

MEMORANDUM OF UNDERSTANDING #048-159-M-R2010

This Memorandum of Understanding (MOU) #048-159-M-R2010, made and entered into by and between the El Dorado County Health Services Department, Mental Health Division (hereinafter referred to as "MHD"), and the El Dorado County Office of Education (hereinafter referred to as "EDCOE");

RECITALS

WHEREAS, California (CA) Government Code Chapter 26.5, Section 7570 et seq. (alternatively referred to as the AB 3632 mandate) requires counties and their Mental Health Divisions to conduct mental health assessments and to provide necessary mental health-related services, including residential care-based treatment, required by students with disabilities who are identified within the individualized education program, pursuant to CA Government Code Sections 7570, 7572, and 7572.5;

WHEREAS, the State Legislature, in the Budget Act provides federal Individuals with Disabilities Education Act (IDEA) local assistance funding for the provision of mental health services pursuant to CA Government Code Section 7570 et seq. by transmitting the funds to county offices of education;

WHEREAS, the Budget Act requires each county office of education and county mental health agency to enter into a memorandum of understanding (MOU) for the purpose of transferring these federal grant funds, subject to the fulfillment of the grant's terms and conditions, to the mental health agency for specified mental health services that are provided for eligible students in the school districts;

WHEREAS, these federal IDEA funds are to be allocated according to the allocation plan developed by the California Department of Mental Health (DMH) to the EDCOE and are required to be used exclusively for the purpose of funding mental health services identified within an Individualized Education Program (IEP), and for which expenses have been or are anticipated to be incurred in Fiscal Year 2010-2011; and

NOW, THEREFORE, it is agreed as follows:

1. Transfer of Funds Pursuant to the Budget Act. EDCOE shall transfer federal IDEA funds to MHD within five (5) business days of the EDCOE's receipt of the federal IDEA funds as prescribed under Senate Bill (SB) 1895, Section 9, Chapter 493, Statutes of 2004.

EDCOE will pay MHD as mandated by Assembly Bill (AB) 1807, Section 80, Chapter 74, Statutes of 2006, a minimum of 50 percent of federal grant funds by January 1 of each year. EDCOE will pay MHD a minimum of 75 percent of federal grant funds by March 1 of each year as mandated by AB 1807 upon fulfillment of the grant terms and conditions and in accordance with the federal Cash Management Improvement Act. Up to twenty-five percent of the remaining funds will be paid as specified in the grant terms and conditions and in accordance with the federal Cash Management Improvement Act.* In accordance with SB 1895, any county mental health agency allocation that exceeds actual documented costs for allowable services shall be reallocated within six months after the end of each fiscal year on a pro rata basis to other counties where actual costs exceed the allocation.

*The federal Cash Management Improvement Act of 1990 (CMIA) was enacted by Public Law 101-453 and codified in Title 31 United States Code (U.S.C.), Sections 3335, 6501, and 6503. The implementing regulations are provided in Title 31 of the Code of Federal Regulations (C.F.R.) Part 205. In accordance with Title 31 C.F.R. Part 205.10, the California Department of Education (CDE) must institute procedures to project or reconcile estimates with actual and immediate cash needs. Consequently, all CDE, Special Education Division (SED), grant allocations must be limited to the minimum amounts needed and must be timed to the actual, immediate cash requirements of the grantee. The mid-year and year-end expenditure reports provide SED with actual cost and service data to determine the actual cost need of each grantee's scheduled mid-year and year-end payments (see paragraph 2 below).

2. Records. MHD will provide EDCOE with an accounting of expenditures incurred pursuant to this MOU two times for the Fiscal Year. The first accounting of expenditures will cover the first half of the Fiscal Year and will be provided by the following February 1. The second accounting of expenditures will cover the second half of the Fiscal Year, and will be provided by the following September 1.

The accounting will include for each student the following data: the school district of residence, as provided most recently in writing by the district; the service function code only of the services provided pursuant to CA Government Code Section 7570 et seq.; the units of service; and the cost per unit. The student's name, date of birth, provider name, date of service, unit/minutes/mode, estimated cost per unit, and Service Function Code (SFC) will be provided in sufficient detail to enable EDCOE to establish a link between the services claimed and the individual student's IEP. MHD is responsible for maintaining all required documentation in accordance with current practice for audit purposes.

3. Array of services. The array of services will be provided for a child with a disability, as defined in Title 20 U.S.C. Section 1401, paragraph (3) and shall include those related services as defined in Title 20 U.S.C. Section 1401, paragraph (26), and designated instruction and services, as defined in CA Education Code Section 56363; Title 2 California Code of Regulations (C.C.R.) Division 9, Section 60020(i); and in the most current version of the State Mandates Claims Parameters and Guidelines for this program.

