

MEMORANDUM OF UNDERSTANDING

between

EL DORADO COUNTY OFFICE OF EDUCATION

and

LAKE TAHOE UNIFIED SCHOOL DISTRICT

and

COUNTY OF EL DORADO HEALTH AND HUMAN SERVICES AGENCY

THIS MEMORANDUM OF UNDERSTANDING (“MOU”), made and entered into by and between the El Dorado County Office of Education (“EDCOE”) as the Administrative Unit of the El Dorado County Special Education Local Plan Area (“SELPA”), the Lake Tahoe Unified School District as the Tahoe Alpine SELPA (jointly referred to herein as the “SELPAs”), and the County of El Dorado, also a political subdivision of the State of California (hereinafter referred to as “County”), through its Health and Human Services Agency (“HHSa”);

RECITALS

WHEREAS, the SELPAs and County have collaboratively determined that it is necessary to provide a framework to assist those individual students diagnosed with exceptional needs have the opportunity to achieve an appropriate level of psychological, social, and educational functioning in school; and

WHEREAS, EDCOE, as the administrative unit for the El Dorado County Special Education Local Plan Area, has acted on behalf of the SELPAs to develop an MOU to facilitate the provision of mental health services; and

WHEREAS, County has represented to the SELPAs that it is specially trained, experienced, expert, and competent to perform the special services required hereunder and the SELPAs have determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable Federal, State (all references to “State” in this Agreement shall mean the State of California unless otherwise specified), and local laws; and

NOW, THEREFORE, the parties hereto mutually agree as follows:

ARTICLE I

Term: This MOU is effective July 1, 2014 through June 30, 2016 unless terminated by one of the parties hereto pursuant to the provisions of the Article titled "Termination."

ARTICLE II

Scope of Services: The purpose of this MOU is to specify the responsibilities of the SELPAS and the County with respect to the provision of mental health services to eligible special education students. This MOU is based on a common interest for those special education students who require mental health services in order to benefit from their educational program. This MOU does not cover all public mental health services available to students but is limited to those services that may be recommended by an Individualized Education Program ("IEP") team in connection with the identification, assessment, treatment, or placement of a student who is or may be eligible for special education.

This MOU covers all Local Education Agencies ("LEAs") who participate in the SELPAs and that participation obligates those LEAs to the terms of this MOU.

Any residential placement services that are approved as a part of any IEP will be arranged and paid for directly by SELPAs. This will include all mental health services associated with such residential placements unless County HHSA is specifically authorized to provide such mental health services per an IEP or Individual Mental Health Service Plan ("IMHSP") in accordance with the terms herein.

The SELPAs and County each agree to furnish facilities, personnel, and services necessary to provide the services set forth herein.

Upon execution of this MOU through termination of this MOU, LEAs agree to authorize educationally related mental health services ("ERMHS") as set forth in approved IMHSPs that are established for eligible students, using a mutually agreed upon format. LEAs will develop IMHSPs in accordance with this MOU to authorize County HHSA to provide ERMHS either through direct service or subcontracting for services. An IMHSP shall identify the specific LEA student that shall receive ERMHS from County HHSA and the specific amount, frequency, and location of the ERMHS, which shall be in accordance with each specific student's IEP or IMHSP. County HHSA shall ensure that only the ERMHS described in an IMHSP with a LEA shall be provided to a student, with the exception of unplanned and/or psychiatric emergency services as may be requested by the LEA.

LEAs may choose not to enter into IMHSPs with County HHSA to provide services, in which case the LEAs and SELPAs shall not be responsible for the costs of any services provided by County HHSA to students. If a LEA chooses not to enter into IMHSPs with County HHSA to provide service, the LEA shall have the sole responsibility to ensure its students receive all ERMHS according to the student's IEP. It is specifically understood and agreed that County shall at all times ensure that services are provided in strict accordance with a student's IEP and

should there be any differences or conflicts between a student's IEP and any applicable IMHSP, a student's IEP shall control.

