I. Data Requests – Research Review Process

Standard requests for data approval within the department of education are evaluated by the Research Advisory Council, composed of department leadership, and by a secondary Internal Review Committee that includes the General Counsel and the Assistant Commissioner for Policy and Legislation. As noted on our website, we consider the following criteria when evaluating requests:

- Requirements of state statute and federal law
- Privacy concerns and security procedures
- Availability of staff to monitor the data release
- Perceived benefits of research and connection to key departmental priorities

There are certain instances when the request can bypass the standard procedure and move instead through an expedited process. For this to happen, the request must be one where:

- a) Time is of the essence and the RAC could not approve quickly enough
- b) The research project is limited in scope
- c) The data that will be provided is limited in scope

Both processes are detailed below:

Standard Procedure

1. Request goes to TDOE Research Advisory Council (RAC), which meets on a quarterly basis. The RAC hears recommendations from the Director of Research and Policy and provides a final recommendation to the Commissioner to approve or deny the request.
2. Request proceeds to the Internal Review Committee for formal sign-off and then goes to Commissioner for final approval.
3. Once the Commissioner's approval has been granted, a Memorandum of Agreement is finalized and data is provided by the Office of Research and Policy.

Expedited Procedure

1. Request goes to Internal Review Committee, which meets on a monthly basis.
2. Request goes to Commissioner for final approval.
3. Once the Commissioner's approval has been granted, a Memorandum of Agreement is finalized and data is provided by the Office of Research and Policy.

II. Data Provision

Once a data request has been approved, researchers must complete the standard TDOE Memorandum of Agreement (MOA) drafted by the TDOE general counsel. The MOA includes a series of protections to ensure careful handling of the data and no release that violates state or federal laws. However, we also include below the data usage guidelines:

Storage and Transfer

1. The data must be stored where **only** the MOA-designated primary and secondary investigator(s) may access the data.
2. The location of **all copies** of the data must be carefully tracked. The primary and secondary investigators will monitor the access logs for the database for activity in violation of this Data Confidentiality and Security Agreement Form

3. All data transfers will be encrypted with a minimum of 128 bits. Source data files will be stored in a secured location with access limited to system administrators and primary investigators
4. Data files **must** remain secure throughout the duration of data storage
5. All data will be housed in firewall protected system software. Intrusion detection efforts must be in place for the system components
6. Security notices affecting the system software must be monitored and patches applied to minimize the risk of security breach

Usage

7. All Primary and Secondary Investigators must sign and execute this MOA or the Tennessee Data Confidentiality and Security Agreement (Attachment A of the MOA)
8. Data may be accessed **only** by primary and secondary investigator(s) that have signed this MOA or the Tennessee Data Confidentiality and Security Agreement (Attachment A of the MOA)
9. Data **may not** be shared with any other individuals outside those designated as the primary and secondary investigator(s) in the MOA
10. Data may be used **only** for analyses that respect privacy and confidentiality of all concerned parties including students, teachers, classrooms, schools, districts, intermediate school districts and the State of Tennessee
11. Data may **only** be used for the purposes of answering the research questions and/or hypotheses presented in the Project Overview and Statement of Work (Section 1 of this MOA)
12. Publically available discussions, presentations and reports based upon the confidential data **may not** include information that would make it possible to identify a student, teacher, classroom, school, district, intermediate school district or the State of Tennessee unless specific permission has been granted in writing to do so
13. Internal discussions and reports should protect the privacy, anonymity and confidentiality of all concerned parties if there is any reasonable possibility that the internal document may become publically available
14. Internal documents that contain any identifying information must clearly be marked "confidential—for internal use only"
15. In any instances where populations may include only a few individuals, all primary and secondary investigators will apply statistical cutoff procedures to ensure that confidentiality is maintained. The investigators' system will block any aggregate results with a statistical cutoff in which fewer than five persons might be disclosed. Other measures such as reporting percentages and ranges of data and avoiding the reporting of counts will be used as well to ensure statistical security
16. The handling of all data will, at all times, adhere to the Family Educational Rights and Privacy Act (FERPA)

Disposal

17. The data **must** be destroyed in accordance with the date designated for destruction in the signed MOA
18. If an extension on the data destruction deadline is needed, the TDOE Internal Review Board **must** be contacted, in writing, to approve an extension
19. A certificate of destruction will be sent via US mail to the TDOE Internal Review Board on the date of the data loan expiration

Data Release Incidents

20. Any instances of unauthorized disclosure of personally identifiable information that come to the attention of the investigators must be reported to the TDOE within twenty-four (24) hours of being brought to the attention of the investigators
21. Inappropriately releasing data from a student, teacher or other personal record, whether through negligence or intent, will be subject to potentially permanent loss of access to TDOE data and records
22. Any agents, other entities, or primary or secondary investigators who violate this MOA, whether through negligence or intent, will not have access to any TDOE student data for five years as required by FERPA. All violations will be reported to the appropriate federal and state enforcement agencies