4. Referrals and assessment reports. MHD and EDCOE agree to abide by the policies and procedures for making student referrals and providing the necessary assessment reports as HSD contract #048-159-M-R2010

mandated in CA Government Code Section 7576 and clarified in Title 2 C.C.R. Division 9, Section 60040.

5. Privacy. MHD and EDCOE acknowledge the protections afforded to student health information under regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191; student records under the Family Educational Rights and Privacy Act (FERPA); Title 20 U.S.C. Section 1232g; and under provisions of state law relating to privacy. MHD and EDCOE shall ensure that all activities undertaken under this MOU will conform to the requirements of these laws.

6. Indemnity. MHD and EDCOE shall each defend, hold harmless and indemnify the other party, its 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, subcontractors, independent contractors, consultants, or other representatives.

This indemnity provision shall survive the term of this MOU and is in addition to any other rights or remedies that MHD or EDCOE may have under law and/or the MOU.

7. Integration. This MOU represents the entire understanding of EDCOE and MHD 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 MOU may not be modified or altered except in writing signed by both parties hereto. This is an integrated MOU.

8. Laws and Venue. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of El Dorado, State of California, unless otherwise specifically provided for under California law.

9. Third Party Rights. Nothing in this MOU shall be construed to give any rights or benefits to anyone other than EDCOE and MHD.

10. Severability. The unenforceability, invalidity or illegality of any provision(s) of this MOU shall not render the other provisions unenforceable, invalid, or illegal.

11. Term. This MOU shall cover the period of July 1, 2010, through June 30, 2011. This MOU shall terminate as of the close of business on June 30, 2011. However, this MOU may be extended by the parties' mutual written consent if an extension is required to transfer additional

federal IDEA funds made available by the State for the same purpose.

12. General Assurances. As a condition of receiving funds under this MOU, MHD has reviewed and executed the General Assurances, attached as Exhibit "A," incorporated herein and made by reference a part hereof, and Federal Funds Conditions, attached as Exhibit "B," incorporated herein and made by reference a part hereof, as required by the California Department of Education as stated in the exemplar grant letter of intent, attached as Exhibit "C," incorporated herein and made by reference a part hereof. The parties acknowledge that the grant letter of intent for the 2010/2011 year will not be received by EDCOE until the fall of 2010 and that the grant letter of intent is anticipated to be in substantially the same form and on substantially the same terms as Exhibit C. The EDCOE shall provide MHD with a copy of any amendments to the General Assurances and Federal Funds Conditions for MHD review. Within ten (10) days of receiving any amendments to the General Assurances and Federal Funds Conditions, MHD shall execute the General Assurances and Federal Funds Conditions and return a signed copy.

13. Dispute Resolution. MHD and EDCOE agree that the following process will be used to address disputes on the implementation of the MOU only after collaborative efforts have been attempted at the lowest possible level.

MHD and EDCOE will name a mutually agreed upon administrator of a county department or agency to assist to resolve disputes using a process of facilitated communication through non-binding MHD and EDCOE mediation. The parties will use the following process:

- A written notice of the request for dispute resolution, including a description of the concerns to be addressed, shall be forwarded by the agency initiating the dispute to the non-initiating party.
- If the issue is not resolved within 5 business days, the agency initiating the dispute shall request that the outside party be contacted to schedule a meeting between the agencies.
- No later than sixty (60) calendar days from the date mediator is contacted, a resolution plan between the two agencies will be developed.
- The responsible MHD and EDCOE personnel services shall be responsible for assuring the agreements included in the resolution plan are implemented.
- The costs for this service shall be shared equally between the MHD and EDCOE.

14. The signatories of this MOU or their designee shall be responsible for assuring the agreements included in the resolution plan are implemented.

Neither party shall be deemed to be in default of the terms of this MOU if either party is prevented from performing the terms of this Agreement by causes beyond its control, including without being limited to: acts of God; any laws and/or regulations of State or Federal government; or any catastrophe resulting from flood, fire, explosion, or other causes beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other parties written notice of the cause for delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if

correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume performance of the terms of this MOU.

Neither party shall be liable for any excess costs if the failure to perform the MOU arises from any of the contingencies listed above.

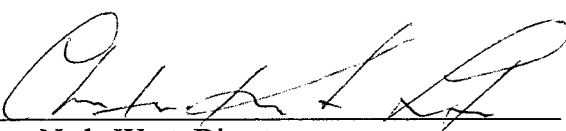
15. This MOU may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing.

