

## **Agreement between the William S. Hart Union High School District and the Member Districts of the Santa Clarita Valley Special Education Local Plan Area, For Regional Operation of:**

### **Educationally Related Intensive Counseling Services (ERICS)**

This Agreement for the Regional Operation of Special Education Programs and Services Under the Santa Clarita Valley Special Education Local Plan Area ("Agreement") is entered into pursuant to the provisions of Part 30 of the Education Code of the State of California (commencing with Section 56000 et seq.), and in accordance with the provisions of the Individuals with Disabilities Education Improvement Act of 2004 ("IDEA"), and state and federal regulations relating thereto, as amended from time to time. This Agreement is made by and between the WM. S. HART UNION HIGH SCHOOL DISTRICT ("Operating District"), and the NEWHALL SCHOOL DISTRICT, CASTAIC UNION SCHOOL DISTRICT, SULPHUR SPRINGS UNION SCHOOL DISTRICT, and the SAUGUS UNION SCHOOL DISTRICT ("District(s) of Residence," together with Operating District as "Parties"), participants in the Santa Clarita Valley Special Education Local Plan Area "SCV SELPA".

WHEREAS, on June 30, 2011, Governor Edmund G. Brown, Jr., signed California Assembly Bill 114 that, in part, amended or rendered inoperative several sections of California Government Code Chapter 26.5, thereby making it clear that the state mandate on county mental health agencies to provide educationally related mental health services ("aka ERICS") to students with disabilities had ended, and left school districts with the sole responsibility for ensuring that students with disabilities who need Educationally Related Intensive Counseling Services (ERICS) as a related service pursuant to California Education Code section 56363 receive those services;

WHEREAS, Parties' governing boards have approved the Santa Clarita Valley Special Education Local Plan ("Local Plan") for the provision of special education and related services within the SCV SELPA.

WHEREAS, by signature to the Local Plan, Parties' governing boards have adopted written assurances that their respective school districts will comply with the provisions of state and federal laws and regulations related to special education (including California Education Code section 56303 requiring the consideration and, where appropriate, use of general education resources before referring a student for a special education assessment);

WHEREAS, Parties have negotiated and enter into this Agreement in order to ensure the maintenance of a system for delivery of ERICS to students with disabilities who reside within the SCV SELPA and receive such services as part of their individualized education program ("IEP"); and

WHEREAS, this Agreement is written in furtherance of, in accordance with, the Local Plan.

NOW THEREFORE, Parties do hereby agree as follows:

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

Operating District agrees to provide ERICS to Parties' students with disabilities whose IEPs specify the provision of ERICS in accordance with California Education Code section 56363 Qualified Students. The procedures related to the provision of ERICS to Qualified Students will be developed by the SCV SELPA and the Operating District, and will be approved by the Superintendents' Council and Directors' Council prior to their implementation.

### **2. DEFINITIONS**

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The definitions set forth in federal and state law and regulations related to special education, as well as the SCV SELPA Local Plan, shall apply to this Agreement. For purposes of this Agreement, ERICS are those mental health services that are required to be provided to a Qualified Student in order 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.

**3. PERIOD OF AGREEMENT**

This Agreement is effective for the period beginning July 1, 2020, and ending June 30, 2024. The Agreement may be amended, and/or its term extended, by mutual written consent of Parties. After the first year that this Agreement is effective, the Superintendents' Council will consider the need for any amendments or revisions to this Agreement.

**4. RESPONSIBILITIES OF THE OPERATING DISTRICT**

Operating District shall develop an annual budget plan by May 1 of each year including, but not limited to, projected income and expenditures for the provision of ERICS, to Parties. The Superintendents' Council shall approve this annual budget plan before ERICS may be implemented. Upon approval of the annual budget plan by the Superintendents' Council, the SCV SELPA shall pass through state and federal revenue to Operating District on a monthly basis. Operating District shall provide to the SCV SELPA a copy of said annual budget plan by no later than May 1 of the fiscal year prior to the year in which such services will be provided. The SCV SELPA shall share such budget with Districts of Residence. Operating District is also responsible for the preparation of all required federal, state and local reports, and related accounting services.

**5. RESPONSIBILITIES OF THE DISTRICTS OF RESIDENCE**

Districts 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 their respective 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. Operating District shall also be considered a District of Residence for purposes of this paragraph.

