

Agreement No. 2025-01179-NCA

**Financial Aid and Admissions Application Filing Status Information Sharing
Agreement for Texas Public School District or Charter Schools**

Section 1. Parties

State Agency

Texas Higher Education Coordinating Board, or “THECB”
1801 N. Congress Ave., Ste. 12.200, Austin, TX 78701
P.O. Box 12788, Austin, TX 78711-2788

Participating Public School District or Charter

CANUTILLO ISD
7965 Artcraft
El Paso, Texas 79932

In Process

This Participation Agreement (Agreement) is executed between THECB and the named District, above. At times, THECB and District may be referred to singularly as “Party” and plurally as “Parties.”

Section 2. Term of Agreement

The term of this Agreement begins upon execution by all Parties. The Agreement continues unless terminated by either Party or by operation of law as provided herein.

Section 3. Definitions

For the purposes of this Agreement, the following definitions apply:

- 3.1. *ApplyTexas Counselor Suite* – The dashboard provided by THECB allows Authorized Personnel at Local Education Agencies (LEA) to access student-level information on Free Application for Federal Student Aid (FAFSA) and Texas Application for State Financial Aid (TASFA) filing status, as well as the status of *ApplyTexas* admissions applications.
- 3.2. *Authorized Personnel* – Employees of the LEA/District, secondary school, or eligible entity who require access to the FAFSA Filing Status Information to determine the completion status of a student’s FAFSA and facilitate providing assistance to such students in completing the FAFSA, including both paid and non-paid staff and authorized agents such as contractors, subcontractors, volunteers, or other parties to whom the LEA, secondary school, or eligible entity has outsourced any of its services or functions. All Authorized Personnel must be under the direct control of the LEA with respect to the use and maintenance of Institutional Student Information Record (ISIR) Data.

Authorized personnel will also have access to TASFA filing information, as well as the status of *ApplyTexas* admissions applications.

- 3.3. *District* – School District or Charter School created in accordance with the laws of Texas that have primary responsibility for implementing the state’s system of public education; also referred to as a Local Educational Agency.
- 3.4. *Department* – The United States Department of Education.
- 3.5. *Established Relationship* – Relationship where the student FAFSA applicant is enrolled in a secondary school under the legal authority of the LEA, or the LEA otherwise is providing services to the FAFSA applicant. In the case of a secondary school, an Established Relationship exists where the student FAFSA applicant is enrolled in the secondary school itself or the secondary school otherwise is providing services to the FAFSA applicant.
- 3.6. *FAFSA* – The Free Application for Federal Student Aid form, authorized by The Higher Education Act of 1965, (HEA) Section 483, which is the Department’s common application for determining the need and eligibility of a student for federal student aid.
- 3.7. *Filing Status Information* – Data elements provided by THECB to Districts for use by high school counselors to track student progress on applications submitted through the *ApplyTexas* system and whether students have completed financial aid forms required under Texas Education Code (TEC), §28.0256, including FAFSA or TASFA applications. The Counselor’s Suite displays the following student-level data:
 - 3.7.1 Each student’s name, date of birth, email address, phone number, and high school graduation date, as provided from application information in *ApplyTexas*. The Counselor’s Suite displays institutions where students applied through *ApplyTexas* and the submission status of these applications.
 - 3.7.2 FAFSA or TASFA Filing Status information including only Student’s first name; Student’s last name; Student’s date of birth; Student’s ZIP Code; completed submission date; processed date; a Selected for Verification flag (e.g., Selected for verification: Yes or No); and a Financial Aid completion flag, (e.g., completed: Yes or No).
- 3.8. *ISIR* – The Institutional Student Information Record is the output document resulting from the submission of a FAFSA to the Department and includes the data received, system generated data results and FAFSA Filing Status Information.

- 3.9. *TASFA* – The Texas Application for State Financial Aid, authorized by TEC, §61.07762, which is utilized by participating institutions of higher education in Texas in determining the need and eligibility of a student for state financial aid.

Section 4. Purpose of Agreement & Authority

The purpose of this Agreement is to establish the conditions under which THECB will provide to the Districts certain data received or generated by the Department concerning FAFSA applicants to disclose limited ISIR information to LEAs or secondary schools that have an Established Relationship with the student.

The HEA, as amended, 20 U.S.C. 1001 et seq. provides that ISIR data (including FAFSA Filing Status Information) may be used “to identify student applicants to determine whether or not a graduating secondary student has filed the application in coordination with local educational agencies or secondary schools to encourage students to complete the application.”

To encourage and assist students with the completion of a FAFSA, the Department allows state agencies such as THECB to disclose the FAFSA Filing Status Information of a student to an entity with an Established Relationship with the student, including a school district. (Updates to the FAFSA Completion Initiative and Means-Tested Benefits Outreach (April 8, 2024, General 24-35.)

