

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF MONTEREY, BY AND THROUGH
THE COUNTY OF MONTEREY HEALTH DEPARTMENT,
BEHAVIORAL HEALTH BUREAU
AND
SAN ARDO UNION ELEMENTARY SCHOOL DISTRICT**

This Memorandum of Understanding (hereafter referred to as “MOU”) is developed and entered into effective the **1 day of July**, which date is enumerated for purposes of reference, by and between the Monterey County Health Department, Behavioral Health Bureau (hereinafter referred to as “County”) and **San Ardo Union Elementary School District** (hereinafter referred to as “District” or “School District”), together referred to as “Parties” and singularly as “Party.”

RECITALS:

WHEREAS, the School District is the recipient of Local Control Funding Formula (LCFF) funds due to changes in the FY 2013–14 State budget package which replaced the previous K–12 finance system with the new LCFF;

WHEREAS, the School District is required to develop a Local Control and Accountability Plan (LCAP) and has identified in that plan the need to provide therapeutic services to students who require such services;

WHEREAS, the County provides behavioral health services through the Health Department’s Behavioral Health Bureau and to the extent that annual funding allows, is committed to assisting schools in Monterey County with the provision of therapeutic services to students who require them;

WHEREAS, the School District has requested assistance from the County for the provision of therapeutic services to enrolled students; and

NOW THEREFORE, this MOU is created for the purpose of setting forth the terms and conditions under which the County and the District will collaborate to ensure provision of therapeutic services to the students of the District.

1. Term of MOU

This MOU shall be in full force commencing **July 1, 2016 and ending June 30, 2017**, unless terminated or amended pursuant to this MOU.

2. Services and Responsibilities of the County

- a. The County will assign to District .10 Full Time Equivalent (“FTE”) therapist (“Therapists”) for the provision of behavioral health services (“Therapeutic Services”) for students in School District. Therapeutic Services shall include, individual therapy, group

therapy, family therapy, parent and/or teacher consultation, treatment planning, and the provision of classroom observation, teacher training, parent education, and referrals for crisis intervention as needed. The County shall maintain the files and all required documents relating to any Therapeutic Services provided by Staff to all students pursuant to this MOU. The County shall respond to any requests from a student or his/her parent or guardian regarding such services, files, or documents.

b. To offset the costs to the School Districts as outlined in Section 4, Payment Provision of this MOU, the County will provide additional funding from Medi-Cal billing revenue and the Mental Health Services Act (“MHSA”) for each Therapist per County fiscal year.

c. The County shall be solely responsible for managing, monitoring, and overseeing Staff in the provision of Therapeutic Services, including the scheduling of Therapeutic Services, at the District.

d. The County ensures that the Therapists (“Staff”) that it assigns to the District will perform the scope of activities and services required to fulfill the therapeutic services needed by the District’s students. The Staff shall be employees of the County, and the County shall pay all salaries and expenses owed to the Staff related to the Staff’s services for the District pursuant to this MOU. The District’s only financial obligation to the County or Staff shall be the payments to County described in Section 4 (a) of this MOU.

e. The County will manage and monitor the status of therapeutic services provided in the District and will report data required by the District and which conforms to the Confidentiality of Patient Information Certification included as Exhibit A to this MOU.

f. The County will provide office furniture and supplies; IT equipment and IT support necessary in order to appropriately equip the Staff with the appropriate furniture, supplies and equipment necessary for County business. The furniture, equipment and supplies will be owned and maintained by the County. In the event of termination of services, the County will retrieve all County-owned equipment furniture and supplies.

g. The County will provide and service the IT needs of the Staff assigned to work in the District.

h. The County shall designate a Services Manager or designee who will oversee and be the point of contact for the District for any and all issues associated with the services to be provided by the County as described in this MOU.

i. If either Party is ever audited, the other Party will provide assistance as may be helpful or necessary.

j. The County agrees to meet as needed with the District Manager or designee to ensure appropriate, efficient and effective implementation of the services rendered by County Staff.

3. Services and Responsibilities of the District

- a. The District agrees to provide office and/or meeting space and any equipment necessary (other than the equipment provided by County in Section 2(f) of this MOU) for the implementation of services provided by Staff. In the event of termination of services, the County will retrieve all County-owned equipment, furniture, and supplies.
- b. The District agrees to compensate the County for the services provided by the Therapists at a rate of \$5,000 per County fiscal year as outlined in Section 4(a), Payment Provisions, of this MOU.
- c. The District will assign a District Manager or designee to serve as the point of contact for the County for any all issues associated with this MOU.
- d. The District agrees to meet as needed with the County Service Manager or designee and/or the County Staff assigned to work in the District to ensure appropriate, efficient and effective implementation of the services rendered by County Staff.

