

#129341



## FOSTER YOUTH DATA SHARING AGREEMENT ("Agreement")

### COVER PAGE

This Foster Youth Data Sharing Agreement ("**Agreement**") is entered between and amongst each Party that executes the Signature Page, which form is set forth in Attachment 1 to this Agreement. An FCSS-approved public agency in Fresno County may become a party to this Agreement by submitting a completed Signature Page signed by the public agency's authorized representative and approved by the FCSS Contact/Designee listed on FCSS' Signature Page. FCSS and all other public agencies that have completed and signed a Signature Page are also referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party**". All Parties, except FCSS, are also referred to individually as an "**Agency**" and collectively as "**Agencies**," and all Agencies that are California public school districts are also referred to individually as a "**School District**" and collectively as "**School Districts**."

#### 1. Recitals.

- 1.1 Foster youth often change residences, foster parents, and schools. Thus, schools and other public agencies have difficulties identifying and obtaining information regarding the foster youth in order to provide them with educational, counseling, and other services. Foster youth are youth who are placed in foster care and include those youth whom FCSS or an Agency, based on available information, believes is in foster care.
- 1.2 FCSS, through FCSS' Foster Youth Education Services Department, desires to facilitate School Districts joining a web-based information sharing network ("**Foster Youth Network**") partially based upon providing access to Sacramento County Office of Education's ("**SCOE**") Foster Focus ("**Foster Focus**") system; cooperate with the Agencies to gather, process, and post on the Foster Youth Network certain information and data regarding foster youth in Fresno County ("**Foster Youth Data**"); and coordinate and collaborate with the Agencies to allow FCSS and the Agencies to identify, and share information regarding, foster youth in Fresno County.
- 1.3 By this Agreement, the Parties desire to set forth the terms and conditions governing the development, operation, and maintenance of the Foster Youth Network; the gathering, posting, and sharing of Foster Youth Data in the Foster Youth Network; and procedures and safeguards required for the Foster Youth Network and Foster Youth Data.
- 1.4 Many Agencies entering into this Agreement are currently parties to a prior agreement for substantially the same purposes, which agreement was amended to have a termination date of June 30, 2021, the "**Prior Agreement**". It is the intent of FCSS to remain a party to the Prior Agreement until its complete termination as to all of the other parties to the Prior Agreement, but to terminate the Prior Agreement as to individual Agencies upon their execution of this new Agreement. Each individual Agency's execution of this Agreement shall constitute its individual termination of their participation in the Prior Agreement.
- 1.5 This Agreement has a new component not present in the Prior Agreement. Some School Districts will have the option, upon FCSS approval, to directly upload information into the Foster Focus system from their student information system. This is optional, and not required for participation in the Foster Youth Network, or for accessing information in the Foster Youth Network.

2. **"Contract Term" and Mutual Termination of any Prior Agreement.** This Agreement shall become effective on the date on which FCSS and at least one other Party execute its respective Signature Page ("**Contract Effective Date**"). For any other Party who executes the Signature Page after the Contract Effective Date, the Contract Effective Date shall be the date on which that Party executes the Signature Page. This Agreement shall continue in full force and effect commencing on the Contract Effective Date until and including the "**Contract Termination Date**" of June 30, 2024 ("**Contract Term**"), unless this Agreement is terminated during the Contract Term as provided in Article 3 of Attachment 3 to this Agreement.

Effective on the Contract Effective Date for each Agency, if such Agency is a party to the Prior Agreement, this Agreement shall serve as the mutual and immediate written termination of the Prior Agreement as to FCSS and that individual Agency, if Agency was a party to the Prior Agreement.

3. **Agreement Documents.** This Agreement contains and consists of the following:

- 3.1 Cover Page
- 3.2 Attachment 1 – Signature Page
- 3.3 Attachment 2 – Party Access to Foster Youth Data
- 3.4 Attachment 3 – General Terms and Conditions
  - Article 1: Services and Obligations
  - Article 1A: Additional Terms and Conditions
  - Article 2: Payment
  - Article 3: Termination of Agreement
  - Article 3A: Renewal of Agreement
  - Article 4: [Intentionally Left Blank]
  - Article 5: Indemnity
  - Article 6: Dispute Resolution
  - Article 7: General Provisions
- 3.5 Attachment 4 – SCOE, Foster Focus Confidentiality Agreement
- 3.6 Attachment 5 – FCSS and SCOE, Linking Agreement
- 3.7 Attachment 6 – District Linking Agreement

**ATTACHMENT 1  
SIGNATURE PAGE**

*If additional spaces are needed to list all Party Contact/Designees, make copy of this Attachment.*

NAME OF PARTY: County of Fresno  
(State full legal name of Party)

The above-listed Party is (mark one):  School District  Other Agency  FCSS

PARTY CONTACT/DESIGNEE (list Party's contact/designee; if more than one department of the Party is involved, the Party may list a Contact/Designee for each department):