16. Either party may terminate this MOU upon seven (7) days written notice to the other for any reason. If such termination is effected, EDCOE will pay MHD for satisfactory services rendered prior to the effective date as set forth in the Notice of Termination provided to EDCOE, and for such other services, which the parties may agree to in writing as necessary for MOU resolution. In no event, however, shall EDCOE be obligated to pay more than the total amount of the Federal IDEA grant funds received by EDCOE. MHD shall promptly discontinue all services affected, as of the effective date of termination set forth in the Notice of Termination, unless the parties mutually agree otherwise.

17. The County Officer or employee with responsibility for administering this MOU is Barry Wasserman, Manager of Mental Health Programs, El Dorado County Health Services Department, Mental Health Division, or successor

18. EDCOE is covered for its general liability, automobile liability, property, and workers compensation liability. EDCOE will furnish certificate of its insurance coverage to MHD upon request.

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: 
Neda West, Director
Health Services Department

Dated: 7/12/10

IN WITNESS WHEREOF, the parties hereto have executed this memorandum of understanding on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: _____

By: _____
Norma Santiago, Chair
Board of Supervisors
"County"

ATTEST:
*Suzanne Allen de Sanchez, Clerk
of the Board of Supervisors*

By: _____

-- EL DORADO COUNTY OFFICE OF EDUCATION --

Dated: 7/15/10

By: *Vicki A. Barber*
Vicki Barber, Ed.D.
Superintendent
El Dorado County Office of Education
"Contractor"

General Assurances

Consolidated Application Part I and II general legal assurances for fiscal year 2009-10.

General Assurances

1. Programs and services are and will be in compliance with Title VI and Title VII of the Civil Rights Act of 1964; the California Fair Employment Practices Act, Government Code §11135; and Chapter 4 (commencing with §30) of Division I of Title 5, California Code of Regulations (CCR).
2. Programs and services are and will be in compliance with Title IX (nondiscrimination on the basis of sex) of the Education Amendments of 1972. Each program or activity conducted by the LEA will be conducted in compliance with the provisions of Chapter 2, (commencing with §200), Prohibition of Discrimination on the Basis of Sex, of Part 1 of Division 1 of Title I of the Education Code, as well as all other applicable provisions of state law prohibiting discrimination on the basis of sex.
3. Programs and services are and will be in compliance with the affirmative action provisions of the Education Amendments of 1972.
4. Programs and services are and will be in compliance with the Age Discrimination Act of 1975.
5. Programs and services for individuals with disabilities are in compliance with the disability laws. (PL 105-17; 34 CFR 300, 303; and Section 504 of the Rehabilitation Act of 1973)
6. When federal funds are made available, they will be used to supplement the amount of state and local funds that would, in the absence of such federal funds, be made available for the uses specified in the state plan, and in no case supplant such state or local funds. (20 USC §6321(b)(1); PL 107-110 §1120A(b)(1))
7. All state and federal statutes, regulations, program plans, and applications appropriate to each program under which federal or state funds are made available through this application will be met by the applicant agency in its administration of each program.
8. Schoolsite councils have developed and approved a Single Plan for Student Achievement for schools participating in programs funded through the consolidated application process, and any other school program they choose to include, and that school plans were developed with the review, certification, and advice of any applicable school advisory committees. (EC §64001)
9. The local educational agency (LEA) will use fiscal control and fund accounting procedures that will ensure proper disbursement for state and federal funds paid to that agency under each program. (CCR T5, §4202)
10. The LEA will make reports to the state agency or board and to the Secretary of Education as may reasonably be necessary to enable the state agency or board and the Secretary to perform their duties and will maintain such records and provide access to those records as the state agency or board or the Secretary deems necessary. Such records will include, but will not be limited to, records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for three years after the completion of the activities for which the funds are used. (34 CFR 76.722, 76.730, 76.731, 76.734, 76.760; 34 CFR 80.42)
11. The local governing board has adopted written procedures to ensure prompt response to complaints within 60 days, and has disseminated these procedures to students, employees, parents or guardians, district/school advisory committees, and interested parties. (CCR T5, §4600 et seq.)
12. The LEA declares that it neither uses nor will use federal funds for lobbying activities and hereby complies with the certification requirements of 34 CFR Part 82. (34 CFR Part 82)
13. The LEA has complied with the certification requirements under 34 CFR Part 85 regarding debarment, suspension and other requirements for a drug-free workplace. (34 CFR Part 85)
14. The LEA provides reasonable opportunity for public comment on the application and considers such comment. (20 USC §7846(a)(7); 20 USC, §1118(b)(4); PL 107-110, §1118(b)(4)).
15. The LEA will provide the certification on constitutionally protected prayer that is required by PL 107-110, §9524 and 20 USC §7904.
16. The LEA administers all funds and property related to programs funded through the Consolidated Application. (20 USC §6320(d)(1); PL 107-110, §1120(d)(1))
17. The LEA will adopt and use proper methods of administering each program including enforcement of any obligations imposed by law on agencies responsible for carrying out programs and correction of deficiencies in program operations identified through audits, monitoring or evaluation. (20 USC §7846 (a)(3)(B))
18. The LEA will participate in the Standardized Testing and Reporting program. (20 USC §6316(a)(1)(A-D); PL 107-110, §1116 (a)(1)(A-D); EC §60640, et seq.)
19. The LEA assures that classroom teachers who are being assisted by instructional assistants retain their responsibility for the instruction and supervision of the students in their charge. (EC §45344(a))
20. The LEA governing board has adopted a policy on parent involvement that is consistent with the purposes and goals of EC Section 11502. These include all of the following: (a) to engage parents positively in their children's education by helping parents to develop skills to use at home that support their children's academic efforts at school and their children's development as responsible future members of our society; (b) to inform parents that they can directly affect the success of their children's learning, by providing parents with techniques and strategies that they may utilize to improve their children's academic success and to assist their children in learning at home; (c) to build consistent and effective communication between the home and the school so that parents may know when and how to assist their children in support of classroom learning activities; (d) to train teachers and administrators to communicate effectively with parents; and (e) to integrate parent involvement programs, including compliance with this chapter, into the school's master plan for academic accountability. (EC