4. Payment Provisions

- a. Subject to the limitations set forth herein, School District shall pay County **\$5,000.00** for the provision of County's services during the term of this Agreement and in accordance with the following schedule:

Period	FTE Total	Maximum Annual Amount
July 1, 2016 to June 30, 2017	.10 FTE @ \$5,000 each	\$5,000 --1 st semiannual payment of \$2,500.00 shall be invoiced on or about December 31, 2016. --2 nd semiannual payment of \$2,500.00 shall be invoiced on or about June 30, 2017.

- b. The County shall prepare and submit its invoice for the requested amount, as described in Section (a) above, along with such other information pertinent to the invoice, and submit to the School District at the following address:

San Ardo Union Elementary School District
62428 Center St.
San Ardo, CA 93450

School District shall pay the County's invoice in the requested amount within 30 days of receiving the County's invoice.

c. If for any reason this MOU is terminated, the School District's maximum liability shall be the total utilization to the date of termination not to exceed the maximum amount listed above.

d. As an exception to Section (c) above with respect to the Survival of Obligations after Termination, School District shall continue to remain obligated under this MOU with regard to payment for services required to be rendered after termination.

e. Subject to the limitations set forth herein, the County shall provide additional funds using MHSA and Medi-cal billing revenue for the provision of County's services during the term of this Agreement for funding not covered by the School District's allotment per Section 4(a) of this MOU.

5. Exhibits

The following attached exhibits are incorporated herein by reference and constitute as a part of this Memorandum of Understanding:

EXHIBIT A: CONFIDENTIALITY OF PATIENT INFORMATION CERTIFICATION

(executed by County and District)

EXHIBIT B: COUNTY INSURANCE

EXHIBIT C: SCHOOL DISTRICT INSURANCE

6. Screening

The Parties shall comply with applicable laws, regulations, and District policies related to criminal records checks, fingerprinting, and tuberculosis screenings.

7. Maintenance and Confidentiality of Patient Information

a. The County shall maintain clinical records for each recipient of service in compliance with all state and federal requirements and Exhibit A. Such records shall include a description of all services provided by the County in sufficient detail to make possible all evaluation of services, and all data necessary to prepare reports to the State, including treatment plans, records of client interviews, and progress notes. The County shall retain clinical records for a minimum of seven (7) years and, in the case of minors, for at least one (1) year after the minor has reached the age of majority, but for a period of no less than seven years.

b. The County and District shall comply with the confidentiality requirements set forth in Exhibit A and incorporated by reference as if fully set forth herein.

8. Modification

This MOU may be modified only by an instrument in writing signed by the County and the District.

9. Termination

- a. **Termination Without Cause.** Either Party may cancel this MOU at any time upon thirty (30) calendar days of written notice.
- b. **Termination With Cause.** Either Party may terminate this Agreement upon the material breach of this Agreement by the other Party by giving the other party fifteen (15) days' prior written notice of such breach. If such breach is not cured by the breaching party within fifteen (15) days of receipt of this notice, this Agreement shall terminate at the end of such fifteen (15) day period.

10. Assignment

This MOU may not be assigned without the prior written consent of the Parties.

11. General Provisions

- a. All work described herein shall be performed in accordance with applicable Federal, State and local laws and regulations,
- b. **Non-discrimination.** During the performance of this Agreement, the Parties shall not unlawfully discriminate against any person because of race, religion, color, sex, national origin, ancestry, mental or physical handicap, medical condition, marital status, age (over 40), or sexual orientation, either in the Parties' employment practices or in the furnishing of services to recipients. The Parties shall insure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be unlawful discrimination. In addition, School District's facility access for the disabled shall comply with § 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).
- c. **Third Party Rights.** Nothing in this MOU shall be construed to give any rights, benefits, or obligations to anyone other than School District and the County.
- d. **Independent Contractor.** The County shall act as an independent contractor in the performance of the duties hereunder, and no officer, employee or agent of the County under this MOU shall be deemed to be an officer, employee or agent of the District in carrying out the duties of this MOU. Nothing in this MOU shall create any of the rights, powers, privileges or immunities of an employee of the District.
- e. The County's obligations with regard to any personnel it retains, employs, or contracts with shall include paying all federal and state withholding taxes applicable to employees and complying with federal and state wage-hour obligations (including overtime), workers' compensation obligations, unemployment insurance obligations, and other

applicable taxes and contributions to government mandated employment related insurance and similar programs.

