

AGREEMENT
BETWEEN CENTRAL UNIFIED SCHOOL
DISTRICT AND FRESNO COUNTY
SUPERINTENDENT OF SCHOOLS FOR
BEHAVIORAL HEALTH SERVICES

1. AGREEMENT

This Agreement is entered into this first day of January, 2019, between the CENTRAL UNIFIED SCHOOL DISTRICT (hereinafter referred to as “District”) and the FRESNO COUNTY SUPERINTENDENT OF SCHOOLS (hereinafter referred to as “County Superintendent”) for the purpose of providing behavioral health services to the students of the District.

The County Superintendent previously entered into an Agreement with the County of Fresno on June 5, 2018, for the provision of behavioral health services (the “Services”) to the students of school Districts within Fresno County (“Master Agreement”). The District educates students, some of whom would benefit from behavioral health services. District wishes to engage County Superintendent to provide behavioral health services to its students in need. District and County Superintendent, intending to be legally bound, therefore agree as follows:”

2. SCOPE OF SERVICES

The scope of the Services to be provided to the students of the District by service providers employed by the County Superintendent (hereinafter “Service Providers”) during the agreement term are set forth in the Scope of Services attached hereto and incorporated herein as Exhibit A.

County Superintendent Service Providers will provide crisis support in situations that a student expresses desire to harm himself/herself or a desire to harm others, as circumstances permit.

County Superintendent Service Providers, as circumstances permit, will provide support in the form of consultation and collaboration for crisis situations that are non-life threatening or that do not involve threats of harm to self or others (this may not include direct intervention).

3. TERM OF AGREEMENT

The term of this Agreement shall be from January 1, 2019 to June 30, 2021. Neither District nor County Superintendent are required to renew this Agreement in subsequent Agreement years. However, the parties acknowledge that any subsequent Agreement is to be renegotiated prior to June 30, 2021. If a subsequent Agreement has not been executed prior to June 30, 2021 and if the Parties intend to continue the relationship, then this Agreement shall remain in force and effect until terminated as provided herein or a new Agreement is executed.

4. INTEGRATION/CONTINUANCE OF AGREEMENT FOLLOWING EXPIRATION OR TERMINATION

This Agreement supersedes any prior or contemporaneous written or oral understanding or agreement/ with respect to the terms set forth in this Agreement. This Agreement may be amended only by written amendment executed by both parties.

Either party may terminate this Agreement with or without cause by providing 60 days' prior written notice.

5. CERTIFICATION AND LICENSES

Service Providers employed by the County Superintendent who are required to be licensed or board certified will be registered with the applicable board according to their area of specialty (i.e. Board of Behavioral Sciences or Board of Psychology or Medical Board of California) and are in good standing under the laws of the State of California.

ADMINISTRATION OF AGREEMENT

6. NOTICES

All notices provided for by this Agreement shall be in writing. Notices shall be submitted in electronic transmission or mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee.

All notices mailed to District shall be addressed to:

Name: Andrew Alvarado

District: Central Unified School District

Address: 4605 N. Polk

City, State Zip: Fresno, CA 93722

Superintendent Email Address: agalvarado@centralunified.org

His or Her Administrative Assistant Email Address: alopez@centralunified.org

Notices to County Superintendent shall be addressed to:

Name: Trina Frazier

Provider: Behavioral Health Partnership/All 4 Youth

Address: 1111 Van Ness Avenue

City, State Zip: Fresno, CA 93721

County Superintendent Email Address: Tfrazier@fcoe.org

His or Her Administrative Assistant Email Address: Lwascher@fcoe.org

7. SEVERABILITY CLAUSE

If any provision or portion of a provision of this Agreement is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

8. SUCCESSORS IN INTEREST

Neither party shall voluntarily or by operation of law, assign or otherwise transfer this Agreement without the other party's prior written consent. Any purported assignment in violation of this paragraph shall be void.

9. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Agreement with venue in the Superior Court for the State of California, County of Fresno.

10. MODIFICATIONS AND AMENDMENTS

This Agreement may only be modified or amended in a writing agreed to by the Parties.

11. INSURANCE

County Superintendent shall for the duration of the Agreement be permissibly self-insured against claims for injuries to persons or damages to property, which may arise from or in connection with performance under this Agreement by County Superintendent, Service Providers, its agents, representatives, or employees.

