

MEMORANDUM OF UNDERSTANDING REGARDING DATA SHARING

This Memorandum of Understanding, (hereinafter referred to as “MOU”), is made by and between Warren County School District a legal Pennsylvania entity, (hereinafter referred to as “the District”), located at 6820 Market St. Russell, Pennsylvania 16345 and MIND Research Institute, a California corporation (hereinafter referred to as “Contractor”), located at 5281 California Ave., Suite 300 Irvine, CA 92617

RECITALS

WHEREAS, certain District teachers and students have been using Contractor’s ST Math supplemental math instructional software (hereinafter referred to as “Program”); and

WHEREAS, District seeks to have Contractor provide an analysis of student usage of Contractor’s Program as compared to District’s student outcomes; and

WHEREAS, Contractor is therefore seeking access to confidential pupil records of certain pupils of the District; and

WHEREAS, the District has specific policies in place, in accordance with federal and state law, which regulate when such records are released; and

WHEREAS, more specifically, the District’s Policy on Student Records incorporates a the requirements of the Family Educational Rights and Privacy Act (20 U.S.C § 1232g; 34 C.F.R. Part 99); and

WHEREAS, the District’s Policy permits the release of confidential pupil records to “school officials” with “legitimate educational interests”; and

WHEREAS, the District has determined that Contractor is a school official with legitimate educational interests in the confidential pupil records to be disclosed pursuant to this MOU; and

NOW, THEREFORE, in consideration of the foregoing herein and the mutual promises and covenants set forth herein, the parties agree as follows:

1. OBLIGATIONS OF THE District

- a. The District will disclose the following confidential pupil records to Contractor for the purpose of correlating ST Math data with District records and then performing analysis:
 - i. Schools & Grades & School Years & Cohorts
 1. Schools: All using ST Math
 2. Grade 3, Grade 4, Grade 5
 3. that used ST Math in 21-22, 22-23
 - ii. Data Elements
 1. student ID

2. teacher name or other teacher identifier (used to group students)
 3. grade level
 4. school name
 5. 21-22, 22-23 State Math Assessment Scores
 - a. Math Scale Scores and Proficiency Level
 - b. At District option, can include ELA scores for comparison
 6. Student Attributes: District may include in the data file any student attributes that District would like to have sub-studies performed on
- b. Unless otherwise agreed to by the parties, the District will transfer the data to Contractor via secure FTP.
 - c. The District will comply with all of its internal policies and federal and state laws regarding the disclosure of confidential pupil records.

2. OBLIGATIONS OF CONTRACTOR

- a. Contractor will accept the confidential pupil records for the specific purpose of: correlating the ST Math results stored within Contractor's system under unique identifiers with the data provided by the District set forth in ¶ 1a above, and evaluating and reporting upon the relationships between ST Math use and test scores.
- b. Contractor will send correlated data tables back to the District via secure FTP, unless another format is agreed to by the parties.
- c. Contractor agrees that the confidential pupil records, and any personally identifiable information contained therein, will only be used for the specific purpose identified in ¶ 2a of this MOU. This obligation will survive the termination of the MOU.
- d. In accordance with the provisions of FERPA, Contractor will not permit any other party to have access to the identifiable information contained in the confidential pupil records. This obligation will survive the termination of the MOU.
- e. Contractor will de-identify or destroy all confidential pupil records disclosed pursuant to this MOU when the records are no longer needed for the specific purpose identified in ¶ 2a of this MOU.
- f. Contractor has a duty, under this MOU, to be familiar with, and abide by, all provisions of FERPA, relevant Pennsylvania statutes and the District's policies, even if not specifically mentioned herein.
- g. Contractor will not be charged for the confidential pupil records disclosed pursuant to this MOU.

3. INDEMNITY

- a. Contractor shall indemnify and hold harmless the District, its agents, employees and officers against any and all claims, demands, actions and causes of action and resulting liability, loss, damages, costs and expenses arising out of the disclosure of records pursuant to this MOU for injury to persons and damages to the extent caused directly or proximately by any wrongful, intentional or negligent act or omission of Contractor or Contractor's officers, employees or agents. This obligation shall not extend to wrongful, intentional or negligent acts or omissions of Contractor, its officers, employees and agents, if and only if, such acts or omissions are in response to a grossly negligent directive, policy or instruction directly issued to Contractor by the District or its employees.
- b. To the extent permitted by the laws of the State of California, the District shall indemnify and hold harmless Contractor, its officers, employees and agents against any and all claims, demands, actions and causes of action and resulting liability, loss, damages, costs and expenses for injury to persons and damages to the extent caused directly or proximately by any wrongful, intentional, or negligent act or omission of the District and its employees so long as such act or omission is within the scope of employment.
- c. The obligations identified in ¶ 3 of this MOU will survive the termination of the MOU.

4. TERMINATION

- a. If, in its sole discretion, the District determines that Contractor has failed to comply with FERPA, Pennsylvania law or regulations, or the District's policies on student records, or the provisions of this MOU, the District has the right to immediately terminate this MOU by written notice. Such a termination will constitute notice to Contractor to de-identify or destroy the records disclosed pursuant to this MOU immediately.
- b. The District has the right to terminate this MOU at any time, for any reason, by giving Contractor ten (10) days written notice of such termination. Such a termination will constitute notice to Contractor to de-identify or destroy the records disclosed pursuant to this MOU immediately.

5. NOTICE

- a. Notice to Contractor will be sufficient if sent by Certified or Registered mail to Andrew Coulson, 5281 California Ave., Suite 300 Irvine, CA 92617 or to such other address as Contractor may designate to the District in writing, with an electronic copy to acoulson@mindresearch.org.
- b. Notice to the District will be sufficient if sent by Certified or Registered mail to 6820 Market St. Russell, Pennsylvania 16345 or to such other address as District may designate to Contractor in writing, with an electronic copy to Lynn Shultz at ShultzL@wcsdpa.org.

6. TERM

This MOU will be in effect from August 1, 2023 for one year unless terminated pursuant to ¶ 4 or until the confidential pupil records are no longer needed for the specific purpose identified in ¶ 2a and are de-identified or destroyed by Contractor.

7. MODIFICATION

No modification, expansion or amendment of this MOU will be of any force or effect unless in writing and signed by the parties hereto.

8. SEVERABILITY

All terms and covenants herein are severable. In the event any single term or covenant is found invalid by an agency or court of competent jurisdiction, this MOU will be interpreted as if such invalid terms or covenants were not contained herein.

9. CHOICE OF LAW & FORUM

This MOU will be governed in all respects by, and construed in accordance with, the laws of the State of California. The venue of any action hereunder will be in Orange County, California.

10. FINAL EXPRESSION

This MOU is intended by Contractor and District as a final expression of their agreement and as a complete and exclusive statement of its terms. This MOU supersedes all prior proposals, negotiations, conversations, discussions and agreements among the parties concerning the subject matter hereof.

[signature page follows]

IN WITNESS WHEREOF, the parties have signed this Memorandum of Understanding.

Warren County School District

MIND RESEARCH INSTITUTE

BY: _____
President, Board of School Directors

BY: _____
Authorized Signatory

Title:

Title: Education Success Manager

Date

Date

ATTEST:

BY: _____
Secretary, Board of School Directors