Additionally, this Agreement permits the THECB through the *ApplyTexas* Counselor Suite to disclose limited student-level information to Districts from the *ApplyTexas* admission application and the TASFA.

Section 5. Obligations of District

- 5.1 *Designation of Primary Contact(s).* District has designated in Section 6.11 of this Agreement an individual or individuals within District to serve as the primary point of contact between THECB and District regarding the Agreement, including compliance with the Agreement’s terms.
- 5.2 *Limitations on Usage.* District shall only utilize FAFSA Filing Status Information for purposes consistent with section 483(a)(3)(B) of the HEA, as detailed in this Agreement and as enacted at the time this Agreement is fully executed or as thereafter may be amended. THECB may disclose a student’s FAFSA Filing Status Information to a District that has been approved by the Department’s Secretary of Education if the District has an Established Relationship with that Student. District shall only use all other Filing Status Information for purposes consistent with this agreement.
- 5.2 *Usage of Authentication Process.* Authorized Personnel seeking to access student-level information through the *ApplyTexas* Counselor Suite shall complete the authorization process through the local Education Service Center (ESC).

- 5.3 *Appropriate Data Security.* District shall utilize appropriate privacy, data security, and information safeguarding provisions, including all requirements contained in Section 6.
- 5.4 *Compliance with FERPA.* District shall comply, as applicable, with the requirements of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g and its regulations codified at 34 CFR part 99) in disclosing any personally identifiable information from students' education records.
- 5.5 *Additional Data Protections.* District shall comply, as applicable, with:
 - 5.5.1 TEC §61.07762, which states that personal information maintained by THECB for TASFA purposes is confidential and not subject to disclosure under Chapter 552, of the Texas Government Code;
 - 5.5.2 TEC §61.031(d), which states, "Notwithstanding any other provision of law, information that relates to a current, former, or prospective applicant or student of an educational institution and that is obtained, received, or held by the board for the purpose of providing assistance with access to postsecondary education is confidential and excepted from disclosure under Chapter 552, Government Code, and may only be released in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);" and
 - 5.5.3 Tex. Gov't Code §552.114, which states "information in a record of an applicant for admission to an educational institution, including a transfer applicant" is confidential and excepted from the requirements of the Public Information Act (PIA) "if it is information in a student record at an educational institution funded wholly or partly by state revenue."
- 5.6 *Disclosures only Made to Authorized Personnel.* THECB shall only disclose Filing Information to Authorized Personnel for authorized purposes as indicated in Section 3.
- 5.7 *Limits on Redisclosure.* District shall not re-disclose or share the Filing Status information obtained from THECB in personally identifiable form other than (1) to the applicant and to the applicant's parents if the applicant is under age 18, to the applicant if the applicant is age 18 or older or enrolled in a post-secondary institution, or to any other party with the consent of the applicant or the consent of the applicant's parents if the applicant is under the age of 18, or (2) if required to do so by law and if such use is consistent with all applicable privacy laws, including the privacy provisions of section 483 of the HEA, 20 U.S.C. 1090, the Family Educational Rights and Privacy Act (20 U.S.C. 1232g), and all applicable Texas laws.

- 5.8 *Unauthorized Use Prohibited.* Any use, disclosure, or re-disclosure of Filing Status Information not specified in Section 4, is unauthorized and prohibited and will be considered a material breach of this Agreement.
- 5.9 *Responsibility for Authorized Personnel.* District shall ensure that Authorized Personnel are informed about and aware of the prohibitions regarding the use, disclosure, and re-disclosure of any data and information provided under this Agreement.
- 5.10 *User Management.* District agrees to actively manage user accounts and notify its local ESC within 2 (two) business days of any change in Authorized Personnel.

Section 6. Additional Privacy, Confidentiality, and Security

- 6.1. *Information Safeguarding.* District shall protect the integrity of Filing Status Information received under this Agreement from unauthorized access, use, or re-disclosure.
- 6.2. *All Necessary Steps.* District shall take all steps necessary to safeguard the confidentiality, integrity, and availability of the data received. District shall restrict access to the data provided or created under this Agreement to only those Authorized Personnel who need the data to perform their official duties in connection with the uses of the data authorized in this Agreement.
- 6.3. *Confidential Nature of Data.* District shall advise all Authorized Personnel who have access to the data of the confidential nature of the data, the safeguards required to protect the data, and criminal sanctions for noncompliance under applicable federal, state, or local laws, including violations of the Internal Revenue Code (IRC) that may lead to criminal and/or civil penalties pursuant to 26 U.S.C. §§7213; 7213A; and 7431 for the willful, unauthorized disclosure and inspection of tax return or return information that includes punishable fines or imprisonment. Penalties also include civil action for damages against an officer or employee who has inspected or disclosed, knowingly or by reason of negligence, taxpayer(s) tax return or return information in violation of any provision of IRC §6103.
- 6.4. *Safeguards Required.* District shall develop, implement, maintain, and use reasonable and appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all data electronically maintained or transmitted pursuant to this Agreement. District will share the data provided or created under this Agreement under the immediate supervision and control of Authorized Personnel in a manner that will protect the confidentiality of the data, so that unauthorized persons cannot retrieve any data by computer, remote terminal, or other means. Systems personnel must enter personal identification numbers, or utilize other equally secure processes, when accessing data on the Parties systems.

