

# Kentucky Center for Education and Workforce Statistics

## Data Access and Use Policy

August 29, 2017

### 1) POLICY STATEMENT

The Office for Education and Workforce Statistics (hereinafter referred to as the “Kentucky Center for Education and Workforce Statistics”, the “Center”, or “KCEWS”) collects and integrates education and workforce data into the Kentucky Longitudinal Data System (“KLDS”) so that policymakers, practitioners and the public can make informed practice and policy decisions. KCEWS does not permit access to, or the disclosure of, any education records, workforce records or personally identifiable information contained therein except for those purposes expressly authorized under the Family Educational Rights and Privacy Act (FERPA), Richard B. Russell National School Lunch Act (NSLA), and all other applicable state and federal data privacy laws.

### 2) PURPOSE

This policy establishes the rules for the access, use, and re-disclosure of data collected, stored, and/or maintained by the Kentucky Center for Education and Workforce Statistics. This policy is consistent with the disclosure provisions of FERPA, the NSLA, and all other applicable state and federal data privacy laws.

### 3) SCOPE OF POLICY

This policy applies to all employees, contractors and any individual or group requesting access to confidential, sensitive, or restricted information stored within the KLDS or maintained by KCEWS.

- a) Individuals granted access to any data in the KLDS or maintained by KCEWS must abide by all related policies, laws, operating procedures, written agreement(s) and/or other required documentation from any agency submitting data to KCEWS. These include but are not limited to restrictions on the release of personally identifiable information and statistically identifiable information as defined in FERPA, 20 U.S.C. 1232g, as well as the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., KRS 157.200 et seq. and 707 KAR Chapter 1, KRS 151B.280, 787 KAR 2:020, KRS 341.190, 20 C.F.R. § 603, Subpart B, 20 C.F.R. § 617.57, 34 C.F.R. § 361.38, 20 U.S.C. 9274, KRS 164.283 and other relevant state and federal data privacy laws.
- b) The Board, pursuant to KRS 151B.134 (3), shall amend this Policy, as necessary, to conform with existing or prospective state and federal law and may, at its discretion, amend this Policy in any manner it shall see fit so long as the Policy remains consistent with state and federal law. At least ten (10) days prior to finalizing an amendment to the Policy, KCEWS shall circulate a draft demonstrating the proposed amendments to all data providers for review and comment.

- c) KCEWS shall maintain Acceptable Use Guidelines with rules to ensure that the data from the KLDS are used in ways that comply with relevant confidentiality statutes and regulations.

#### 4) DEFINITIONS

- a) "Access" means the ability for an authorized user to view or manipulate data in the systems maintained by the Center.
- b) "Authorized agency" refers to a public agency that is approved by the Board to have access to the De-identified Reporting System (DRS).
- c) "Authorized user" refers to an authorized agency staff member or representative who is identified by the chief executive officer of the authorized agency as having authority to access the DRS on behalf of their agency. The authorized user shall meet all state and federal requirements necessary to access information of a data owner in the DRS. The authorized agency is responsible for notifying the Center within one business day when one of its authorized users separates from employment or should otherwise have their access terminated. The authorized agency must submit to the Center a KCEWS Authorized User Agreement signed by the authorized user and the chief executive officer of the authorized agency, and any additional forms required by the individual data owners prior to gaining access to DRS.
- d) "Board" or the "Board of the Kentucky Center for Education and Workforce Statistics" is the entity established in KRS 151B.134.
- e) "Cabinet," "Education and Workforce Development Cabinet," or "EWD" refers to the agency established in KRS 12.020 and KRS Chapter 151B, and to agency representatives employed by the EWD who are under the direct control of the agency.
- f) "Confidentiality" means any record or information not open for public inspection or where disclosure is restricted pursuant to relevant federal or state statute or regulation.
- g) "Council," "Council on Postsecondary Education" or "CPE" refers to the agency established in KRS 164.011, to the staff of the agency employed pursuant to KRS 164.013, and to agency representatives employed by the CPE who are under the direct control of the agency.
- h) "Data owner", "Data providers" or "providing agency" means one of the entities that provides data to the Center as referenced in KRS 151B.132.
- i) "De-identification" is a process for removing personally identifiable data in a manner sufficient to permit the examination of individual level data without disclosing the identity of individuals or resulting in re-identification of the individual when the data is compared with other previously released data sets. Data fields removed include all direct identifiers, and other sensitive and non-sensitive information that, alone or combined with other information that is linked or linkable to a specific individual, would allow identification. Care is specifically given to minimize risk of re-identification by examining other related data that may be linkable.
- j) "De-identified Data" means individual level data which contains no personally identifiable information and that can be analyzed without resulting in the disclosure of individual identities or the re-identification of individuals when combined with previous data sets.
- k) "Department," "Kentucky Department of Education," or "KDE" refers to the agency established in KRS 12.020 and KRS 156.010, to the staff of the agency employed pursuant to KRS Chapter

18A, KRS 156.010, KRS 156.800 et seq., and KRS 163.032, and to agency representatives who are employed or contracted by and under the direct control of the agency.