§§11502, 11504)

21. Results of an annual evaluation demonstrate that the LEA and each participating school are implementing Consolidated Programs that are not of low effectiveness, under criteria established by the local governing board. (CCR T5, §3942)
22. The program using consolidated programs funds does not isolate or segregate students on the basis of race, ethnicity, religion, sex, sexual orientation or socioeconomic status. (USC, Fourteenth Amendment; Calif. Constitution, art. 1, §7; Gov.C §§11135-11138; 42 USC §2000d; CCR T5, §3934)
23. Personnel, contracts, materials, supplies, and equipment purchased with Consolidated Program funds supplement the basic education program. (EC §§62002, 52034(l), 52035(e)(l), 54101; CCR T5, §§3944, 3946)
24. At least 85 percent of the funds for School Improvement Programs, Title I, Title VI and Economic Impact Aid (State Compensatory Education and programs for English learners) are spent for direct services to students. One hundred percent of Miller-Unruh apportionments are spent for the salary of specialist reading teachers. (EC §63001; CCR T5, §3944(a)(b))
25. State and federal categorical funds will be allocated to continuation schools in the same manner as to comprehensive schools, to the maximum extent permitted by state and federal laws and regulations. (EC §48438)
26. Programs and services are and will be in compliance with Section 8355 of the California Government Code and the Drug-Free Workplace Act of 1988, and implemented at 34 Code of Federal Regulations (CFR) Part 84, Subpart F, for grantees, as defined at 34 CFR Part 84, Sections 84.105 and 84.110.

[Back to Legal Assurances](#)

Questions: Anne Daniels | adaniels@cde.ca.gov | 916-319-0295

Last Reviewed: Wednesday, December 23, 2009

EXHIBIT "B"

Federal Funds Conditions

1. This award is valid and enforceable only if the United States government makes sufficient funds available to the state for the current fiscal year for the purposes of this program. In addition, this award is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms or funding of this award in any manner.
2. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this grant shall be amended to reflect any reduction of funds.
3. For purposes of compliance with the Office of Management and Budget Circular A-133 Compliance Supplement, the "State laws and procedures applicable to sub recipients" of the California Department of Education are those state laws, regulations, and procedures applicable to state agencies.
4. Section 80.21, Title 34, of the Code of Federal Regulations allows the state's sub recipients to receive payments provided they demonstrate the willingness and ability to minimize the time elapsing between the receipt and disbursements of federal funds; otherwise, reimbursement is the preferred method of payment. Further, this section requires the state's sub recipients to promptly remit to the federal agency any interest greater than \$100 that they earned on the payments. Additionally, if the state's sub recipients receive payments, Section 80.20(b)(7), Title 34, of the Code of Federal Regulations, requires them to follow procedures for minimizing the time between the receipt and disbursement of federal funds.

