

INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN
THE CITY OF MILWAUKEE AND MILWAUKEE PUBLIC SCHOOLS

This CONFIDENTIALITY AGREEMENT (Agreement) is made by and between THE CITY OF MILWAUKEE (“City”), and MILWAUKEE PUBLIC SCHOOLS (“MPS”), and is effective [DATE] unless otherwise specified.

The parties, by signing below, agree to the Agreement as contained herein.

WHEREAS, the City and MPS have endorsed an initiative to jointly aid in reconciliation of immunization records; and

WHEREAS, the Common Council of the City, by virtue of adopting Resolution #231304 on [January 11, 2024], has authorized the appropriate City officials to enter into this Agreement with MPS for and on behalf of the City; and

NOW THEREFORE, MPS and the City agree to the Agreement as follows:

THIS CONFIDENTIALITY AGREEMENT (“Agreement”) is entered into on _____, 20__ by and between the Milwaukee Board of School Directors, a public school district organized and existing under Wis. Stat. Chapter 119 and the Constitution of the State of Wisconsin and the City of Milwaukee, a Wisconsin municipal corporation, by and through its City of Milwaukee Health Department (“MHD”). MPS and MHD are each a “Party”; together, they are the “Parties.”

RECITALS:

WHEREAS, MPS maintains educational and health records subject to the Family Educational Rights and Privacy Act (FERPA) and the Wisconsin Pupil Records Law, as defined within Wis. Stat. Chapter 118.125. These records include a pupil’s immunization records and other physical health records; and

WHEREAS, MHD wishes to access MPS’s records regarding pupil immunization records for the purposes of reconciling immunization records; and

WHEREAS, this Agreement shall outline MHD’s responsibility to maintain MPS’s pupil immunization records and other physical health records confidential from unauthorized personnel, as required by federal and state laws and regulations; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, MPS and MHD agree as follows:

1. **Confidentiality Obligations.** MHD acknowledges that they may have access to student vaccination and health data as well as other education and health records, in the course of performing their duties related to specified purpose as outlined above (“Purpose”). MHD agrees to treat all such records as confidential and not to disclose or use the information for any purpose other than those authorized by law or court order.

2. **Confidential Information.** For the purpose of this Agreement, “Confidential Information” means any and all material disclosed to MHD, whether directly or indirectly, or as a result of MHD’s observation thereof, by MPS or any of its officers, employees, or agents. Notwithstanding the forgoing, Confidential Information excludes the following: (1) information that was in possession of MHD prior to disclosure; (2) information that is publicly available at the time of disclosure; (3) after disclosure, information that becomes publically available through no fault or omission of MHD; (4) information required to be disclosed by law and/or as a result of a final order of a court of competent jurisdiction; provided, however, that MPS has been provided reasonable prior written notice of such disclosure and an opportunity to contest the same; or (5) information obtained from a third party with a lawful right to disclose such information.

3. **Legal Compliance.** MHD agrees to abide by the provisions in FERPA (20 U.S.C. § 1232g) and the Wisconsin Pupil Records Law (Wis. Stat. § 118.125) with regard to the confidentiality and disclosure of educational and health records. MHD understand the importance of safeguarding the privacy rights of students and their families. MHD understands that MPS may suffer irreparable damage if MHD discloses any Confidential Information in violation of this Agreement. MHD will hold the Confidential Information in strict confidence and shall utilize any and all reasonable methods to prevent unauthorized third parties from accessing the Confidential Information. MHD shall not use the Confidential Information except for the Purpose set forth herein, and shall not disclose the Confidential Information to any third party, without the prior written approval of MPS.

4. **Use of Information.** MHD shall use the student vaccination and health data and other educational and health records solely for the purpose of performing their duties related to maintaining accurate immunization records. Any use of the information beyond the Purpose requires prior written consent from MPS.

5. **Safeguarding the Information.** MHD shall take all reasonable precautions to protect the confidentiality of the student vaccination and health data and other educational and health data and other educational and health records. This includes implementing appropriates security measures to prevent unauthorized access, disclosure, or alteration.

