

## **Agreement between the William S. Hart Union High School District and the Sulphur Springs Union School District, for the provision of Counseling Services**

This Agreement for the provision of Counseling Services ("Agreement") is made by and between the WILLIAM S. HART UNION HIGH SCHOOL DISTRICT ("Operating District"), and the SULPHUR SPRINGS UNION SCHOOL DISTRICT ("District of Residence"), jointly known as "Parties."

WHEREAS, Parties have negotiated and enter into this Agreement in order to ensure the maintenance of a system for the delivery of Designated Instructional Service ("DIS") Counseling services to students with disabilities who reside within the District of Residence and receive such services as part of their individualized education programs ("IEP"), as well as School Based Counseling ("SBC") services for students who reside within the District of Residence and receive a general education curriculum.

NOW THEREFORE, Parties do hereby agree as follows:

### **1. SERVICES TO BE PROVIDED AND PROCEDURES RELATED THERETO**

The Operating District agrees to provide DIS Counseling and SBC services to District of Residence students in accordance with applicable provisions of the California Education Code. The procedures related to the provision of DIS Counseling and SBC services will be developed cooperatively between the Operating District's Director of ERICS & Counseling and the District of Residence's Director of Special Education.

- DIS Counseling and SBC services (collectively referred to as "Counseling Services") will occur in facilities appropriate for counseling (e.g., sufficient for confidentiality and therapeutic modality) on the District of Residence's school campuses during regular school hours. The District of Residence shall ensure that such appropriate facilities are available and accessible for the provision of Counseling Services.
- The District of Residence will make student referrals to the Operating District. The Operating District will provide administrative oversight and coordination of Counseling Services, including all activities related to hiring, training, supervision of Associate therapists (as required by various California licensing boards), necessary forms (e.g., consents, releases of information, etc.), participation in monthly counseling department meetings, clinical documentation, and computer and software use (e.g., SEIS).

### **2. DEFINITIONS**

The definitions set forth in federal and state law and regulations related to special education, as well as in the Santa Clarita Valley Special Education Local Plan Area's ("SCV SELPA") Glossary of Terms (available at [http://www.santaclarita-valleyselpa.org/content.aspx?ID=716&title=Parent Resource Materials](http://www.santaclarita-valleyselpa.org/content.aspx?ID=716&title=Parent+Resource+Materials)), shall apply to this Agreement. For purposes of this Agreement, DIS Counseling services are those counseling services that are required to be provided to qualified students in order for them to receive a free appropriate public education ("FAPE") within the meaning of the IDEA and its implementing regulations, and related California law and regulations, as amended from time to time. SBC services are those counseling services that the District of Residence chooses to offer identified students that receive a general education curriculum, the implementation of which is consistent with mental health industry standards of care and customary practices. DIS Counseling and

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SBC services include therapists' consultations with various educational staff as well as attendance at IEP meetings, student study team (SST) meetings, or other meetings as requested by the District of Residence.

### **3. PERIOD OF AGREEMENT**

This Agreement is effective for the fiscal year July 1, 2019 through June 30, 2020. The Agreement may be amended, and/or its term extended, by mutual written consent of Parties. The term for the actual provision of Counseling Services is limited to the first day of the Fall term extending through the last day of the Spring term of the District of Residence's academic calendar. Counseling Services pursuant to this Agreement shall not be provided during the Extended School Year ("ESY").

### **4. RESPONSIBILITIES OF THE OPERATING DISTRICT**

The Operating District shall provide three (3) Associate (pre-licensed) therapists to provide Counseling Services as described within this Agreement. Each Associate therapist is limited to 960 hours of work under this Agreement each fiscal year. Included within this 960 hours of work maximum is the requisite clinical supervision (approximately 3 hours each week), a monthly counseling department meeting (approximately 1 ½ hours each month), an initial training scheduled for the beginning of the Fall term (approximately 30 hours), and time spent traveling between school sites for the provision of Counseling Services during the same day. There is no situation where an Associate therapist can work or be compensated for more than 960 hours per fiscal year. The Parties agree that the dispersion of the remaining hours, less weekly supervision, monthly counseling department meeting, and the initial training, will occur as evenly as possible throughout the Fall and Spring academic terms, relative to student referrals. Within this defined 960 hour maximum, the Associate therapist is able to provide aforementioned Counseling Services at any school site within the District of Residence.

The Operating District's Director of ERICS & Counseling and the District of Residence's Director of Special Education shall work cooperatively to provide information (as allowable by law) to each other and resolve situations affecting the Counseling Services as they arise.

Operating District shall, on written notice of one business day by District of Residence, remove an associate therapist assigned to District of Residence, and, within five business days of said notice, shall provide a replacement associate therapist. District of Residence shall cooperate in identifying facts leading to the decision that the associate therapist was not providing satisfactory services.

### **5. RESPONSIBILITIES OF THE DISTRICT OF RESIDENCE**

The District of Residence shall be responsible for implementing provisions of the IDEA and its implementing regulations, as well as California law and regulations, related to special education for students with disabilities within its jurisdictional boundaries that are not governed by this Agreement. Such responsibilities shall include, but are not limited to, child find, initial assessment and determination of eligibility, provision of a FAPE, and reassessment.

The District of Residence retains ultimate authority and responsibility for the provision of special education and related services to its students with disabilities regardless of who provides the

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programs and services. The District of Residence also retains ultimate responsibility for the costs related to defending and/or initiating local or state compliance complaints, United States Department of Education Office for Civil Rights complaints, and/or due process proceedings before the California Office of Administrative Hearings. The Operating District agrees to make staff reasonably available in defense of the District of Residence in the above referenced circumstances.