12. Mutual Indemnification

- a. The District shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage rising out of, or in connection with, performance of this MOU by The District and/or its agents, employees or Collaborators, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this MOU to provide the broadest possible coverage for the County. The District shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which The District is obligated to indemnify, defend and hold harmless the County under this MOU.
- b. County shall indemnify, defend, and hold harmless the District, its officers, agent and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this MOU by the County and/or its agents, employees or Collaborators, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the District. It is the intent of the parties to this MOU to provide the broadest possible coverage for the District. The County shall reimburse the District for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the County is obligated to indemnify, defend and hold harmless the District under this MOU.

13. Insurance

- a. **County Insurance.** The County shall secure and maintain the insurance coverage or self-insurance described in Exhibit B, a copy of which is attached hereto and incorporated herein by this reference.
- b. **School District Insurance.** School District shall secure and maintain the insurance coverage or self-insurance described in Exhibit C, a copy of which is attached hereto and incorporated herein by this reference.

14. Cultural Competency and Linguistic Accessibility

- a. The Staff shall provide services in a culturally competent manner to assure access to services by all eligible individuals as required by Department of Health Care Service's regulations and policies and other applicable laws. Cultural competency is defined as a congruent set of practice skills, behaviors, attitudes, and policies that enable staff to work effectively in providing contractual services under this MOU in cross-cultural situations. Specifically, the Staff's provision of services shall acknowledge the importance of culture, adapt services to meet culturally unique needs, and promote congruent skills,

behaviors, attitudes, and policies enabling all persons providing services to function effectively in cross-cultural situations.

b. The District shall provide linguistically accessible services to assure access to services by all eligible individuals as required by Department of Health Care Service's regulations and policies and other applicable laws. Specifically, the District shall provide services to eligible individuals in their primary language through linguistically proficient staff or interpreters. Family members, friends, or neighbors may be used as interpreters only in emergency situations.

c. For the purposes of this section, "access" is defined as the availability of medically necessary mental health services in a manner that promotes, provides the opportunity for and facilitates their use.

15. Notices

Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to School District, to:
San Ardo Union Elementary School
District
62428 Center St. San Ardo, CA 93450
Attn: Catherine Reimer, Superintendent
Tel: 831-627-2520
Fax: 831-627-2078

If to the County, to:
Monterey County Health Department,
1270 Natividad Road, Salinas, CA 93906
Attn: Health Director
Tel: 831-755-4526
Fax: 831-755-4797

This MOU constitutes the entire MOU between the parties and supersedes all previous communications, representations or MOUs regarding this subject, whether written, or oral, between the parties.

Consent to the terms of this MOU is indicated by the authorized signatures affixed and dated below.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written below.

MONTEREY COUNTY

SAN ARDO UNION ELEMENTARY SCHOOL DISTRICT

By: Catherine Reimer
School District

Dated: _____

Catherine Reimer, Superintendent
Printed Name and Title

Elsa Jimenez
Elsa Jimenez, Interim Director of Health

Dated: 5/11/2016

Dated: 07/14/2016

By: Nayeli Camacho
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*
Nayeli Camacho, Administrative Assistant
Printed Name and Title

Approved as to Fiscal Provisions²
Gary Giboney
Gary Giboney, Auditor/Controller

Dated: 5/12/16

Dated: 7/12/16

APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

Steve Mauck, Risk Management
By: Steve Mauck
Date: 7-12-16

Approved as to Form¹
Stacy L. Saelta
Stacy L. Saelta, Deputy County Counsel

Dated: 6-16-2016

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.
¹Approval by County Counsel is required; if Agreement is \$100,000 and less approval by County Counsel is required only when modifications are made to any of the Agreement's standardized terms and conditions. ²Approval by Auditor-Controller is required. ³Approval by Risk Management is necessary only if changes are made in Sections XI or XII.