Prior to final approval of this Agreement, County Superintendent shall deliver to the District documentation for each required coverage and additional insured endorsements for the comprehensive general liability and comprehensive automobile liability coverages. If at any time said coverages lapse or become canceled, this Agreement shall become void. The acceptance by District of the above-required coverages does not serve to limit the liability or responsibility of the insurer or County Superintendent.

For all coverage procured by County Superintendent, the following terms apply:

A. County Superintendent shall maintain limits of coverage no less than:

1. Commercial General Liability: 1,000,000 per occurrence for bodily injury and property damage, personal injury and completed operations.
2. Automobile Liability: 1,000,000 combined single limit.

3. Professional Liability/Errors and Omissions coverage, including Sexual Molestation and Abuse coverage, unless that coverage is afforded elsewhere in the Commercial General Liability Insurance: 2,000,000 per occurrence/2,000,000 aggregate.
 4. Worker's Compensation Insurance, with Employer's Liability limits not less than 1,000,000 each accident.
- B. The general liability and automobile liability coverages are to contain, or be endorsed to contain, the following provisions:
1. The District, its subsidiaries, officials and employees are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of County Superintendent; products and completed operations of County Superintendent; premises owned, occupied or used by County Superintendent; or automobiles owned, hired or borrowed by County Superintendent. The coverage shall contain no special limitations on the scope of protection afforded to the District, its subsidiaries, officials, and employees.
 2. For any claims related to the services, County Superintendent's insurance coverage shall be primary insurance as respects the District, its subsidiaries, officials, and employees. Any insurance or self-insurance maintained by the District, its subsidiaries, officials, and employees shall be excess of County Superintendent's coverages and shall not contribute with it.
 3. Each coverage required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
- C. County Superintendent shall furnish the District with original or photocopies of endorsements effecting coverage required by this clause. All Certificates of Insurance shall reference the Agreement number, the name of school or agency submitting the Agreement number, the name of school or agency submitting the certificate, and the location of the agency submitting the certificate.
- D. Should any of the required coverages lapse during the term of this Agreement, the District may terminate this Agreement effective on the date of lapse.
- E. If District or County Superintendent determines that change in coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.
- F. District represents that it is self-insured in compliance with the laws of the state of California, that the self-insurance covers District employees acting within the

course and scope of their respective duties, and that its self-insurance covers District's indemnification obligations under this Agreement.

12. INDEMNIFICATION

County Superintendent shall indemnify and defend District and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors ("District Indemnitees") against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Agreement or its performance, to the extent that such loss, expense, damage or liability was proximately caused by sole gross negligence or willful misconduct of County Superintendent, including, without limitation, its Service Providers, agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding District and District Indemnitees).

District shall indemnify and hold County Superintendent and its Board Members, administrators, employees, Service Providers, agents, attorneys, and subcontractors ("County Superintendent's Indemnitees") harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Agreement or its performance, to the extent that such loss, expense, damage or liability was proximately caused by the gross negligence or willful act of District, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding County Superintendent and/or any County Superintendent's Indemnitees).

13. INDEPENDENT CONTRACTOR

This Agreement is by and between two independent entities that have an independent Agreement relationship. County Superintendent shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent, master and servant, or employer and employee between the District and County Superintendent and any of its employees, agents, affiliates or other representatives, or between the District and any individual assigned by County Superintendent, to perform any services for the District. County Superintendent shall provide all services under this Agreement as an independent contractor, and neither shall have the authority to bind or make any commitment on behalf of the other.

County Superintendent shall be the sole employer of the individuals selected as Service Providers. County Superintendent shall be solely responsible for directing its staff, making staffing decisions.

The Parties agree that the District is not to assume, nor shall it assume by this Agreement, any liability under the California Workers' Compensation Insurance and Safety Act for, by, or on behalf of any County Superintendent employees, while said employees are on the premises of District or while performing any duty whatsoever under this Agreement, or

while going to or from any of the services described herein. County Superintendent shall provide written notice to its employees of this clause in this Agreement.

14. NON-DISCRIMINATION

County Superintendent and District shall not unlawfully discriminate on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation, in employment or operation of programs pursuant to this Agreement.

15. MAINTENANCE OF RECORDS/PROPRIETARY INFORMATION OF DISTRICT

County Superintendent understands and agrees that, in connection with this Agreement, County Superintendent may have access to proprietary or confidential information which may be owned or controlled by District, and that such information may contain proprietary details, the disclosure of which to third parties may be damaging to the District, its employees, or students. County Superintendent also understands and agrees that the disclosure of such information may violate state and/or federal law and may be subject County Superintendent to civil liability. Consequently, County Superintendent agrees that all information disclosed by the District to County Superintendent shall be held in strict confidence and used only in performance of this Agreement, unless disclosure is required by law or court order. County Superintendent shall exercise the same standard of care to protect such information as is used to protect its own proprietary or confidential information.