District of Residence may terminate this agreement prior to its expiration upon providing Operating District with thirty days written notice of termination. Within thirty (30) days of receipt of a final invoice, District of Residence shall provide full payment for services rendered as of the date of termination.

### **6. FINANCIAL CONSIDERATIONS**

The District of Residence will compensate the Operating District \$63,960 for the services provided by three (3) Associate therapists for the 2019-2020 Fall and Spring academic terms. The amount of compensation to be paid for each Associate therapist shall not be prorated based upon the amount of actual work performed pursuant to this Agreement.

The Operating District retains the right to all Medi-Cal reimbursement that is the result of the counseling and consultation activity performed by the Associate therapists per this Agreement. The Operating District will provide compensation to the Associate therapists for mileage expenses incurred per this Agreement, according to existing Operating District protocol.

The Operating District will invoice the District of Residence monthly over ten (10) months at \$6,396 per month, not to include the months of July or August 2019, for the services of the Associate therapists. The District of Residence shall make payment within thirty (30) days of receipt of the invoice.

### **7. CONFIDENTIALITY**

The Parties acknowledge the protections afforded to student health information and other records under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations, the Family Educational Rights and Privacy Act ("FERPA") and its implementing regulations, the United States Constitution, and related California constitutional provisions, laws and regulations. The Parties will ensure that all activities undertaken pursuant to this Agreement will conform to the requirements of the constitutional, statutory, and regulatory requirements.

### **8. HOLD HARMLESS AND INDEMNITY**

Parties shall each defend, hold harmless and indemnify each other, their governing board, officers, administrators, agents, employees, independent contractors, subcontractors, consultants, and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys' fees and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of facilities, death, sickness, or injury to any person(s) or damage to any property, from any cause whatsoever arising from or connected with its service hereunder, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the indemnifying party,

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its employees, agents, independent contractors, subcontractors, consultants, or other representatives. This indemnity provision shall survive the term of this Agreement and is in addition to any other rights or remedies that Parties may have under law and/or this Agreement.

The Operating District shall assume sole responsibility for any liability resulting from the negligent action of any Associate therapist performing services pursuant to this Agreement. The Operating District shall secure liability insurance in minimum amounts of \$2,000,000/\$4,000,000. The District of Residence shall be listed as an "additional insured."

## **9. INTEGRATION**

This Agreement represents the entire understanding of the Parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by Parties hereto. This is an integrated Agreement.

## **10. LAWS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California and the United States related to special education. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Los Angeles, State of California, unless otherwise specifically provided for under California law.

## **11. THIRD PARTY RIGHTS**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Parties to this Agreement.

## **12. DISPUTE RESOLUTION**

For disputes between the Parties related to this Agreement, said dispute shall be resolved by using the following dispute resolution process.

Except as provided in sections 4 and 5, the parties shall resolve their disputes informally to the maximum extent possible. The Parties shall negotiate all matters of joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. The cost of internal dispute resolution, whether formal or informal, shall be shared equally by the Parties. Except as provided herein, each Party shall bear its own attorney's fees. The Parties agree all statements made in connection with internal dispute resolution efforts shall not be considered admissions or statements against interest by either Party. The Parties further agree that they will not attempt to introduce such statements at any later trial proceeding, or mediation between the Parties.

### **Informal Resolution**

If a dispute arises under this Agreement, then within three (3) business days after a written request by either party, the Operating District's Director of ERICS & Counseling and the District of Residence's Director of Special Education shall promptly confer to resolve the dispute. If

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these representatives cannot resolve the dispute or either of them determines they are not making progress toward the resolution of the dispute within three (3) business days after their initial conference, then the dispute may be submitted to the SCV SELPA Director by either Party, who shall promptly confer to resolve the dispute. If these designated individuals cannot resolve the dispute, or either one of them determines that they are not making reasonable progress toward a resolution of the dispute within five (5) business days after being submitted to the SCV SELPA by the Operating District and/or District of Residence, then the issue shall proceed pursuant to the Fact Finding process described below.

**Fact Finding**

The SCV SELPA Director will confer with the respective Superintendents of the Operating District and the District of Residence, who may elect to contract with an independent consultant service to conduct a fact-finding investigation and make recommendations for resolution of the dispute. The two disputing districts will share the cost of hiring the independent consultant.

**Report**

Within thirty (30) calendar days after the Fact Finding consultant is hired, the consultant shall submit a written report to the SCV SELPA Director and the Superintendents, including its findings of fact and recommendations for resolution. The Superintendents have the authority to make the final decision as to resolution of the dispute.

**Dispute Resolution Mandatory**

The dispute resolution process provided in this Section is a prerequisite to the exercise of any judicial remedies available to the parties.

**13. SEVERABILITY/WAIVER**

The enforceability, invalidity, or illegality of any provision(s) of this Agreement shall not render the other provisions of this Agreement unenforceable, invalid, or illegal.

**14. EFFECT ON EXISTING ERICS AGREEMENT**

Nothing in this Agreement shall alter the previous agreement (#16-17-009) pertaining to the SCV SELPA's regional operation of Educationally Related Intensive Counseling Services ("ERICS").

IN WITNESS WHEREOF, Parties' governing boards have approved this Agreement, and authorized this Agreement to be duly executed by their respective authorized officers.

WILLIAM S. HART UNION HIGH SCHOOL DISTRICT, OPERATING DISTRICT

Signature: \_\_\_\_\_  
Vicki Engbrecht, Superintendent

Date: \_\_\_\_\_

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SULPHUR SPRINGS UNION SCHOOL DISTRICT, DISTRICT OF RESIDENCE

Signature: \_\_\_\_\_  
Katherine Kawaguchi, Superintendent

Date: \_\_\_\_\_