Responsibilities of SELPAS and LEAs:

- A. LEA to provide HHSa with a copy of a signed "Authorization to Use/Disclose Protected Health Information" form, attached as Exhibit A, authorizing the release and exchange of all relevant information between the LEA and the HHSa Mental Health Service Provider.
 - 1. Authorization will be in accordance with Federal and State laws related to confidentiality of pupil medical records and medical confidentiality laws. Authorization forms will be signed by the parent or guardian; if the child is age twelve (12) or older, the authorization will also be signed by the child.
- B. LEA to provide the HHSa Mental Health Service Provider with a copy of the written parental consent to conduct a mental health assessment, and for observation of the pupil by a Mental Health Service Provider in an educational setting. Consent will be in accordance with Federal and State laws related to the assessment process.
- C. LEA shall provide parent with written assessment report and/or other documentation as deemed appropriate.
- D. LEA shall schedule and arrange for IEP team meetings within required timeframes, providing at least one (1) week notice to the Mental Health Service Provider.
- E. LEA shall provide initial and revised IMHSP documents to the Mental Health Service Provider in a timely manner to enable the timely provision of clinically appropriate services deemed necessary by the IEP team.
- F. LEA shall furnish clinically appropriate office space for use by the Mental Health Service Provider.

Responsibilities of County: The County will ensure the following items either by direct service or through the service of subcontractors:

- A. Conduct the mental health assessment in accordance with Federal and State Individuals with Disabilities Education Improvement Act of 2004 (IDEA) laws, as from time to time may be amended. The assessment will include (1) standardized assessment measurements (such as, but not necessarily limited to, the Children's Assessment Level of Care Utilization System, referred to as CALOCUS) whenever possible; (2) observation of the pupil in the educational setting; (3) parent interview, when appropriate; and (4) review of therapy records and reports.
- B. Complete a written assessment report with the following documentation:
 - 1. A description of the present levels of performance in the area of social and emotional development.
 - 2. Recommendations for types of services needed to ensure access to the pupil's educational program.
- C. Provide the LEA with a written assessment report within sixty (60) calendar days after receiving written parental consent and the IMHSP from the LEA authorizing the assessment, except that the due date for the report will be extended for any periods of time exceeding ten (10) days that the student is not attending school.
- D. Participate in the IEP team meeting to review the assessment reports, discuss recommendations, and determine the need for mental health as a related service.

1. If a student is deemed by the IEP team to be eligible for mental health services, the HHSA Mental Health Services Provider shall provide measureable goals and objectives.
- E. Ensure that therapy sessions will occur at the pupil's classroom site or other clinically appropriate site, including but not necessarily limited to, the County Mental Health outpatient clinics or subcontractors location, as determined by the IEP team and documented in the IEP and/or IMHSP.
- F. Ensure that the pupils who are transferring/moving into the LEA from another LEA, county, or state will receive interim mental health services as specified in the existing IEP pursuant to CA Ed. Code 56325, for a period not to exceed thirty (30) calendar days.
- G. Participate in an IEP team meeting within thirty (30) calendar days of the pupil's transfer from another LEA, county, or state, to review interim mental health services.
- H. Ensure that the pupil is offered the option to participate in make-up therapy sessions for scheduled sessions that were lost due to any reason other than pupil absence from school.
- I. Provider of services, either County or subcontractor, shall document pupil attendance at each therapy session and provide documentation to LEA for review upon request.
- J. Monitor therapy progress and update/provide progress toward goals and objectives, per IEP specifications.
- K. Ensure that therapy sessions, as set forth in the IMHSP, only when school is in session, unless the IEP or IMHSP specify services outside of that time frame.
- L. Ensure no change in services or service delivery model without concurrence from the IEP team and receipt of a revised IMHSP.

ARTICLE III

Compensation for Services: County shall submit invoices to the SELPAs for services performed pursuant to this MOU within sixty (60) days following the month of service.

Rates: For the purposes of this MOU, the SELPAs' payments for mental health services performed by County HHSA shall be based upon County of El Dorado Board of Supervisors approved published rates for Mental Health Services, as set forth in Exhibit B – El Dorado County Published Rates for Mental Health Services, incorporated herein and made by reference a part hereof. In the event the Board of Supervisors approves new Published Rates for Mental Health Services, this Agreement shall be amended to incorporate those rates in accordance with the Article titled "Changes to MOU." For purposes of this Agreement, rates shall include any travel incurred by County staff during the course of providing services under this Agreement.