All behavioral health records generated pursuant to this Agreement regarding students shall be maintained by County Superintendent as required by state and federal laws and regulations under Health Information Portability Accountability Act of 1996.

County Superintendent shall maintain its HIPAA compliant behavioral health records in a secure location to ensure confidentiality and prevent unauthorized access.

County Superintendent shall comply as applicable with the requirements of the Family Educational Records Privacy Act ("FERPA") and relevant state law regarding the confidentiality and handling of pupil records, including but not limited to, California Education Code section 49073 et seq.

County Superintendent shall comply at all times with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law, 111-0005 ("HITECH"), and regulations promulgated thereunder by the US Department of Health and Human Services and other applicable laws.

County Superintendent shall have access to confidential student information when it is in legitimate behavioral health interest related to for performing County Superintendent duties on behalf of the youth under this Agreement, County Superintendent shall not use confidential student data for any purposes, other than providing services or reflecting on outcomes pursuant to this Agreement. County Superintendent shall not re-disclose

confidential student information to any third party without the prior written consent of the confidential rights holder and/or in a manner otherwise consistent with state law and any release shall at all times be consistent with state and federal law.

The County Superintendent and District shall develop policies and protocols for sharing records pursuant to applicable state and federal law.

County Superintendent agrees that upon termination of the Agreement that it shall return all pupil records that are in its possession to the District within sixty (60) calendar days of such termination.

16. DISTRICT SUPPORT OF SERVICES

- A. The District shall provide Service Providers with an adequately furnished, reasonably accessible, well-lit work space. Office space provided shall be private, confidential and available at all scheduled times. Staff will also have a confidential phone line and access to the site's voicemail and email systems, duplication equipment, and secure electronic student information system as necessary and pursuant to applicable state and federal law. Specifically, District shall make the following rooms available to the Service Providers: Room 14 at McKinley Elementary, Room 20 at Herndon Barstow Elementary, Room 32 at Polk Elementary, an office in the front office at Biola Pershing Elementary and an office in the front office Harvest Elementary School, Fresno, California. Any change in location by the District shall be provided in writing to the County Superintendent at least sixty (60) days prior to the change. Any replacement location whether temporary or permanent shall nonetheless meet the criteria identified herein.
- B. The District will refer appropriate students to County Superintendent using a mutually agreeable legal, referral process. Each site will work with County Superintendent to develop the referral process, with particular attention to the following issues: parent contact, notification, and permission; routing of referrals, feedback to referring person and primary liaison for information. This process should be written and in place no later than July 1st of each calendar year. The District will encourage self-referral of students where appropriate.
- C. The District will provide administrative support for provision of behavioral health services by the Service Providers.
- D. The District will provide support in promoting family events.
- E. District will maintain school district protocol for crisis intervention utilizing existing resources and staff.
- F. District agrees that County Superintendent Service Providers provide behavioral health services and will not assign administrative operations or duties and will not leave County Superintendent Service Providers to supervise a classroom/recess/event (etc.) to relieve a teacher or other school staff personnel.

- G. District understands that County Superintendent Service Providers are under the direct supervision of an assigned County Superintendent Supervisor and follow the policies and procedures of FCSS and the All 4 Youth Behavioral Health Program.
- H. District allows access to students served pursuant to this Agreement during school hours in order to receive behavioral health services.
- I. District allows County Superintendent Service Providers access to observe students in classroom settings in order to inform or provide behavioral health services.
- J. County Superintendent staff shall not be responsible for classroom management and/or disciplinary protocols. County Superintendent staff will consult in providing behavioral health intervention strategies while following chain of command.

17. ATTENDANCE AT DISTRICT MEETINGS

County Superintendent staff working in the District may attend District meetings where and/or District policy and procedures are reviewed, including but not limited to the areas of: cultural and linguistic needs of pupils with disabilities, discipline policies, Section 504 responsibilities, Individuals with Disabilities Education Act responsibilities, Americans with Disabilities Act responsibilities, positive behavioral interventions, and least restrictive environment responsibilities. District shall provide County Superintendent with reasonable notice of such meetings.