6. **Limitations on Disclosure.** MHD shall not disclosure the student vaccination and health data or other educational or health records to any third party without explicit written authorization from MPS, or as required by applicable laws, regulations, and court order.

7. **Duration of the Agreement.** The Agreement shall run from the Effective Date until December 31, 2026 (“Term”). At the end of the Term, the Agreement shall extend for an additional three (3) years, except if MPS provides written notice to terminate before the end of the Term.

8. **Return of Information.** Upon the termination of this Agreement or request by MPS, MHD shall promptly return or destroy any and all copies of the Confidential Information in their possession.

9. **Surviving Obligations.** The duties and obligations of MHD contained in this Agreement shall expire three (3) years from the date hereof. Notwithstanding any expiration or termination of this Agreement, all use and non-disclosure obligations of MHD under this Agreement shall survive the expiration or termination of this Agreement indefinitely.

10. **Remedies.** MPS shall have any and all rights and remedies available at law and in equity against MHD in the event of a threat or actual breach of this Agreement.

11. **Notice.** Notices under this Agreement should be in writing, and shall be provided to the respective address/contact party specified below, by personal delivery, U.S. mail, commercial delivery service or email (provided that any notice sent via email shall be deemed received upon the email recipient's acknowledgement of receipt). Contact persons may, as necessary, be changed from time to time by written notice provided from one party to the other.

If to MPS: Email:	If to MHD: Lindsey Page, MPH Milwaukee Health Department Zeidler Municipal Building, 841 N. Broadway, 3rd Floor, Milwaukee, WI 53202
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12. **Governing Law and Venue.** This Agreement, and all questions arising in connection herewith shall be governed by and construed in accordance with the internal laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in the City of Milwaukee for matters arising under state law and in federal district court in the eastern district of Wisconsin for matters arising under federal jurisdiction.

13. **Waiver.** This Agreement is binding upon MHD, and is for the benefit of and enforceable by MPS. No failure or delay by MPS in exercising any right, power, or privilege under this Agreement shall operate as a waiver thereof. Wherever in this Agreement a Party's consent is required, such consent shall not be unreasonably withheld or delayed.

14. **Severability.** If any term or provision of this Agreement shall to any extent be declared invalid or unenforceable then the remainder of this Agreement shall not be affected thereby and each term and provision of the Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.

15. **Assignment.** Except with the prior written consent of MPS, MHD shall not assign any of the rights or obligations in this Agreement. Any assignment by MHD without the prior written consent of MPS shall be null and void.

16. **Compliance with all Laws; Wisconsin Public Records Law.** MHD shall comply with all applicable federal, state and local statutes, laws, ordinances, rules and regulations pertaining to its obligations under the Agreement. MHD and MPS hereby acknowledge that the Parties are bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. 19.21, et seq. MHD shall maintain accurate and complete records with respect to all matters covered by this Agreement. MHD acknowledges that it is obligated to assist MPS in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement.

17. **Amendment.** Any changes to this Agreement shall be through a written amendment signed by authorized representatives of the Parties.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, which, when taken together, shall constitute one and the same document. Facsimile and/or email-PDF copies of signatures shall be accepted as originals.

[Signature Page Follows]

APPROVED:

MILWAUKEE PUBLIC SCHOOLS

DR. KEITH P. POSLEY
Milwaukee Public Schools Superintendent

Date:_____

MARVA HERNDON, President
Milwaukee Board of School Directors
Date:_____

CITY ATTORNEY’S OFFICE

Approved as to form and execution this
____ day of _____, 2023.

Jordan Schettle
Assistant City Attorney

APPROVED:

CITY OF MILWAUKEE

CAVALIER JOHNSON, Mayor
City of Milwaukee

Date:_____

JAMES R. OWCZARSKI, City Clerk
City of Milwaukee
Date:_____

COUNTERSIGNED:

AYCHA SAWA, Comptroller
City of Milwaukee
Date:_____

CITY ATTORNEY’S OFFICE

Approved as to form and execution this
____ day of _____, 2023.

Travis J. Gresham
Assistant City Attorney