- l) "Directory Information" means information is contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended. It does not include a student's social security number; or student identification (ID) number, except unless a student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user; and a student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.
- m) "DRS" or "De-identified Reporting System" refers to the de-identified data in the KLDS that can be made available to authorized users to create reports and analysis.
- n) "Education records" means those records directly related to a student.
- o) "Family Educational Rights and Privacy Act" or "FERPA" means the federal law codified at 20 U.S.C. 1232g and its implementing regulations found in 34 C.F.R. Part 99.
- p) "KHEAA" or "Kentucky Higher Education Assistance Authority" refers to the agency established in KRS 164.742 and the adoption of assumed name in chapter 93 section 1, and to the staff and office representatives who are employed by and under the direct control of the agency.
- q) "KLDS" or "Kentucky Longitudinal Data System" refers to the statewide data system that contains education data and workforce data referenced in KRS 151B.131 and KRS 151B.132.
- r) "National School Lunch Act" or "NSLA" means the federal law codified at 42 U.S.C 1751.
- s) "Personally identifiable information" or "personally identifiable data" means information contained in an electronic record such as social security number, name, characteristic, or other information that alone or in combination would make an individual's identity easily traceable.
- t) "Records match" is the process where records for an individual are brought together from multiple data sources.
- u) "Re-disclosure" occurs when data, that have been disclosed to another party such as when a school district or institution sends identifiable data to a state agency, are then re-disclosed by that agency to a third party that is not under its direct control.
- v) "Research" means a formal investigation designed to develop or contribute to general knowledge.
- w) "Restricted disclosure data file" refers to an electronic data file which contains data that may be statistically identifiable because of unique combinations of elements or small cell sizes.

- x) “Security” includes measures to ensure that records are not lost, stolen, vandalized, disclosed in violation of confidentiality laws and this policy, accessed by unauthorized individuals, or otherwise rendered useless.
- y) “Standards Board,” “Kentucky Education Professional Standards Board,” or “EPSB” refers to the agency established in KRS 12.020 and KRS 161.028, to the staff of the agency employed pursuant to KRS Chapter 18A and KRS 161.017, and to agency representatives who are employed by and under the direct control of the agency.
- z) “Statistical data” refers to aggregate level data that are not personally or statistically identifiable in any way.
- aa) “KCEWS” or “Kentucky Center for Education and Workforce Statistics” refers to the office established in KRS 151B.131, and to the staff and office representatives who are employed by and under the direct control of the office.
- bb) Third party” is a party other than the authorized agencies, its staff, or its authorized representatives who request access to data or information from the Center.
- cc) “Time Sensitive Data Request” refers to a statistical data request received by the Center, which is requested in a shorter time frame than the five-day review period would allow.
- dd) “Workforce data” refers to data from employment, unemployment, workforce, and workforce preparation programs, which are provided to the Center.

## 5) INFORMATION COLLECTED AND MAINTAINED

KCEWS collects, integrates and maintains data from state, local and national education and workforce entities at the individual level to provide feedback to policy makers, practitioners, and the general public about Kentucky’s education and workforce programs. KCEWS data include but are not limited to:

- a) Early Learning Data –information for state-funded students between the ages of two and four served in a classroom setting. Data include enrollment dates and programs, school attended, social services received and assessment information.
- b) K-12 Data –information for kindergarten through 12<sup>th</sup> grade students and staff for Kentucky’s public schools. Data include enrollment and attendance records, schools attended, demographic data, courses taken, grades received, social services received, behavior records, assessment data and graduation date. School and district data include information on school facilities, teachers, teacher of record, courses and rosters, administrators and staff.
- c) Postsecondary Data –data from Kentucky’s public and private independent colleges and universities. Data at the student level include enrollment data including institutions attended, demographic data, courses and credit hours taken, degrees received, financial aid received, county and state of origin, and college readiness data. Institution data include the name and type of institution.
- d) Educator Certification and Licensure Data –data for all public school employees in Kentucky. Data include educator credentials, educator demographic data, college programs attended, dates of attendance, degrees received, assessment data, Internship data, teaching assignment and areas/grade levels qualified to teach.