Name: Delfino E. Neira Title: Director

Address: 205 W. Pontiac Way, Bldg. 2  
Clovis, CA 93612

Phone No.: (559) 600-2301 Email Address: dneira@fresnocountyca.gov

Name: Kirk Haynes Title: Chief Probation Officer

Address: 3333 E. American Ave, Suite B  
Fresno, CA 93725

Phone No.: (559) 600-1298 Email Address: khaynes@co.fresno.ca.us


Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_ Email Address: \_\_\_\_\_

In consideration of the covenants, conditions, and stipulations set forth in this Agreement and for good and valuable consideration and/or the mutual benefits to be derived from this Agreement, the above Party, intending to be legally bound, agrees as set forth herein, and executes this Agreement. Each person executing this Agreement on behalf of a Party represents that he or she is authorized to execute on behalf of, and to commit and bind, the Party to this Agreement.

**AUTHORIZED AGENCY REPRESENTATIVE**

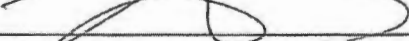
By:   
(Signature)

Print Name: Steve Brandau

Title: Chairman of the Board of Supervisors

Date of Execution: April 27, 2021

**FCSS CONTACT/DESIGNEE APPROVAL**

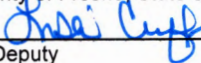
By: 

Print Name: Hank Gutierrez

Title: Deputy Superintendent

**ATTEST:**

**BERNICE E. SEIDEL**  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By:   
Deputy

**ATTACHMENT 2**

**To Foster Youth Data Sharing Agreement**

**ACCESS TO FOSTER YOUTH DATA**

*If access to the Foster Youth Network and Foster Youth Data is authorized by departments of a Party, this Attachment must be completed and signed by the Contact/Designee for each department.*

Name of Party: County of Fresno

**Foster Youth Data Access:** The above-listed Party may only access the Foster Youth Network and Foster Youth Data in accordance with this completed and signed Attachment. Upon the last date on which this Attachment is signed by the Party and approved by the FCSS Contact/Designee, this Attachment shall become and constitute a part of the Foster Youth Data Sharing Agreement ("Agreement"). (See Section 1.4 of the General Terms and Conditions.)

A. Complete *if* the Party will authorize access to the Foster Youth Network and Foster Youth Data by departments (state the name of the department): Department of Social Services

B. Check one:  the Party  the above-listed department of the Party may access the Foster Youth Network and Foster Youth Data concerning only the following records (mark one):

Records of all foster youth.

Records of only foster youth who are enrolled with or placed under court jurisdiction with the Party:

the Party (District)  the Department

C. The following Foster Youth Data may be **ACCESSED** (check each that applies):

1. Placement agency, including the name and address of the agency with which the student has been placed, the name and contact information of the assigned social worker, and/or probation officer, and other personnel.

2. Demographics.

3. Residential history.

4. School placement history.

5. Education-related health information, including immunizations.

6. Education records, including academic records, including test scores, grade point average, attendance information, date and other information regarding IEP, and disability.

7. Significant contacts, including contact information for the person holding educational rights, Independent Living Program worker, Instructional Case Manager, attorney, Court Appointed Special Advocate.

8. Foster youth services provided and case notes relating to such services.

9. Documents stored for the foster youth related to his or her education.

10. Court date and detention date.

PARTY CONTACT/DESIGNEE SIGNATURE

By: 

(Signature)

Print Name: Delfino E. Neira

Date of Execution: 3/29/21

Title: Director

FCSS CONTACT/DESIGNEE SIGNATURE

By: 

Print Name: Hank Gutierrez

Date of Execution: 3/15/21

Title: Deputy Superintendent

**ATTACHMENT 2**  
**To Foster Youth Data Sharing Agreement**  
**ACCESS TO FOSTER YOUTH DATA**

*If access to the Foster Youth Network and Foster Youth Data is authorized by departments of a Party, this Attachment must be completed and signed by the Contact/Designee for each department.*

Name of Party: County of Fresno

**Foster Youth Data Access:** The above-listed Party may only access the Foster Youth Network and Foster Youth Data in accordance with this completed and signed Attachment. Upon the last date on which this Attachment is signed by the Party and approved by the FCSS Contact/Designee, this Attachment shall become and constitute a part of the Foster Youth Data Sharing Agreement ("Agreement"). (See Section 1.4 of the General Terms and Conditions.)

A. Complete *if* the Party will authorize access to the Foster Youth Network and Foster Youth Data by departments (state the name of the department): Probation Department

B. Check one:  the Party  the above-listed department of the Party may access the Foster Youth Network and Foster Youth Data concerning only the following records (mark one):

Records of all foster youth.

Records of only foster youth who are enrolled with or placed under court jurisdiction with the Party:

the Party (District)  the Department

C. The following Foster Youth Data may be ACCESSED (check each that applies):

1. Placement agency, including the name and address of the agency with which the student has been placed, the name and contact information of the assigned social worker, and/or probation officer, and other personnel.

2. Demographics.

3. Residential history.

4. School placement history.

5. Education-related health information, including immunizations.

6. Education records, including academic records, including test scores, grade point average, attendance information, date and other information regarding IEP, and disability.

