

MEMORANDUM OF UNDERSTANDING

Between MOUNTAIN VIEW WHISMAN SCHOOL DISTRICT AND LOS ALTOS SCHOOL DISTRICT

Regarding

MUTUAL ACCESS TO SPECIAL EDUCATION PROGRAMS (IEP TEAM REFERRALS)

This Memorandum of Understanding (MOU) is made and entered into between the Mountain View Whisman School District (MVWSD) and the Los Altos School District (LASD) for the 2023-2024 school year.

The purpose of this MOU is to ensure that when necessary, students in one District have access to special education programs operated by the other District when an appropriate program is not available in the student's district of residence. Placements under this MOU shall not be deemed an interdistrict transfer, as the student remains as a resident of the Mountain View Whisman School District.

For purposes of this MOU, the following definitions apply:

District of Residence (DOR): the District in which the student resides, and the District which is seeking access to the other District's special education program.

District of Service (DOS): the District which agrees to serve the student who is a resident of the other District.

DOR GENERAL RESPONSIBILITIES

1. Following agreement by the DOS to accept a DOR student, the DOR shall appropriately document the placement in an IEP.
2. The DOR shall provide to DOS any and all relevant educational records of the Student being placed in the DOS program.
3. Unless agreed to otherwise, DOR assumes all responsibility for implementing all components of the student's IEP, including transportation as a related service.
4. Unless otherwise agreed, DOR shall provide transportation services if required by student's IEP.
5. Unless otherwise agreed, the DOR will conduct all required/agreed upon assessments of the student. Should the student request an independent educational evaluation (IEE), the DOR will be responsible for processing the IEE request, including initiating litigation, if required, unless otherwise agreed.
6. A representative from the DOR, who has the authority to make decisions and commit resources, will have the opportunity to attend all IEP meetings. When appropriate, such representatives shall participate in transition planning for possible return of the student to the DOR.

7. The DOR will be billed for the actual cost of student the DOS's program using the formula and tables provided by the Northwest Santa Clara County SELPAs as part of the intra/inter-SELPA transfer process. An Individual Service Agreement for each student may be required.
8. Unless otherwise agreed, the DOR shall provide all necessary equipment and materials specified in the student's IEP, including low Incidence materials and equipment.
9. The parties agree to abide by stay put obligations, including any stay put order issued by the Office of Administrative Hearings or other competent court. The DOR will continue to fund the placement during the term of any stay put order.

DOS RESPONSIBILITIES

1. The DOS shall provide the student and DOR with all required progress reports at the same time and at the same frequency as those reports are provided to parents.
2. DOS assumes responsibility for attendance reporting and for counting the student in CALPADS.
3. DOS shall appropriately convene all IEP meetings in coordination with the DOR. DOS shall provide copies of all IEP and related documents to the DOR.
4. Unless otherwise agreed, no program or placement change will be made by the DOS without a proper IEP review, including attendance of the DOR.
5. The DOS shall provide as much notice as possible to the DOR if it is believed that DOS no longer can offer an appropriate program and/or placement. In such a case, the administrator responsible for special education from the DOR will be contacted by the DOS to develop a plan of action. If an IEP meeting is required, the DOS and DOR will coordinate an IEP team meeting to discuss and determine appropriate special education and related services.

DOR IEP AND PLACEMENT PROCEDURES

Prior to Initial Placement:

1. Conduct all necessary assessments and provide recent present levels of academic and functional performance to determine student needs.
2. Convene an IEP meeting to discuss/identify potential LEA/SELPA programs.
3. Document the need for services to be provided outside the DOR.
4. Determine the availability and appropriateness of programs in the DOR by contacting the special education administrator. DOR may not make an IEP offer located in the DOS without first obtaining written consent from the DOR special education administrator.
5. Coordinate observations and IEP meetings with DOS.
6. Arrange for and provide/fund transportation for the student to attend the DOS program.