18. SERVICES AND SUPERVISION ON PUBLIC SCHOOL CAMPUSES

County Superintendent shall comply with Penal Code Section 627.1 et. seq. and District procedures regarding visitors to school campuses specified by District policy and in the District Procedures, and shall follow the procedures of the campus being visited. County Superintendent shall be responsible for purchase and provision of the supplies and assessment tools necessary to implement the provision of services on District property.

PERSONNEL

19. FINGERPRINT REQUIREMENTS

County Superintendent shall comply with the requirements of the California Education Code regarding fingerprinting and background checks, including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for County Superintendent's employees prior to service with any District student. County Superintendent hereby agrees that its employees shall not come in contact with District students until CDOJ and FBI clearance are ascertained. Prior to commencing services for students and any time there are changes in personnel, County Superintendent shall ensure and certify in writing to District that none of its employees who are working with District students have been convicted of a violent or serious felony as defined in Education Code section 45125.1, a sexual offense as defined in Education Code section

44010, or a controlled substance offense as defined in Education Code section 44011. This prohibition does not apply to those who have obtained a certificate of rehabilitation and pardon pursuant to California Penal Code section 4852.01 for a felony listed under Education Code section 45122.1 and who provide satisfactory documentation of same.

County Superintendent shall require each employee working with District students to report immediately to the District any subsequent arrest for a violent or serious felony as defined in Education Code section 45125.1, a sexual offense as defined in Education Code section 44010, or a controlled substance offense as defined in Education Code section 44011, and County Superintendent shall immediately prohibit such employee from having any contact with District pupils pursuant to this Agreement.

The District shall have no responsibility for costs of criminal background checks and arrest notifications.

20. STAFF QUALIFICATIONS

County Superintendent shall ensure that all individuals employed, contracted, and/or otherwise hired by County Superintendent hold a license, certificate, permit, or other document required by law for the services being provided. County Superintendent shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

21. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

County Superintendent shall submit to District a staff list, as applicable, and copies of all current licenses, credentials, permits and/or other documents, which entitle the holder to provide services by individuals employed, contracted, and/or otherwise hired by County Superintendent. County Superintendent shall notify District in writing within forty-five (45) days when personnel changes occur which may affect the provision of services to District pupils.

County Superintendent shall monitor the status of licenses, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by County Superintendent to provide services to District students. County Superintendent shall provide to District updated information regarding the status of licenses, credentials, permits, and/or other documents as specified in District Procedures. County Superintendent will be considered in breach of this Agreement for any service provided by an unqualified provider or one who has an expired credential or license.

HEALTH AND SAFETY MANDATES

22. HEALTH AND SAFETY

County Superintendent shall comply with all applicable federal, state, local, and District laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. County Superintendent shall comply with the requirements of California Education Code sections 35021 et seq. regarding the examination of County

Superintendent's Service Providers for tuberculosis. County Superintendent shall provide to District documentation for each individual volunteering, employed, contracted, and/or otherwise hired by County Superintendent of such compliance (i.e., compliance with California Education Code sections 35021 et seq.) before an individual comes in contact with a District pupil.

County Superintendent shall comply with OSHA Blood Borne Pathogens Standards, Title 29 Code of Federal Regulations (CFR) section 1910.1030, should it provide medical treatment or assistance to a District pupil. County Superintendent further agrees to provide any applicable annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code as required by applicable law.

23. EMERGENCY INTERVENTION AND INCIDENT REPORTING

County Superintendent shall comply with state and federal law related to emergency interventions.

District shall complete a Behavioral Emergency Report ("BER") when an emergency occurs. If a County Superintendent staff is the only witness to the incident and the student has an IEP then the County Superintendent staff will complete the Behavioral Emergency Report ("BER").

24. MANDATED REPORTING REQUIREMENTS

County Superintendent hereby agrees to annually train all staff members so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e., reporter, child, and alleged abuser), reports will remain confidential as required by law and professional ethical mandates.

County Superintendent agrees to provide annual training to all employee and volunteer staff regarding mandated child abuse reporting laws, and shall maintain documentation, signed by each staff member receiving such training. County Superintendent shall maintain confidential records of any report of suspected child abuse made by its Service Providers.

25. SEXUAL HARASSMENT

County Superintendent shall have a Sexual and Gender Identity harassment policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by County Superintendent's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. County Superintendent further agrees to provide anti-harassment training as required by applicable law.

26. REPORTING OF MISSING CHILDREN

County Superintendent assures District that all Service Providers are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the District. The written statement shall be submitted as specified by the District.

Fresno County Superintendent of Schools

County Superintendent

Date

Central Unified School District

Superintendent

Date