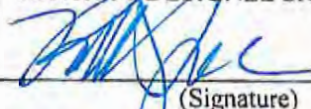
7. Significant contacts, including contact information for the person holding educational rights, Independent Living Program worker, Instructional Case Manager, attorney, Court Appointed Special Advocate.

8. Foster youth services provided and case notes relating to such services.

9. Documents stored for the foster youth related to his or her education.

10. Court date and detention date.

**PARTY CONTACT/DESIGNEE SIGNATURE**


By:   
(Signature)

Print Name: Kirk Haynes

Date of Execution: 3/24/2021

Title: Chief Probation Officer

**FCSS CONTACT/DESIGNEE SIGNATURE**

By:   
Print Name: Hank Gutierrez

Date of Execution: 3/15/21

Title: Deputy Superintendent

**ATTACHMENT 3**  
**GENERAL TERMS AND CONDITIONS**

**ARTICLE 1 SERVICES AND OBLIGATIONS.**

**Section 1.2 Parties' Responsibilities.** The obligations and responsibilities of the Parties are as follows:

**1.2.1 Provision and Updating of Foster Youth Data.**

**1.2.1.1 FCSS and School Districts:** Each School District and FCSS will, pursuant to procedures and format to be established and agreed upon by FCSS and the School Districts, provide to FCSS and/or SCOE via Foster Focus an electronic copy of, or allow FCSS access to one or more of the following, historical, current, and updated information for that Party's students in foster care:

- (a) The name, address, and phone number (or the county/state identification number) of the school site and school district of attendance.
- (b) Grade level performance and transcript(s).
- (c) Student demographics, including but not limited to birth date, race, ethnicity, and any identification numbers but excluding social security number.
- (d) Student guardianship and educational-rights holder's contact information.
- (e) Attendance records.
- (f) Disciplinary history, including suspensions, expulsions and reinstatement conditions.
- (g) Enrollment history, including enter date(s), exit date(s), and reason(s).
- (h) Current class schedule.
- (i) Home language survey results.
- (j) Educational testing results.
- (k) Individualized Education Program ("IEP"), Student Study Team ("SST"), and Section 504 (Rehabilitation Act of 1973) information.
- (l) Behavioral intervention plans.
- (m) Psychological-educational reports.
- (n) Information related to additional special education programs or other services offered to or utilized by the student and any related reports.
- (o) Identify or designate which student records are foster youth.
- (p) Any notations regarding the student by FCSS or the Party with which the student is placed.

**1.2.1.2 Other Agencies:** Each Party that is listed as Other Agency on its Signature Page, pursuant to procedures and format to be established and agreed upon by FCSS and such Agencies, will provide to FCSS an electronic copy of or allow FCSS access to historical, current, and updated information for any foster youth placed with that Agency.

**1.2.2 Confidentiality.** All Parties shall maintain and safeguard the confidentiality of the Foster Youth Network, all Foster Youth Data, and other Confidential Materials in accordance with Section 1A.1 below and the Foster Focus Confidentiality Agreement ("**Confidentiality Agreement**") attached as **Attachment 4** to this Agreement. A Confidentiality Agreement must be completed and signed for each employee of a Party who the Party authorizes to have access to the Foster Youth Network and/or Foster Youth Data. The originals of all completed and signed Confidentiality Agreements shall be transmitted to FCSS to the attention of FCSS' Contact/Designee at the address listed in FCSS' Signature Page.

**1.2.3 Contact/Designee and Employee Access Authorization.** Each Party shall designate at least one contact person on its Signature Page ("**Contact/Designee**") to serve as the primary contact with the other Parties and to complete and sign Attachment 2 of this Agreement. A Party may change its Contact/Designee by providing written notice to the other Parties in accordance with Section 7.5.

- 1.2.4 **Implementation and Self-Monitor.** Each Party shall develop internal policies and procedures to implement this Agreement, including the Party's compliance with all applicable laws. Upon FCSS' request, a Party shall provide FCSS with a copy of that Party's internal policies and procedures, and evidence of actions that the Party has taken to monitor compliance with such policies and procedures.

**Section 1.3 FCSS Responsibilities.** In addition to the obligations in Section 1.2 above, FCSS shall have the following obligations and responsibilities:

- 1.3.1 Facilitate, operate, and maintain the Foster Youth Network.
- 1.3.2 Gather the Foster Youth Data electronically from the other Parties and match them to records for dependent and delinquent foster youth using various data elements to ensure accurate matches before processing and sending the processed Foster Youth Data to the Foster Focus system. SCOE via Foster Focus will provide the electronic portal to operate and maintain the Foster Youth Network, and will have access to the Foster Youth Data. From time to time, FCSS, in its discretion, may modify or alter the process of gathering and/or the flow of sharing Foster Youth Data, or may discontinue sending Foster Youth Data to the Foster Focus system and instead may facilitate the local sharing of Foster Youth Data pursuant to this Agreement.
- 1.3.3 Allow access to the Foster Youth Network to each Party's authorized employees.
- 1.3.4 Provide training to the other Parties regarding access to and use of the Foster Youth Network.
- 1.3.5 Provide technical and support services to the other Parties related to the Foster Youth Network and Foster Youth Data.
- 1.3.6 Coordinate and facilitate communications between the Parties regarding the provision of services to, and handling of education-related matters involving, foster youth in Fresno County.
- 1.3.7 Provide some School Districts with the option to directly link their student information systems to the Foster Focus system to directly upload Foster Youth Data ("**Linking**" or the "**Link**"). FCSS has entered into a Linking Agreement with SCOE ("**FCSS and SCOE, Linking Agreement**") attached as **Attachment 5**, which indicates the model by which FCSS may contract for Fresno County School Districts to Link to the Foster Focus system. Upon approval for Linking by FCSS, participating School Districts must execute the District Linking Agreement ("**District Linking Agreement**") attached as **Attachment 6**, prior to directly Linking and uploading Foster Youth Data. FCSS will pay to SCOE the \$5,000.00 Linking fee due upon Linking on behalf of a participating School District, and then each School District who Links will be responsible for the annual \$500.00 maintenance fee, as set forth more specifically in the District Linking Agreement.

**Section 1.4 Party Access to Foster Youth Data.** Each Party may only access the Foster Youth Network and Foster Youth Data in accordance with the Party's completed Party Access to Foster Youth Data, the form of which is attached to this Agreement as **Attachment 2**. Upon the last date on which the Party Access to Foster Youth Data is signed by the applicable Party and FCSS, it shall become and constitute a part of this Agreement.

## **ARTICLE 1A ADDITIONAL TERMS AND CONDITIONS.**

### **Section 1A.1 Use and Handling of Confidential Records and Information.**

- 1A.1.1 **Compliance with Applicable Laws.** Any Party receiving or accessing Confidential Materials, as this term is defined in this Subsection, and its officers, employees and agents shall: (1) protect the confidentiality and maintain the security of the Confidential Materials; (2) not release, disseminate, or publish the Confidential Materials, except as required by law or a court order, as may be permitted under this Agreement, or as the Party providing the Confidential Materials may authorize in writing; (3) not use the Confidential Materials for any purpose not related to the performance of this Agreement; and (4) protect all Confidential Materials, including those materials saved or stored in an electronic form, by adequate security measures to ensure that they are safe from theft, loss, destruction, erasure, alteration, and unauthorized viewing, duplication, and use. "**Confidential Materials**" shall mean the Foster Youth Data, and all documents and information that federal and/or California laws prohibit from being disclosed, or that are subject to privacy or other legal protections, including but not limited to, student records and information. In addition, each Party shall comply with the federal Health Insurance Portability and Accountability Act, 45 C.F.R. 160 *et seq.* ("**HIPAA**"), as applicable, Health Information Technology for Economic and Clinical Health Act ("**HITECH**"), as applicable, all regulations promulgated under HIPAA and HITECH by the U.S. Department of Health and Human Services, as applicable, the California Confidentiality of Medical Information Act, California Civil Code § 56 *et seq.*, as applicable, and any other applicable federal and California laws that protect the privacy, security, and confidentiality of an

individual's medical and health information. Each Party shall also comply with all applicable federal and California laws that relate to the use, security, confidentiality, privacy, dissemination, retention, or destruction of records relating to this Agreement, which shall include but are not limited to, the California Education Code, California Welfare and Institutions Code, and the Family Educational Rights and Privacy Act ("FERPA"). Each School District shall specifically ensure its own compliance with all notice, description, and/or definition requirements set forth pursuant to FERPA, as applicable.

1A.1.2 Authorization to Share and Access Confidential Information. Each Party agrees and represents that all confidential student information relating to foster students provided to FCSS pursuant to this Agreement is being released to FCSS to access and share as authorized by court order for an individual student, or as authorized by written consent of the student's parent, guardian, or education rights holder, or as otherwise authorized by law.

1A.1.3 Access and Confidentiality. Access to the Foster Youth Network and Foster Youth Data shall be approved and allowed only for a person who has satisfied all of the following: (1) is an employee of a Party, (2) completed fingerprinting and criminal background checks (California Department of Justice and Federal Bureau of Investigation) and have no conviction and no pending criminal proceeding for a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c); (3) reviewed and signed the Confidentiality Agreement that is attached as Attachment 3 to this Agreement; and (4) authorized by the Party to access and use the Foster Youth Network and Foster Youth Data. Each completed and signed Confidentiality Agreement, containing the employee's original signature, shall be transmitted by the Agency employing the employee to FCSS. FCSS shall obtain and retain a completed and signed Confidentiality Agreement for each FCSS employee who is authorized to have access to the Foster Youth Network and Foster Youth Data. Each completed and signed Confidentiality Agreement shall become and constitute a part of this Agreement. Each Party agrees to notify FCSS immediately when there are changes in the employment status of its employee(s) who access student information under terms of this Agreement.