- e) Higher Education Financial Aid Data –data about the financial assistance earned and disbursed for postsecondary students. Data include student demographics, state financial aid, when it was earned and when it was disbursed and the institution to which it was disbursed.
- f) Unemployment Insurance Data –employer, wage and unemployment claims payment data. Data include limited employee demographic data, earnings received by quarter and year, and industry worked. Employer data include employer industry, employer federal and state identification numbers, and employer name and location.
- g) Adult Education Data –data for all persons seeking adult education classes including High School Equivalency Diploma attainment as well as the staff who teach the adult education classes. Data include demographic data, enrollment data, programs and services received. Staff data include demographic data, education credentials and job description.
- h) Office for the Blind/Office of Vocational Rehabilitation Data –data about employment and independence training services provided to individuals with visual or hearing impairments. Data include demographic data, services received and date of services, credential received, employment data prior to services and post services.
- i) Eligible Training Provider Data –data about the training provided to individuals to increase their ability to obtain employment. Data include demographic data, program participation data, credential earned, credit hours attempted and earned and the institution attended.
- j) Health Care Licensure Data –data about individuals licensed to practice medicine or provide health care services in Kentucky. Data include demographic data and the health care license type.

## 6) DATA ACCESS

- a) **ACCESS FOR KCEWS STAFF AND AUTHORIZED AGENCY STAFF**
  - i. Only authorized KCEWS staff shall have access to identifiable information. Authorized KCEWS staff shall only access the identifiable information for the purpose of matching and linking records together and validating the accuracy of that process. KCEWS staff creating reports and fulfilling data requests may have access to individual level de-identified data solely for the purpose of generating timely reports about education and workforce programs to be used to guide decision makers in improving the Commonwealth of Kentucky’s education system and workforce programs. All authorized KCEWS staff that have access to individual level data must have an active Human Subject’s Research Certificate on file with KCEWS in accordance to the KCEWS Internal Review Board documentation.
  - ii. To the extent permitted by state and federal law, authorized agency staff from any Kentucky state agency may access statistical data related to measuring education and workforce programs. All such individuals must have an active Authorized User Agreement on-file with KCEWS. To the extent permitted by state and federal law, these authorized individuals may share aggregate data derived from the individual level, de-identified data internally within their agency, including with Cabinet and agency leadership, for the purposes of evaluating education and workforce programs or in the performance of official duties. Prior to sharing any statistical data externally pursuant to this section, an authorized individual shall notify

KCEWS and data owners and, additionally, provide them an opportunity to comment in the same manner set forth in Section 7 (b)(i). KCEWS shall maintain a current listing of agency personnel who have access to individual level de-identified and aggregate level data and maintain or verify current sufficient non-disclosure statements from each individual agency personnel who has access to individual level de-identified and aggregate level data.

**b) ACCESS FOR PUBLIC**

- i. The public may access aggregate data and tables through the KCEWS public facing website. KCEWS publishes a variety of data in aggregate form to ensure that the confidentiality requirements of state and federal law are satisfied, including the requirement to take into consideration the risk of individual re-identification. Data suppression and redaction guidelines are maintained in the KCEWS Acceptable Use Guidelines.
- ii. De-identified data sets may be provided by KCEWS to a requesting party if, as determined by KCEWS, publicly accessible data files do not fully address the research question identified by the requesting party and KCEWS has contemplated the risk of re-identification. Disclosure may be appropriate and authorized under the FERPA Studies Exception, the FERPA Audit or Evaluation Exception and/or the FERPA Financial Aid Exception. Access to data governed by the NSLA, specifically 7 C.F.R. 245.6, shall be restricted to only those allowances consistent with that federal law. Interested requesting parties should consult the Privacy and Technical Assistance Center's guidance on FERPA Exceptions for summary information of this guidance. Any such disclosure shall be made only if (1) the conditions in FERPA regulation 34 CFR 99.31(a) (6) are met; (2) The request for data sharing must be approved by KCEWS and data owners with an Information and Data Sharing Agreement, signed FERPA Studies, Financial Aid and/or Audit or Evaluation Exception to ensure compliance with FERPA regulations, NSLA Requirements and all relevant policies; (3) Requester agrees to return or destroy education records at the completion of research use, as described specifically in the data sharing agreement; and (4) Researcher or Requestor understands associated penalties for violation of data privacy, use or re-disclosure, as described in the data sharing agreement. Pursuant to KRS 161.030(4), this section shall not permit the disclosure of EPSB individual assessment scores maintained by the EPSB.
- iii. KCEWS may, at its discretion, defer requests for a single agency's data to that agency. KCEWS may elect to charge a requestor a reasonable fee to develop and process the statistical data or reports. Data may only be transferred electronically to external entities through a secure File Transfer Protocol site.