District represents that it has a sound data security program, one that protects both data at rest and data in transmission.

- 6.5. *Termination for Noncompliance.* Notwithstanding any other term of this or any other Agreement, THECB retains the right to terminate District's access to Filing Information data without advance notice as necessary to ensure the security of data and disclosure of data in compliance with this Agreement.
- 6.6. *Report Unauthorized Disclosure within Two Hours.* District shall, within two hours of discovery, report to THECB any use and/or disclosure of data not authorized by this agreement or in writing by THECB at privacyoffice@highered.texas.gov via encrypted email to ensure THECB can comply with its state and federal reporting obligations. In the notification to the THECB, District shall identify (i) the nature of the unauthorized use, disclosure, or re-disclosure; (ii) the Filing Status Information used, disclosed, or re-disclosed; (iii) the person or entity, if known, who made the unauthorized use or received the unauthorized disclosure, or re-disclosure; (iv) what the District has done or will do to notify affected persons to mitigate any deleterious effect of the unauthorized use, disclosure, or re-disclosure; and (v) what corrective action the District has taken or will take to prevent future similar unauthorized use, disclosure, or re-disclosure.
- 6.7. *Right to Audit.* To the maximum extent provided by law, THECB expressly retains the right to audit District's compliance with this Agreement, including obtaining copies of documents from District that demonstrate whether District has breached this agreement.
- 6.8. *Right to Monitor.* The THECB may, at its discretion, monitor District's records, processes, procedures, and electronic systems for compliance with the terms of this Agreement.
- 6.9. *Material Breach.* Any violation of Privacy, Confidentiality, and Security provisions by District shall be deemed a material breach of this agreement.
- 6.10. *Notice.* All formal notices and other communication in connection with this Agreement shall be in writing. With the exception of the requirements of section 6.6, which requires notification to privacyoffice@highered.texas.gov via encrypted email, all notices must be given by (a) personal delivery, (b) express courier (with confirmation), (c) certified or registered mail, postage prepaid, return receipt requested, or (d) electronic mail to the address specified below. Any notice served shall be deemed given upon receipt by the Party to which it is given or, if mailed by registered or certified mail, upon the earlier of receipt or the third business day following mailing.

THECB's Notice Address

Texas Higher Education Coordinating Board
1801 N. Congress Ave., Ste. 12.200,
Austin, TX 78701
applytexasmou@highered.texas.gov

District's Notice Address

Maria Villarreal
CANUTILLO ISD 071907
7000 Fifth St.
El Paso, Texas 79835
mgvillarreal@canutillo-isd.org

- 6.11. *Contacts.* THECB's contact for routine communications related to this Agreement is: **applytexasmou@highered.texas.gov**.

Primary Contact for FILING INFORMATION

District's Designation of its Primary Contact for Filing Information (see Section 5.1 herein):

District's Primary Contact

Maria Villarreal
Director of Student and Community Services
CANUTILLO ISD 071907
7965 Artcraft
El Paso, Texas 79932
+1 (915) 877-7508
mgvillarreal@canutillo-isd.org

District may change Primary Contact by submitting new contact information to **applytexasmou@highered.texas.gov** within three (3) business days.

- 6.12. *False Statements; Breach of Representations.* District represents and warrants that all statements and information prepared and submitted in this document and its appendices are current, complete, true, and accurate. Submitting a false statement or material misrepresentation during the performance of this Agreement is a material breach of this Agreement and may void this Agreement. In the event of a breach of this Agreement, THECB may pursue remedies available to it under this Agreement and applicable law.
- 6.13. *Severability and Waiver.* The invalidity, illegality, or unenforceability of any provision of this Agreement shall in no way affect the validity, legality, or

enforceability of any other provisions. Each and every right granted to the Parties hereunder or under any other document delivered hereunder or in connection herewith, or allowed them by law or equity, shall be cumulative and may be exercised from time to time. Failure by THECB or District at any time to require strict performance of any provision or obligation contained herein shall not constitute a waiver or diminish the rights of either Party thereafter to demand strict compliance. This Agreement shall automatically terminate in the event that changes to state or federal law or regulations make it impractical or unlawful to meet the purpose of this Agreement.