1A.1.4 Survival of Obligations. The obligations of this Article shall survive the termination of this Agreement.

**Section 1A.2 Release of De-Identified Information.** Each Party authorizes FCSS to release de-identified educational data to any organization selected by FCSS solely for the purpose of conducting education research and evaluation (referred to as "Evaluators") with the goal of providing information that can be used to improve educational services and outcomes for foster youth. All Party information released to Evaluators shall first be de-identified by FCSS in compliance with applicable legal requirements. Specifically, Party authorizes FCSS to release the following categories of de-identified student educational data to Evaluators to evaluate: test scores, grade level, grade point average, grades, race, ethnicity, birth year, disciplinary information (suspensions, expulsions, etc.), classes, primary language, secondary language, attendance, credits earned, school moves, and enrollment history (enter dates, exit dates, etc.). FCSS shall not release any personally identifiable data to Evaluators such as student names, birthdates, social security numbers, or school-assigned student IDs. Prior to releasing Party's de-identified data to Evaluators, FCSS shall first generate and assign random study IDs to students' data. The study IDs shall be generated and assigned randomly by FCSS and FCSS will not release any information to Evaluators about how FCSS randomly generates and assigns study IDs or information that would allow Evaluators to identify students based on study IDs. The study IDs shall not be used for any purpose other than identifying a de-identified record for purposes of educational research by Evaluators, and such study IDs will not be able to be used to ascertain personally identifiable information about a student. The study IDs shall not be based on student social security numbers, school-assigned IDs, or other personal information. This section will remain valid through the Contract Term and any amended Contract Term of the Foster Youth Data Sharing Agreement. The Party may withdraw its authorization for FCSS to release de-identified information as set forth in this section through written notice to FCSS at any time.

**Section 1A.3 Work Product and Intellectual Property Rights.** With the exception of student data and information that are provided by the Agencies in their original form (collectively "**Agency Student Data**"), FCSS solely owns and retains all rights to all software, data, and other intellectual property rights that constitute or are part of the Foster Youth Network, including but not limited to the Foster Youth Data and any other Agency Student Data that FCSS has gathered and processed as part of the Foster Youth Network (collectively "**FCSS Work Product**"). No Agency shall have ownership, right, title, or interest in any FCSS Work Product or any student data and information that FCSS provides to the Foster Youth Network, except that each Agency shall have the right to use the FCSS Work Product and such student data and information in accordance with this Agreement. FCSS hereby grants to each Agency, while the Agency is a Party to this Agreement, a non-exclusive license to access and use the Foster Youth Network and Foster Youth Data in accordance with this Agreement and applicable laws. Any Agency Student Data that an Agency provides shall remain that Agency's sole property and, to the extent the Agency has any rights or interests in such Agency Student Data, the



Agency shall retain all such rights and interests and FCSS shall acquire no right or interest in such Agency Student Data except that the Agency, during the period that the Agency is a Party to this Agreement, grants to FCSS and the other Agencies a non-exclusive license to use such Agency Student Data in accordance with this Agreement and applicable laws.

## **ARTICLE 2 PAYMENT.**

**Section 2.1 No Payment Unless and Until Notice.** Until and unless notice is provided pursuant to Section 2.2 below, each Party shall not owe to or be entitled from the other Party any compensation for any services rendered under, or costs incurred relating to or in connection with, this Agreement, and no Party shall be charged for use of the Foster Youth Network or access to the Foster Youth Data.

**Section 2.2 Notice Regarding Payment.** FCSS reserves the right to charge each Agency a fee for the Agency's use of the Foster Youth Network ("Fee"). If FCSS decides to charge such a Fee, FCSS shall provide a written notice to each Agency setting forth the amount of the proposed Fee, the method or formula by which the proposed Fee is determined, and the date on which the proposed Fee will become effective ("**Preliminary Fee Notice**"). Any Agency that objects to the amount, or method or formula used to calculate the proposed Fee must provide FCSS with a written statement within 15 days of the date of FCSS' Preliminary Fee Notice, stating the reason(s) for the objection. After receipt and consideration of any Agency objections, FCSS shall provide each Agency with written notice of the amount of the final Fee that will be charged to each Party, the method or formula by which the final Fee is determined, and any adjustment in the date on which the final Fee will become effective ("**Final Fee Notice**"). Any Fee that FCSS may charge the Agencies under this Agreement: (1) shall not exceed the actual cost that FCSS incurs to operate and maintain the Foster Youth Network, which cost shall be based on the operation and maintenance cost incurred by FCSS during the previous 12-month period, and (2) shall not become effective until at least 90 days after the date of FCSS' Final Fee Notice.

## **ARTICLE 3 TERMINATION OF AGREEMENT.**

### **Section 3.1 Grounds for Termination.**

3.1.1 Expiration of Contract Term. This Agreement shall terminate upon expiration of the Contract Term. Any termination of this Agreement during the Contract Term by any Agency shall be in accordance with Subsection 3.1.2 below or, if by FCSS, shall be in accordance with Subsection 3.1.3 below.