EXHIBIT A

CONFIDENTIALITY OF PATIENT INFORMATION CERTIFICATION

Confidentiality of Patient Information and Records. All Patient Information is confidential. The Parties shall maintain the confidentiality of all patient records, including billings and computerized records, in accordance with all applicable state and federal law relating to confidentiality of patient records and patient information, including but not limited to: the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the "Privacy Rule"), the Breach Notification Standards, 45 C.F.R. Part 160 and Part 164, Subparts A and D (the "Breach Notification Rule"), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the "Security Rule"), under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("HITECH"); the federal Confidentiality of Alcohol and Drug Abuse Patient Records under 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2 (the "Part 2 Regulations"); the Lanterman-Petris-Short Act ("LPS"), California Welfare and Institutions Code sections 5328, *et seq.*; California substance abuse laws at California Health & Safety Code sections 11812 and 11845.5; Medi-Cal laws at 45 C.F.R. § 205.50, 42 C.F.R. § 431.300 *et seq.*; the Confidentiality of Medical Information Act ("CMIA"), California Civil Code sections 56.00 *et seq.*; California laws governing HIV/AIDS records at California Health & Safety Code § 120975; and California Civil Code Section 1798.29

"Patient Information" includes any individually identifying information related to a patient/recipient of behavioral health services, including, but not limited to, name, identifying numbers, symbol, fingerprint, photograph or voice print. In addition, "Patient Information" includes all health information the Parties have obtained about a patient/recipient of services, including the mere fact that patient is receiving alcohol or drug treatment from the County or has been referred to an alcohol or drug treatment program by the County, whether or not a documentary record of such information exists.

Ownership of Data. All Patient Information created or received by the County in connection with the provision of behavioral health services under this Agreement shall be and remain the property of the County and the County shall retain exclusive rights and ownership thereto. Such information shall be referred to henceforth as "County Data".

Use and Disclosure of Information. In relation to the services being provided by the County pursuant to this MOU, the District may require access to County Data regarding the progress of students receiving the therapeutic services. The County shall disclose County Data to District solely as set forth below. The County may provide County Data to District pursuant to a valid authorization for such disclosure from the patient/recipient of the Services or his or her legally authorized representative, or as required by law. The County also may provide County Data that has been de-identified in accordance with 45 C.F.R. Section 164.514 to District as necessary in connection with its performance of Services under this Agreement.

District shall use County Data or Patient Information obtained from contact with patients/recipients of Services and complainants (including anonymized data) only for the purpose(s) for which use or disclosure was authorized and shall implement appropriate safeguards to maintain the confidentiality of such information and to prevent further use or disclosure. District acknowledges that County Data regarding a patient whose records are subject to the Part 2 Regulations may not be re-disclosed to another entity without specific authorization from the patient or his/her legally authorized representative for such re-disclosure. In addition, District shall obtain the County's prior written consent to any disclosure of County Data, except as required by law. The County, through the Behavioral Health Director, shall have access to any Patient Information obtained by District in connection with its performance under this Agreement.

The Parties shall not disclose Patient Information, including the identities of patients/recipients of service, to other parties without proper authorization for such disclosure or as authorized by law.

In relation to the services being provided by County pursuant to this MOU, the County may also require access to District records and information, including but not limited to "education records" relating to the students receiving the therapeutic services ("District Data"). The County will use District Data only for the purpose of fulfilling its duties under this MOU and will not share such data (including anonymized data) with, or disclose it to, any third party without the prior written consent of the District, except as required by law and except to third party contractors retained by the County to provide services related to this MOU.

The County will provide access to District Data to its employees, subcontractors and third party contractors who need to access the data to fulfill the County obligations under this MOU. The County will ensure that employees and subcontractors who perform work under this MOU are bound to strict obligations of confidentiality no less rigorous than those set forth herein. If the County will have access to "education records" for the District's students as defined under the Family Educational Rights and Privacy Act (FERPA), the County acknowledges that for the purposes of this MOU it will be designated as a "school official" with "legitimate educational interests" in the District education records, as those terms have been defined under FERPA and its implementing regulations, and the County agrees to abide by the FERPA limitations and requirements imposed on school officials. The County shall train Staff and all of its responsible employees on how to comply with those responsibilities imposed by FERPA, through this MOU, which are applicable to the County, Staff, and County's employees. Vendor will use the education records only for the purpose of fulfilling its duties under this MOU for District's and the students' benefit, and will not share such data with or disclose it to any third party except as provided for in this MOU, required by law, or authorized in writing by the District.

If the District receives a subpoena, warrant, or other legal order, demand, including requests pursuant to the California Public Records Act (Gov. Code, §§ 6250, *et seq.*) ("requests") or requests seeking County Data, the District may advise the requesting party that the documents are not in the District's possession and that all requests should be directed to the County. The District shall respond to any such requests seeking District Data.



Upon termination or expiration of this MOU, the County will return or securely destroy District Data as directed by the District. Transfer to the District or a third party designated by the District shall occur within a reasonable period of time, and without significant interruption in service. In the event that the District requests destruction of District Data, the County agrees to securely destroy all data in its possession and in the possession of any subcontractors or agents to which the County might have transferred District Data. The County agrees to provide certification of data destruction to the District upon request.