- 6.14. *Destruction:* Any material the District derives from *ApplyTexas* Counselor's Suite to effectuate this Agreement and exists in any form, including physical or electronic, shall be destroyed within 30 calendars days of the material no longer being needed to effectuate the Agreement.

Section 7. General Terms and Conditions

- 7.1. *Termination/Access.* THECB, in its sole discretion, may terminate this Agreement via written notice to District and further may revoke District's or any authorized user's access to *ApplyTexas* Counselor Suite, in whole or in part, without prior notice if THECB in its sole discretion, deems it necessary. District may terminate this Agreement upon twenty (20) business days' written notice to THECB. In the event of a breach, either Party may terminate the Agreement in accordance with Section 7.2
- 7.2. *Breach of Agreement.* Notwithstanding section 7.1, either Party may terminate this Agreement with three (3) business days' written notice to the other Party. In the event of a breach, the breaching Party is responsible for any and all costs associated with the breach including the cost of any notice requirements set forth in state or federal law.
- 7.3. *Amendment.* This Agreement may be modified only by written amendment executed by the Parties.
- 7.4. *Sovereign Immunity.* The Parties stipulate and agree that no provision of, or any part of this Agreement between THECB and District, or any subsequent amendment, shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the laws of the state of Texas; (2) to extend liability to THECB or District beyond such liability provided for in the Texas Constitution and the laws of the state of Texas; or (3) as a waiver of any immunity provided by the Eleventh Amendment or any other provision of the United States Constitution or any immunity recognized by the courts and the laws of the state of Texas and the United States. The state of Texas, THECB, and District do not waive sovereign immunity by entering into this Agreement and specifically retain such

immunity and all defenses available to them under the laws of the state of Texas or the common law.

- 7.5. *Applicable Law and Venue.* This Agreement and any incorporated documents shall be governed by and construed in accordance with the laws of the state of Texas. The exclusive venue of any suit brought concerning this Agreement is fixed in any court of competent jurisdiction in Travis County, Texas.
- 7.6. *Data Ownership.* Unless otherwise indicated by law, THECB retains ownership of all Filing Status Information.
- 7.7. *No Rights Created.* This Agreement constitutes permission only for District to use the data for the limited purposes set forth in this Agreement. Nothing in this Agreement shall be construed to grant District a right of interest in the Filing Status Information. Nothing in this Agreement shall be construed to obligate THECB to provide such data to District.

Section 8. Texas Public Information Act and Texas Education Code §61.031

- 8.1 *Filing Status Information Not Subject to Public Information Act.* Filing Status information is confidential under 483 of the HEA, 20 U.S.C. 1090 and the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and may not be disclosed under the PIA, nor should such records be shared with the Texas Attorney General for an open record ruling. Tex. Gov't Code §554.114 & Open Records Decision 2009-10185. See *also*, TEC §61.07762 (stating TAFSA data is confidential and not subject to disclosure under Chapter 552, Government Code); TEC §61.031(d), (stating information that relates to a current, former, or prospective applicant or student of an educational institution and that is obtained, received, or held by the board for the purpose of providing assistance with access to postsecondary education is confidential and excepted from disclosure under Chapter 552, Government Code, and may only be released in conformity with FERPA); and Tex. Gov't Code §552.114, (stating information in a record of an applicant for admission to certain educational institutions, including a transfer applicant is confidential and excepted from the requirements of the Public Information Act).
- 8.2 *Confidentiality Required.* District understands and agrees that it is required to keep all Filing Status information confidential. This requirement survives the end of this Agreement.
- 8.3 *Agreement Not Confidential.* This Agreement itself is not confidential and may be disclosed.

Section 9. Signatures

The Agreement may only be signed by an authorized District representative.


By signature hereon, the individual below represents and warrants that they are a duly authorized representative of District and have the delegated Board of Trustees authority to bind District in this Agreement.

CANUTILLO ISD

By: _____
Name: Pedro Galaviz
Title: Superintendent of Schools
Date: _____

As an authorized representative of THECB, the undersigned hereby certifies that this Agreement complies with applicable statutes and regulations and authorizes the services to be performed as written above.

AGREED and accepted on behalf of the **Texas Higher Education Coordinating Board**

By: David Troutman, Ph.D.  Digitally signed by David Troutman, Ph.D.
Date: 2024.08.14 09:12:59 -05'00'
Name: David Troutman, PhD
Title: Deputy Commissioner for Academic Affairs
Date: 8/14/24