3.1.2 Termination by Agencies. Each Agency, with or without cause, may terminate this Agreement as to itself during the Contract Term upon providing the other Agencies and FCSS with at least 30 days written notice before the effective date of termination. An Agency may terminate this Agreement as to that Agency without affecting and terminating this Agreement as between and amongst the remaining Agencies and FCSS. Upon termination of this Agreement by all Agencies, this Agreement shall terminate as to all Parties.

3.1.3 Termination by FCSS. FCSS, with or without cause, may terminate this Agreement during the Contract Term upon providing the Agencies with at least 60 days written notice before the effective date of termination. Unless FCSS agrees in writing to transfer the operation and maintenance of the Foster Youth Network to an Agency or Agencies, this Agreement shall terminate as to all Parties upon the effective date of termination. If FCSS agrees to such a transfer, this Agreement shall continue in full force and effect between and amongst the Agencies, and the name of the Agency or Agencies that will operate and maintain the Foster Youth Network shall be substituted in each place where FCSS appears in this Agreement and that Agency or Agencies shall assume all of FCSS' duties and obligations under this Agreement.

### **Section 3.3 Rights and Obligations Upon Termination.**

3.3.1 Termination as to an Agency. Upon termination of this Agreement as to an Agency, FCSS shall terminate all access that the Agency has to the Foster Youth Network and FCSS shall cease the gathering of Agency Student Data from the Agency. Upon the Agency's request, FCSS shall return to Agency or delete all of the Agency's Agency Student Data that are in FCSS' possession. However, any Foster Youth Data generated or derived from the Agency's Agency Student Data before the effective date of termination shall remain in and part of the Foster Youth Network.

3.3.2 Expiration of Contract Term, Termination as to All Agencies, or Termination by FCSS. Upon expiration of the Contract Term pursuant to Subsection 3.1.1, termination of this Agreement by all Agencies pursuant to Subsection 3.1.2, or termination of this Agreement by FCSS pursuant to Subsection 3.1.3, FCSS shall terminate all access that each Agency has to the Foster Youth Network and FCSS shall cease the gathering of Agency Student Data from each Agency. Upon an Agency's request, FCSS shall return to the Agency or delete all of the

Agency's Agency Student Data that are in FCSS' possession. However, any Foster Youth Data generated or derived from the Agency's Agency Student Data before the effective date of termination shall remain in and part of the Foster Youth Network.

**Section 3.4 Force Majeure.** No Party shall be liable for any failure or delay in performing this Agreement if the failure or delay is caused by events or circumstances that are beyond a Party's reasonable control and occurring without the Party's fault or negligence, and which by the Party's exercise of due diligence could not reasonably have been avoided and was not avoided, which events or circumstances, include, but are not limited to, acts of God, such as tornadoes, lightning, earthquakes, hurricanes, floods, or other natural disasters; terrorist attacks; wars; strikes; lockouts; riots; explosions; or governmental acts or order, including sanction, embargo, and import or export regulation.

**ARTICLE 3A RENEWAL OF AGREEMENT.** Where this Agreement terminates by expiration of the Contract Term, the Parties may mutually agree in an addendum executed by the Parties to renew this Agreement for a successive period of the same duration as the Contract Term, or for a longer or shorter period.

**ARTICLE 4 [INTENTIONALLY LEFT BLANK]**

**ARTICLE 5 INDEMNITY.** Each Party's indemnity, defense, and hold harmless obligations to the other Party under this Agreement shall be governed solely by the following: (A) a Party ("**Indemnitor**") shall indemnify and hold harmless the other Party ("**Indemnitee**") to the full extent permitted by California laws for any Loss sustained by Indemnitee or a Third Party only in proportion to Indemnitor's liability based on a Final Determination; and (B) each Party shall defend and pay for all of its attorney's fees and litigation costs related to any Claim or Loss without any right against or from the other Party for indemnity and/or hold harmless of such costs and fees, or any right for defense. A Party who intends to seek or seeks indemnity and/or hold harmless for any Loss from the other Party: (1) shall notify the other Party in writing and within a reasonable time after the Party knows or becomes aware of any Claim that may or will result in a Loss, describing, if known or determinable, the pertinent circumstances, all entities and persons involved, and the amount being claimed; and (2) shall not settle or otherwise resolve the Claim until it has notified the other Party of the Claim in accordance with the preceding provision (1) and given the other Party written notice and an opportunity to participate in and to consent to the settlement or resolution of the Claim, which consent the other Party shall not unreasonably withhold. A Party's obligations under this Article are not limited to or by any insurance that it maintains or the lack of insurance but apply to the full extent permitted by California laws, and shall survive the termination of this Agreement. "**Claim**" means any claim, demand, lawsuit, cause of action, action, cross-complaint, cross-action, and/or proceeding arising out of, resulting from, or relating to this Agreement where there has been no Final Determination. "**Loss**" means any bodily injury, property damage, personal injury, advertising injury, liability, loss, damage, judgment, expense and/or cost (excluding attorney's fees and litigation costs that Indemnitee or a Third Party incurred or paid related to a Loss or Claim) arising out of, resulting from, or relating to this Agreement and for which there has been a Final Determination that a Party is or both Parties are liable. "**Third Party**" means a person who or an entity that: (A) is not a Party to this Agreement; (B) is not an officer, director, principal, owner, or employee of the Party; and (C) is not contracted with (whether directly or through a subcontract of any level) or otherwise retained by a Party to act for or on the Party's behalf. "**Final Determination**" means any judgment, order, or decision by a court of competent jurisdiction or a governmental entity with jurisdiction to render such judgment, order, or decision where the judgment, order, or decision is not subject to appeal or the period for an appeal has expired.

