



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TONY THURMOND
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

June 26, 2023

Dr. Sean Reardon, Senior Fellow
Learning Policy Institute
1530 Page Mill Road, Suite 200
Palo Alto, CA 94304

Dear Dr. Reardon:

Subject: Demand for Assurance of Compliance

The California Department of Education (CDE) received a copy of the attached letter (Attachment 1) from Michael Jacobs of the law firm of Morrison and Foerster (Letter) through CDE's counsel, the California Attorney General's Office. Morrison and Foerster is counsel to the plaintiffs in the matter of *Cayla J., et al. vs State of California, et al.* pending in Alameda Superior Court (*Cayla J.*).

This letter is to remind you of your obligations as CDE's authorized representative performing research for and on behalf of the CDE pursuant to the Amended and Restated Designation of Authorized Representative and Data Protection Agreement for Data Request #862 (Attachment 2) executed by the Learning Policy Institute (LPI) on November 13, 2020 (the Agreement), and your personal obligations under the Confidentiality, Conflict of Interest and Security Agreement signed by you on November 20, 2020, which is attached as Exhibit D to the Agreement (Exhibit D). A copy of the Agreement, including Exhibit D is attached for your convenience.

As CDE's authorized representative, in both paragraph 16 of the Agreement and paragraph 6 of the confidentiality provisions in Exhibit D, you agreed that you would not "testify, advise or consult" for any party other than the CDE or the State Board of Education. This prohibits such work for Plaintiffs in *Cayla J.* Furthermore, both Paragraph 8.d of the Agreement and Paragraph 7 of Exhibit D prevent you from using any Data for any purpose other than the studies set forth in the Agreement, unless agreed to in writing in advance by the CDE. Also, please be aware that "Data" is defined in Paragraph 4.a of the Agreement to include not only the actual data disclosed by CDE to LPI under the Agreement, but also "any aggregation, compilation or derivative of the Data, even if de-identified." Accordingly, you may not testify for, advise or consult the *Cayla J* Plaintiffs, nor may you disclose the data provided by CDE or de-identified compilations, aggregations or other derivatives of the data provided by CDE. Because these provisions bind LPI as well as you, we are copying LPI pursuant to the notice provisions.

Dr. Sean Reardon

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To avoid any misunderstanding caused by the Letter, the CDE reserves all its rights. Should you attempt to testify, advise or consult for the Plaintiffs in *Cayla J*, the CDE reserves the right to enforce the Agreement and Exhibit D to the full extent of the law. This includes, but is not limited to, seeking an injunction prohibiting such testimony, terminating the agreement and the underlying research that is the subject of the Agreement, denying any pending data requests in which you are involved and seeking the \$50,000 in liquidated damages in paragraph 7 of Exhibit D against you personally. Also be aware that it would adversely impact our working relationship.

Finally, we understand that the Letter may not accurately represent your intentions, especially given that Morrison Foerster does not assert that it is your legal counsel. However, to eliminate any confusion or misunderstanding, please provide CDE with written assurance that you will continue to abide by the terms of the Agreement, including Exhibit D, as outlined in this letter, by 5 p.m., on Tuesday, June 27, 2023.

For additional questions regarding this letter, please contact me by email at ckazanis@cde.ca.gov.

Sincerely,

Cindy Kazanis, Director
Analysis, Measurement, and Accountability Reporting Division

cc: Dion Burns, Data Custodian, Learning Policy Institute
Jonathan Isler, Data Custodian, California Department of Education