Grant Award Notification

GRANTEE NAME AND ADDRESS El Dorado County Office of Education 6767 Green Valley Road Placerville, CA 95667	CDE GRANT NUMBER			
	FY	PCA	Vendor Number	Suffix
	09	14468	1009	01
Attention Vicki Barber, Superintendent	COUNTY	STANDARDIZED ACCOUNT CODE STRUCTURE		
Program Office El Dorado SELPA 0901		Resource	Revenue Object	
Telephone 530-295-2229		09	3327	8287

Name of Grant Program
 FY 2009-10 Mental Health Assembly Bill 3632 Services

GRANT AMOUNT	Original/Prior Amendments	Amendment Number	Amendment Amount	Total	Index	Federal Catalog Number
	\$78,388			\$78,388	0663	84.027A
AWARD DATES	Starting		Ending			
	July 1, 2009		June 30, 2010			


Dear Superintendent Barber:

Congratulations! I am pleased to inform you that you have been funded for the Mental Health Assembly Bill 3632 Services program.

This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, then this award will be amended accordingly.

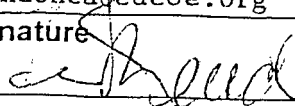
Please return the original, signed Grant Award Notification (AO-400) within ten days to:

Special Education Division, Grants
 California Department of Education
 1430 N Street, Room 2401
 Sacramento, CA 95814-5901

California Department of Education Contact Matika Rawls, Special Education Division	Title Staff Services Manager I
E-mail Address mrawls@cde.ca.gov	Telephone 916-319-0128
Signature of the State Superintendent of Public Instruction or Designee 	Date November 3, 2009

CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS

On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both; and I agree to comply with all requirements as a condition of funding.

Printed Name of Authorized Agent Terena Mendonca	Title Associate Superintendent
E-mail Address tmendonca@edcoe.org	Telephone 530-295-2221
Signature 	Date 11/10/09 A.B.10

GRANT AWARD NOTIFICATION (Continued)

The following grant conditions apply:

1. This program is authorized under the Individuals with Disabilities Education Act (IDEA), Part B, Section 611, as amended on December 3, 2004, and codified under Public Law 108-446, 20 *United States Code (USC)* 1400 et seq. Implementing regulations for this program are in Title 34 of the *Code of Federal Regulations (CFR)* Part 300. This grant was awarded to the CDE by the United States Department of Education. This grant shall be administered in accordance with the provisions of the IDEA.
2. General Assurances and Federal Funds Conditions are hereby incorporated by reference. The California Department of Education (CDE) has agreed to accept the assurances your agency currently provides in the Consolidated Application. The CDE will verify if your agency has submitted required certifications and assurances on the CDE Request for Applications Web page at <http://www.cde.ca.gov/fq/fo/r5/ca08rfa.asp>.
3. Each recipient awarded funds under IDEA shall promptly refer to the U.S. Department of Education's (ED) Office of Inspector General (OIG) any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. Information about the OIG Hotline is available on the ED OIG Offices Web page at <http://www.ed.gov/about/offices/list/oig/hotline.html> (Outside Source).
4. For information on required financial reports, please refer to the Mental Health Assembly Bill 3632 Services Reporting Guidelines on the CDE local educational agency (LEA) Grants Web page at <http://www.cde.ca.gov/sp/se/as/rptrq14468.asp>. For expenditure requirements, please refer to the CDE LEA Grants Frequently Asked Questions Web page at <http://www.cde.ca.gov/sp/se/as/leagrmtsfag.asp>.
5. The grantee must submit a **Mid-Year Expenditure Report and required financial reports** to CDE due no later than **February 11, 2010**. NOTE: The Federal Cash Management Improvement Act of 1990 was enacted by Public Law 101-453 and codified at 31 *USC* 3335, 6501, and 6503. The implementing regulations are provided in Title 31 of the *CFR* Part 205. In accordance with Title 31 *CFR* Part 205.10, CDE grant allocations must be limited to the actual, immediate cash requirements of the grantee.
6. In order to receive funds in a timely manner, the grantee must submit to CDE a **Final Expenditure Report and required financial reports**, no later than **September 1, 2010**.
7. Under CDE authority, if your agency was identified as noncompliant, special conditions may be imposed. The State Superintendent of Public Instruction may authorize the CDE to withhold partial or total funding. Those agencies with sanctions will receive notification of special conditions. No payments will be released to agencies with special conditions until the CDE receives written notification from the agency agreeing to the special conditions.

If you have any questions regarding this grant, please contact Matika Rawls, Staff Services Manager, Special Education Division, at 916-319-0128 or by e-mail at mrawls@cde.ca.gov.

cc: Business/Fiscal Officer: Mid-Year and Final Expenditure Reports