**ARTICLE 6 DISPUTE RESOLUTION.** The Parties shall meet and confer in good faith to resolve any disputes between them regarding or relating to this Agreement, including the alleged breach, interpretation, or application of this Agreement. Except for an action to obtain injunctive relieve to preserve the status quo and/or prevent irreparable injury or harm pending the completion of the meet-and-confer required by this Article, a Party may not commence a civil action regarding or relating to this Agreement until after compliance with this Article.

**ARTICLE 7 GENERAL PROVISIONS.**

**Section 7.1 Entire Agreement, Amendment, and Severability.** This Agreement constitutes, and is a complete and exclusive statement of, the Parties' agreement pursuant to Code of Civil Procedure section 1856. This Agreement shall be amended or modified only by a writing executed by the Parties. If a court of competent jurisdiction holds any provision of this Agreement void, illegal, or unenforceable, this Agreement shall remain in full force and effect and shall be interpreted as though such invalidated provision is not a part of this Agreement, and the remaining provisions shall be construed to preserve the Parties' intent and purpose in this Agreement.

**Section 7.2 Applicable Law, Venue, and Interpretation.** This Agreement is to be construed according to its fair meaning and not strictly for or against any Party, and in accordance with California laws without giving effect to

California's conflict of law provisions. All claims, disputes, and lawsuits arising out of or in connection with this Agreement shall be resolved or adjudicated in the appropriate state or federal court in Fresno County, California, provided that nothing in this Agreement constitutes a waiver of immunity to suit by FCSS.

**Section 7.3 Execution by Facsimile or in Counterparts.** The Parties may sign this Agreement in counterparts such that their signatures may be on separate pages. A copy, facsimile or an original of this Agreement, with all signatures appended together, shall be deemed a fully executed agreement. Signatures transmitted by facsimile or other electronic means shall be deemed original signatures.

**Section 7.4 Independent Contractor.** Contractor is retained as an independent contractor, and it and its officers, employees, and agents are not and shall not represent themselves as officers, employees, or agents of FCSS. This Agreement shall not be construed to create a partnership or joint venture between the Parties.

**Section 7.5 Notices.** All notices and communications required or permitted under this Agreement shall be deemed duly given by a Party if in writing and delivered: (1) personally, sent by a reputable overnight courier services with package tracking capability; (2) certified mail, return receipt requested, first class postage prepaid; or (3) regular mail *and* facsimile or email, to the other Party, to the attention of the other Party's Contact/Designee, at the address, facsimile, and/or email, as applicable, stated on the other Party's Signature Page and, if addressed to FCSS, a copy of notices required by this Agreement (not to include invoices and any supporting documentation, and e-mails or other communications relating to normal implementation of this Agreement) to the following: Attention: General Counsel, Legal Services Department, Fresno County Superintendent of Schools, 1111 Van Ness Avenue, Fresno, CA 93721. A Party may change its/his/her designated representative and/or address by notifying the other Party in writing and in the manner described in this Section.

**Section 7.6 Assignment, Transfer and Waiver.** Contractor shall not assign or transfer any of Contractor's rights or obligations under this Agreement, including by operation of law or change of control or merger, without FCSS' prior written consent. Any failure by a Party to comply with any covenant, term, or condition of this Agreement may be waived only in writing by the Party in whose favor a covenant, term, or condition runs.

**Section 7.7 Compliance with Applicable Laws.** In performing each Party's obligations under this Agreement, each Party shall comply with applicable federal and California anti-discrimination laws, as well as all applicable federal and State of California laws, codes, and regulations applicable.

**Section 7.8 Binding Effect and No Third Party Benefits.** This Agreement is for the benefit of and shall be binding on the Parties and their respective predecessors, successors, governing bodies, principals, officers, employees, agents, representative, and assigns (if such assigns are made in accordance with this Agreement). Nothing in this Agreement creates any contractual relationship between any Party and any third party or gives any third party any claim or right of action against any Party.

**ATTACHMENT 4**  
**To Foster Youth Data Sharing Agreement**

**[Attach SCOE, Foster Focus Confidentiality Agreement]**

**Note:** All persons seeking authorization to access the Foster Youth Network and Foster Youth Data must satisfy all of the conditions in Section 1A.1.3 of Attachment 3 to the Foster Youth Data Sharing Agreement.