Districts of Residence retain ultimate authority and responsibility for the provision of special education and related services to their respective students with disabilities regardless of who provides the programs and services. Districts of Residence also retain 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. Operating District agrees to make staff reasonably available in defense of the Districts of Residence in the above referenced circumstances.

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#### **6. DEFICIT FUNDING AND EXCESS COSTS**

##### **Base Funding**

Operating District shall receive a proportionate share of state and federal funds as approved by the Superintendents' Council on an annual basis according to the Allocation Plan described in the Local Plan.

##### **Excess Costs**

Superintendents' Council recognizes that special education state and federal funds are not sufficient to cover the costs of providing services to children with exceptional needs. Therefore, Districts of Residence agree to pay excess costs to Operating District.

Upon approval by the Superintendents' Council of the annual budget plan developed by Operating District pursuant to Paragraph 4, above, the SCV SELPA shall pass through state and federal revenue to Operating District on a monthly basis. If the funds received by the SCV SELPA are insufficient to cover the costs of ERICS, Operating District will invoice the District of Residence quarterly for the provision of ERICS to that district. The first three quarterly invoices will be based on projections. The final invoice will be delivered to the District of Residence by July 31. The final invoice shall include a detailed statement of annual program expenditures and revenues with supporting documentation. District of Residence shall make payment within thirty (30) days of receipt of the invoice.

The District of Residence agrees to pay excess costs to the Operating District, if the cost of providing these services, exceed the proportionate share of revenue generated by the Elementary District of Residence ADA for students attending a regional program within the Operating District, then the Operating District will invoice the District of Residence for the excess cost upon approval of the Superintendents' Council.

##### **Invoicing and Payment**

Upon approval of this annual budget plan by the Superintendents' Council, the SCV SELPA shall pass through state and federal revenue to Operating District. The Operating District shall submit quarterly invoices with supporting documentation to the SCV SELPA Office for reimbursement. Quarterly Invoicing shall be submitted to the SCV SELPA Office within 30 days following the end of each quarter. The Elementary Districts may submit invoices to the SCV SELPA Office on a monthly basis for reimbursement of other allowable Mental Health costs including NPS Mental Health services and Residential Placement costs. The SCV SELPA Office 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.

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**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, 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.

**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. INSURANCE**

Operating District shall maintain a program of liability, property damage, worker's compensation and auto insurance in amounts adequate to protect the Parties as their interests may arise.

**13. DISPUTE RESOLUTION**

For disputes between the parties related to this Contract, said dispute shall be resolved by using the following dispute resolution process, also provided in the contract for implementation and operation of Local Plan:

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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 Contract, then within three (3) business days after a written request by either party, the SCV SELPA Director and the District Special Education Directors shall promptly confer to resolve the dispute. If 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 individuals designated by the two districts involved in the dispute, 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 them by the districts, then the issue shall proceed pursuant to the Fact Finding process described below.

#### **Fact Finding**

The Superintendents' Council 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 Superintendents' Council, including its findings of fact and recommendations for resolution. The Superintendents' Council has 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.

#### **14. 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.

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**15. TERMINATION OF AGREEMENT**

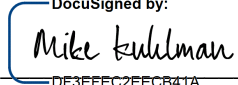
A party may terminate this Agreement with written notice to Parties prior to June 30 for services to be terminated on the first day of the second fiscal year following that date. (EC 56207b)

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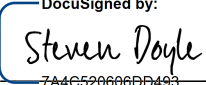
**Educationally Related Intensive Counseling Services (ERICS)**

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  DocuSigned by:  
Mike Kuhlman, Superintendent  
William S. Hart Union High School District  
Dated: 6/1/2020

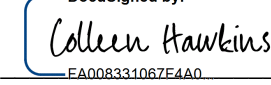
**CASTAIC UNION SCHOOL DISTRICT**

Signature  DocuSigned by:  
Steve Doyle, Superintendent  
Castaic Union School District  
Dated: 6/1/2020

**NEWHALL SCHOOL DISTRICT**

Signature  DocuSigned by:  
Jeff Pelzel, Superintendent  
Newhall School District  
Dated: 6/1/2020

**SAUGUS UNION SCHOOL DISTRICT**

Signature  DocuSigned by:  
Colleen Hawkins, Ed.D., Superintendent  
Saugus Union School District  
Dated: 6/1/2020

**SULPHUR SPRINGS UNION SCHOOL DISTRICT**

Signature  DocuSigned by:  
Catherine Kawaguchi, Ed.D., Superintendent  
Sulphur Springs Union School District  
Dated: 6/2/2020