Medi-Cal: For all clients receiving mental health services with coverage under Medi-Cal, the following billing and payment procedures will apply:

- County will file claims for Medi-Cal reimbursement when applicable.
- Service costs that are incurred but cannot be billed to or are not paid for by Medi-Cal, shall remain the financial responsibility of the SELPAs.
- County will first bill Medi-Cal, when applicable, prior to billing SELPAs.
- Medi-Cal Beneficiaries: In the event SELPA pays for services provided and it is later determined that said services are reimbursed due to Client being a Medi-Cal Beneficiary, County shall credit SELPA the Medi-Cal reimbursement on the next invoice.

- Any credit provided to the SELPAS for a Medi-Cal, billing that is subsequently disallowed shall be submitted on the next invoice to the SELPAs, and reimbursed to County.

Invoices: Payment shall be made for actual services rendered and shall not be made for services the client did not attend or receive. Each invoice shall describe:

- The student's name, date of birth, provider name, and date of service;
- The LEA of residence, as provided most recently in writing by the LEA;
- The services provided as described in the student's IEP or, upon execution of this MOU, the IMHSP; and
- The units of service and cost per unit.

Note: The information provided will enable the LEA to establish a link between the services provided and the individual student's IEP or IMHSP.

Subcontracted Services: At the IEP, there should be mutual agreement regarding who will be the provider of services. In the event that mental health services are to be performed by a contract provider of County (including such services for children in residential placement), the SELPAs reimbursement to County shall be based on the full actual cost of such services as paid by County to contract provider, plus a fifteen percent (15%) HHSA administrative fee applied to the provider's cost. **Documentation:** County HHSA is responsible for maintaining all required documentation in accordance with current practice for audit purposes.

ARTICLE IV

HIPAA: All data, together with any knowledge otherwise acquired by the parties during the performance of services provided pursuant to this MOU, shall be treated by the parties and the parties' staff as confidential information. The parties shall not disclose or use, directly or indirectly, at any time, any such confidential information. If the parties receive any individually identifiable health information ("Protected Health Information" or "PHI"), the parties shall maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

ARTICLE V

Mandated Reporter Requirements: All parties acknowledge and agree to comply with mandated reporter requirements pursuant to the provisions of California Penal Code Section 11164 et seq., also known as The Child Abuse and Neglect Reporting Act.

ARTICLE VI

Records Retention: County shall maintain medical records as required by the California Code of Regulations (CCR). County shall maintain client medical and/or clinical records for a minimum of seven (7) years following the date of last service, except for minors. Records of minors must be

maintained for at least one (1) year after a minor has reached age eighteen (18), but in no event for less than seven (7) years beyond the date of last service.

County shall keep books and financial records for each client served under this MOU for five (5) years together with complete and adequate financial records for all expenditures made by County in connection with the administration of the program. Such records shall be open for inspection on request by the SELPAs' Administrator, or designee, at times mutually agreed upon by the parties hereto.

ARTICLE VII

Audit: The SELPAs and LEA auditors will have access to County HHSA records supportive of claims filed pursuant to this Agreement if required for audit purposes as allowed by state and federal law. LEAs will be responsible for any audit exceptions and/or disallowed claims filed pursuant to this Agreement. . In the event of the need for an audit appeal, County HHSA and the SELPAS will mutually agree upon the most expedient process for resolution. This audit provision shall survive the term of this Agreement.

ARTICLE VIII

Changes to MOU: This MOU may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE IX

Termination: This MOU may be terminated by either party for any reason upon a minimum of forty-five (45) days written notice to the other party. If such termination is effected, the SELPAS will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination, and for such other services, which the SELPAs may agree to in writing as necessary for contract resolution. In no event, however, shall the SELPAs be obligated to pay more than a total amount determined after consideration of funds received by County pursuant to Article III, Compensation for Services, above as applicable. Upon Notice of Termination, County shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

ARTICLE X

Change of Address: In the event of a change in address for SELPA's principal place of business, a SELPA's Agent for Service of Process , or Notices to Parties, SELPA shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties". Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XI

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
HEALTH AND HUMAN SERVICES AGENCY
3057 BRIW ROAD
PLACERVILLE, CA 95667
ATTN: CONTRACTS UNIT

With a copy to:

COUNTY OF EL DORADO
PROCUREMENT AND CONTRACTS UNIT
360 FAIR LANE, LOWER LEVEL
PLACERVILLE, CA 95667
ATTN: TERRI DALY, PURCHASING AGENT

Or to such other location as the County directs.