**Foster Youth Services Coordinating Program of Sacramento  
Foster Focus Confidentiality Agreement**

As an **employee** of \_\_\_\_\_, the undersigned may have access to confidential communications and foster youth information currently or previously in, or to be entered into, the *Foster Focus* system, maintained by the Sacramento County Office of Education's (SCOE's) Foster Youth Services Coordinating Program (FYSCP). In consideration of said relationship and in consideration of the granting of access to *Foster Focus*, the undersigned agrees as follows:

1. For the purposes of this agreement, "confidential communications and foster youth information" shall be considered to include any and all information defined as such under federal and state law contained in *Foster Focus* at any time, or information accessible to the undersigned for the purpose of entering all or any part of the information into *Foster Focus*.
2. Confidential information shall be accessed only as necessary to perform legitimate FYSCP related job duties.
3. Confidential information shall be handled carefully and with due diligence to protect against such information inadvertently being disclosed.
4. Confidential information shall not be divulged, copied, released, sold, loaned, reviewed, transmitted, altered or destroyed except as authorized by FYSCP.
5. The undersigned's login identity, password or other access codes shall be safeguarded to avoid their unauthorized use by others. The undersigned agrees to be responsible for all activities undertaken using his or her login, password or other access codes.
6. The undersigned agrees not to divulge his or her password to others.
7. The undersigned agrees to immediately request a new login identity and password if there is reason to suspect that another person may have access to his or her login or password.
8. The undersigned understands and agrees that the obligations under this agreement will continue after termination of employment with the agency identified above and/or after access to *Foster Focus* has terminated.

I understand revealing confidential information is a violation of FYSCP policy and law, and could result in civil, criminal, or adverse employment action and/or termination of my relationship with SCOE.

\_\_\_\_\_  
Applicant's Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title (print)

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Date

**As the applicant's supervisor**, I hereby authorize the above-named employee to access *Foster Focus* for the purpose of performing authorized FYSCP partnership duties subject to the terms of this agreement. (Please complete the following:)

Circle access to be granted:  **M**  **T**  **W**  **Th**  **F** from (time) **7 am** to **6 pm**

This employee may access *Foster Focus* from  one computer or  multiple computers.

Please set expiration date of this agreement for  6 months  1 year  None, until further notice (check one).

I agree to notify SCOE when this employee's employment terminates or his/her work assignment changes to non-FYSCP activities.

\_\_\_\_\_  
Applicant's Supervisor's Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title (print)

\_\_\_\_\_  
Date

**COE or Agency MUST indicate User Type:** \_\_\_\_\_

Select a user type from the Foster Focus User Type Reference Guide

\_\_\_\_\_  
COE or Agency Approval - signature and date

**ATTACHMENT 5**  
**To Foster Youth Data Sharing Agreement**  
**[Attach FCSS and SCOE, Linking Agreement]**

**Note:** This document is provided for information, and by way of reference, indicating the contractual and legal relationship between FCSS and SCOE to facilitate data linking.

**ATTACHMENT 6**  
**DISTRICT LINKING AGREEMENT**

Name of School District: \_\_\_\_\_

**Data Linking to SCOE Foster Focus:** The above-listed Party desires to directly link their student information system with the Sacramento County Office of Education's Foster Focus system to facilitate the upload of the Party's Foster Youth Data. Upon the last date on which this Attachment is signed by the Party and approved by the FCSS Contact/Designee, this Attachment shall become and constitute a part of the Foster Youth Data Sharing Agreement ("Agreement"). (See Section 1.4 of the General Terms and Conditions.)

- A. Pursuant to FCSS's contractual relationship with SCOE, FCSS shall initiate with SCOE the direct Linking of the Party's student information system to the Foster Focus system. (See Attachment 5.)
- B. FCSS shall pay to SCOE the \$5,000.00 Linking fee on the Party's behalf, and provide Party with communication and assistance in establishing the Link.
- C. The Party will make appropriate staff available to FCSS and SCOE to complete the Linking, and will within one year of this Attachment's execution begin to upload Foster Youth Data into the Foster Focus system, following the security and data specifications provided by FCSS and SCOE. The Party will participate in data validity testing, as requested by FCSS or SCOE, and will execute any additional requested documentation to evidence, confirm, or clarify the intent of this District Linking Agreement.
- D. While FCSS will pay the initial \$5,000.00 Linking fee on behalf of the Party, each year following the successful Linking each Linking Party will be charged an annual \$500.00 maintenance fee. FCSS will advance payment of the \$500.00 maintenance fee to SCOE on behalf of the Party, and will invoice the Party for the \$500.00 fee, which fee shall be paid by Party to FCSS within 60 days of receipt of the invoice. This \$500.00 maintenance fee **shall not** constitute a "Fee" as defined in Section 2 of the General Terms and Conditions, and shall not be subject to the terms of Section 2.

**SCHOOL DISTRICT CONTACT/DESIGNEE SIGNATURE**

By: \_\_\_\_\_  
(Signature)

Date of Execution: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FCSS CONTACT/DESIGNEE SIGNATURE**

By: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_