**c) ACCESS EXCEPTIONS**

With the consent of all participating agencies and to the extent permitted by state and federal law and in accordance with the requirements of KCEWS policies, KCEWS may release personally identifiable information for the sole purpose of increasing the match rate and improving data quality of the Kentucky Longitudinal Data System. Prior to release of data to an authorized user, a fully executed data and information sharing agreement must be in place and signed by KCEWS, the individual or agency receiving the data, and the data owners. Access to information covered

under FERPA is restricted to the FERPA Studies Exception, FERPA Audit or Evaluation Exception and/or the FERPA Financial Aid Exception. Access to data governed by the NSLA, specifically 7 C.F.R. 245.6, shall be restricted to the allowances of that federal law.

## **7) PUBLICATION AND REVIEW OF REPORTS; PRIOR NOTICE TO DATA OWNER**

Reports, publications and other public presentations of statistical data derived from the KLDS and DRS must adhere to the Center's Acceptable Use Guidelines to ensure individual privacy.

- a) Authorized users shall provide preview copies of all reports, publications and other statistical data derived from the DRS to KCEWS and to the data owners at least five (5) business prior to publication or distribution, except that notice shall be provided at least ten (10) days in advance when individual postsecondary institutions or K-12 schools are implicated by the report, publication or statistical data.
- b) KCEWS and Data owners may object to the publication or presentation for failure to comply with state or federal privacy laws regarding suppression or redaction requirements or the KCEWS Acceptable Use Guidelines. The KCEWS Board will review any objection and ensure compliance with all relevant state and federal privacy laws and the KCEWS Acceptable Use Guidelines.
- c) KCEWS shall provide preview copies of all reports, publications and other statistical data derived from the DRS to the data owners at least five (5) business, or ten (10) business days as applicable, prior to publication or distribution, except as follows:
  - i) Individual Postsecondary Institution or K-12 School: Notice shall be provided at least ten (10) business days in advance when individual postsecondary institutions are implicated by the publication;
  - ii) Consent: If all data owners respond and/or comment prior to the Expiration of the applicable response period, KCEWS may immediately proceed with publication and/or distribution of the report, publication or other statistical data.
- d) Time Sensitive Data Request: KCEWS may release a report, publication or other statistical data prior to the expiration of the applicable response period if it determines that waiting until the end of the window would frustrate the purpose of the request or otherwise result in harm to any agency. KCEWS will notify the data owners as soon as possible, prior to release. Data owners may object to the publication or presentation for failure to comply with state or federal privacy laws regarding suppression or redaction requirements or the KCEWS Acceptable Use Guidelines. The Board will review any objection and ensure compliance with all relevant state and federal privacy laws and the KCEWS Acceptable Use Guidelines

## **8) SECURITY REQUIREMENTS**

KCEWS shall ensure that data, copies of data and all reports containing personally identifiable information are maintained in a secure environment to prevent unauthorized access. A secure environment includes any electronic media, computer, server or network on which the data reside. KCEWS shall ensure that electronic files, reports or documents that contain personally

identifiable information are destroyed when no longer needed and/or required by law to be maintained. KCEWS shall use encryption or other best practices when using personally identifiable information, and shall require agencies to use encryption or other best practices when transferring personally identifiable information to the KCEWS.

**9) REQUESTS BY INDIVIDUALS TO EXAMINE THEIR PERSONAL DATA.**

In accordance with the Kentucky Open Records Act, individuals may request copies of their education records by mailing or faxing a written request to:

ATTN: Kate Akers, Executive Director  
Kentucky Center for Education and Workforce Statistics  
1050 US Highway 127  
Frankfort, KY 40601  
Fax Number: 502-564-3882

When appropriate, KCEWS will also suggest to the requester that the request be redirected to the primary agency with custody of the records that are subject to the request. KCEWS will notify the requesting individual in writing when this occurs.

**10) REQUESTS FOR DIRECTORY INFORMATION**

Requests for directory information, as defined in FERPA or defined in KRS 160.700(1), applicable to data collected from elementary and secondary education public schools or postsecondary institutions, cannot be fulfilled as the designation of directory information varies by each educational institution or school and KCEWS does not have information on the parameters of directory information for each institution or school or the opt out information for each student. KCEWS shall provide this policy information to any requester of directory information and direct the requester to pose the request to the individual institution or school that may respond to the request in accordance with its policies.