Notices to SELPAs shall be addressed as follows:

EL DORADO COUNTY OFFICE OF EDUCATION
6767 GREEN VALLEY ROAD
PLACERVILLE, CA 95667
ATTN: DAVID TOSTON, EXECUTIVE DIRECTOR

And to:

LAKE TAHOE UNIFIED SCHOOL DISTRICT
1021 AL TAHOE BOULEVARD
SOUTH LAKE TAHOE, CA 96150
ATTN: JAMES TARWATER, Ed.D.

Or to such other location as the SELPAS directs.

ARTICLE XII

Indemnity: County shall defend, indemnify, and hold the SELPAs harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, the SELPAs' employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the County's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the SELPAs,

County, sub-contractor(s) and employee(s) of any of these, except for the sole, or active negligence of the SELPAs, its officers and employees, or as expressly prescribed by statute. This duty of County to indemnify and save the SELPAs harmless includes the duties to defend set forth in California Civil Code Section 2778.

The SELPAs shall defend, indemnify, and hold County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the SELPAs' services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of County, the SELPAs, sub-contractor(s) and employee(s) of any of these, except for the sole, or active negligence of County, its officers and employees, or as expressly prescribed by statute. This duty of the SELPAs to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XIII

Due Process: Participation in due process claims filed by parents on behalf of their children against LEAs is not covered in this indemnity provision. Claims that arise subsequent to June 30, 2014 are part of the duties of the LEAs to defend, not County HHSA. County HHSA agrees to cooperate and provide reasonable assistance at no additional cost to LEAs, beyond costs authorized by this Agreement, to help the LEAs defend those claims.

ARTICLE XIV

Insurance: All parties are self-insured and shall provide a letter of self-insurance if requested to do so by either party during the term of this MOU.

ARTICLE XV

Administrator: The County Officer or employee with responsibility for administering this Agreement is Patricia Charles-Heathers, Ph.D., Assistant Director of Health Services, Health and Human Services Agency, or successor.

ARTICLE XVI

Authorized Signatures: The parties to this MOU represent that the undersigned individuals executing this MOU on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XVII

Partial Invalidity: If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XVIII

Conflict Prevention and Resolution: The terms of this Agreement shall control over any conflicting terms in any referenced document, except to the extent that the end result would constitute a violation of Federal or State law. In such circumstances, and only to the extent the conflict exists, this Agreement shall be considered the controlling document.

ARTICLE XIX

Venue: Any dispute resolution action arising out of this MOU, including, but not limited to, litigation, mediation, or arbitration, shall be brought in County of El Dorado, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XX

Third Party Rights: Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the SELPAS, County HHSA, and LEAs.

ARTICLE XXI

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire agreement between the parties and they incorporate or supersede all prior written or oral agreements or understandings.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By: Patricia Charles-Heathers
Patricia Charles-Heathers, Ph.D., Assistant Director of
Health Services
Health and Human Services Agency

Dated: 4/30/14

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: Don Ashton
Don Ashton, M.P.A., Director
Health and Human Services Agency

Dated: 4/30/2014

IN WITNESS WHEREOF, the parties hereto have executed this MOU #006-F1511 on the dates indicated herein below.

EL DORADO COUNTY OFFICE OF EDUCATION

By:  Dated: 5/24/14
Jeremy M. Meyers., Superintendent

By:  Dated: 5/27/14
Robbie Montalbano, Associate Superintendent

LAKE TAHOE UNIFIED SCHOOL DISTRICT

By:  Dated: 6/10/14
Jim Tarwater, Ed.D., Superintendent

COUNTY OF EL DORADO

Dated: _____

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

ATTEST:
James S. Mitrison
Clerk of the Board of Supervisors

By: _____ Dated: _____
Deputy

kgf