District shall return or securely destroy County Data as directed by the County. Transfer to the County or a third party designated by the party shall occur within a reasonable period of time, and without significant interruption in service. In the even that County requires destruction of County Data, District agrees to securely destroy all data in its possession and in the possession of any subcontractors or agents to which the District may have transferred County Data. District agrees to provide certification of data destruction to County upon request.

Penalty for Unauthorized Disclosure. The Parties understand that disclosure of Patient Information in violation of law may subject the party releasing the information to civil and/or criminal fines, penalties, and damages.

Duty to Warn. The Parties understand that persons providing services under this MOU may, in certain situations involving a patient or recipient of services who is a danger to himself or others, have a duty to warn third parties of such danger and should consult supervisory staff and/or legal counsel about such duty to warn as appropriate.

Dissemination of these Confidentiality Provisions. The Parties shall inform all of their officers, employees, and agents providing services hereunder of these provisions.

<p><i>By my signature below, as the authorized representative of the District, I certify acceptance and understanding for myself and the District of the above confidentiality provisions.</i></p>	<p><i>By my signature below, as the authorized representative of the County, I certify acceptance and understanding for myself and the County of the above confidentiality provisions.</i></p>
<p></p>	<p></p>
<p>Signature of Authorized Representative</p>	<p>Signature of Authorized Representative</p>
<p>Catherine Reimer</p>	<p>Elsa M. Jimenez</p>
<p>Name of Authorized Representative (printed)</p>	<p>Name of Authorized Representative (printed)</p>
<p>Superintendent</p>	<p>Director of Health</p>
<p>Title of Authorized Representative</p>	<p>Title of Authorized Representative</p>
<p>Date: 5/11/2016</p>	<p>Date: 07/14/2016</p>

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EXHIBIT B
COUNTY INSURANCE

The County certifies that it maintains a program of insurance and self-insurance that covers its activities in connection with this MOU as follows:

1. **Professional Liability Insurance or self-insurance with financially-owned and reputable companies with limits of one million dollars (\$1,000,000) per claim and a general aggregate of three million dollars (\$3,000,000).** If such insurance is written on a claims-made form, it shall continue for three (3) years following termination of this MOU. The insurance shall have a retroactive date prior to coinciding with the effective date of this MOU. In the event that a claims-made policy is canceled or non-renewed, then the County shall obtain extended reporting (tail) coverage for the remainder of the three (3) year period.
2. **Commercial General Liability Self-Insurance.** The County shall maintain self-insurance with a self-insured retention of one million dollar (\$1,000,000) and coverage of five million dollars (\$5,000,000) in the aggregate.
3. **Worker's Compensation Insurance in a form and amount covering the County's full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.**

The coverage referred to in Section 2 above shall be **documented with a letter of self-insurance provided by the County of Monterey.** Such a provision shall only apply, however, in proportion to and to the extent of the negligent acts or omissions of the County, its officers agents, and/or employees. The County upon execution of this MOU, shall furnish School District with Certificates of Insurance or **Letter of Self-Insurance** evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days advance written notice to School District of any modification, change or cancellation of any of the above insurance coverages.

EXHIBIT C

SCHOOL DISTRICT INSURANCE

School District certifies that it maintains a program of insurance and self-insurance that covers its activities in connection with this MOU as follows:

1. **Professional Liability Insurance or self-insurance with financially-owned and reputable companies with limits of one million dollars (\$1,000,000) per claim and a general aggregate of three million dollars (\$3,000,000).** If such insurance is written on a claims-made form, it shall continue for three (3) years following termination of this MOU. The insurance shall have a retroactive date prior to coinciding with the effective date of this MOU. In the event that a claims-made policy is canceled or non-renewed, then School District shall obtain extended reporting (tail) coverage for the remainder of the three (3) year period.
2. **Commercial General Liability Self-Insurance.** School District shall maintain self-insurance with a self-insured retention of one million dollar (\$1,000,000) and coverage of five million dollars (\$5,000,000) in the aggregate.
3. **Worker's Compensation Insurance in a form and amount covering School District's full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.**

The coverage referred to in Section 2 above shall be endorsed to include the County as an additional insured. Such a provision shall only apply, however, in proportion to and to the extent of the negligent acts or omissions of School District, its officers, agents, and/or employees. School District, upon execution of this MOU, shall furnish the County with Certificates of Insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days advance written notice to the County of any modification, change, or cancellation of any of the above insurance coverages.