Subsequent to Placement:

7. Attend all IEP meetings, determine who assesses the student and make all educational decisions as required by law (e.g. offering a free appropriate public education (FAPE)). Participate in transition planning for possible return to the DOR. As referenced above, the DOR remains the student's district of residence and thus will serve as the responsible LEA at all IEP meetings (unless delegated by agreement between the parties).
8. In accordance with the fiscal agreements in this MOU and Northwest Santa Clara County SELPAs, the DOR shall reimburse DOS for all services provided to the student.
9. As necessary, provide all low incidence materials and equipment consistent with the student's IEP. DOS will invoice DOR for any extensive property damage due to student behaviors. DOR can invoice parent if they deem appropriate.

DOS IEP AND PLACEMENT PROCEDURES

Prior to Initial Placement:

1. Consult with the DOR about the availability and appropriateness of the program.
2. Confirm placement by entering into an MOU outlining responsibilities of the parties.

Subsequent to Placement:

3. Provide all services identified in the student's IEP. In the event the DOS is unable to implement any or all portions of the student's IEP, and/or believes that the student cannot be provided a FAPE in its program, the DOS shall immediately notify the DOR in writing,
4. Complete all IEP paperwork and assess for triennial IEP at the request of DOR.
5. Attend all IEP meetings in cooperation with the DOR personnel.
6. Help complete all necessary IEP documents in cooperation with the DOR.
7. Contact the DOR and offer to complete the necessary assessments prior to the DOR conducting new assessments.

DISCIPLINE, SUSPENSION, EXPULSION AND TRUANCY

- A. The DOS shall notify the DOR if the student moves or is suspended for a total of five days in one school year.
- B. The DOS will notify the DOR if the student is absent for a total of ten days during a three month period of time. The DOS supported by DOR will be responsible for pursuing issues of truancy.
- C. The DOS, supported by the DOR, will be responsible for all daily discipline actions and suspensions. With regard to expulsions, if the DOS recommends expulsion, the DOR will conduct the expulsion proceedings, with the full support of the DOS including witnesses/evidence for required proceedings. Consistent communication between parties will be essential.

HEARINGS, CDE COMPLAINTS, UNIFORM COMPLAINTS, OFFICE FOR CIVIL RIGHTS COMPLAINTS

- A. When one LEA becomes aware of any impending complaint or request for due process hearing, it shall immediately notify the Special Education Administrator in the other LEA. The parties will work together in good faith to determine at the outset the party primarily responsible for the due process/CDE complaint, as discussed further in Section B, below.
- B. The responsibility for due process hearings and CDE complaints will be primarily assumed by the party whose actions form the basis of the particular complaint unless specifically modified by particular terms of this Agreement. For example: (1) a claim for failure to implement an IEP is DOS primary; (2) a claim that an IEP requires additional services to provide a FAPE is DOR primary; (3) a claim for a procedural violation that denies FAPE can be DOS and/or DOR primary depending upon the violation; (4) a claim for an assessment failure is DOR unless otherwise agreed by the parties; (5) a claim for an IEE would be DOR unless otherwise agreed by the parties. Some cases may present mixed issues of primary liability. In such a case, the parties will allocate primary responsibility accordingly. If legal representation is required, the primarily responsible agency will be responsible to retain and fund the representation. If legal representation is required in a case of mixed responsibility, the parties may mutually agree upon joint representation, or may each retain and fund its own representation. In the case that the parties cannot agree upon primary responsibility, the case will be treated as one of mixed responsibility. The primarily responsible party shall assume primary liability for the outcome of any hearing and/or complaint as identified in the written outcome. However, comparative fault may be calculated for a fair share depending on outcome/circumstances.
- C. Uniform Complaints will be addressed to the LEA to which the complaint applies. When one LEA becomes aware of the filing of a Uniform complaint, it shall immediately notify the Special Education Administrator in the other LEA.
- D. Responsibility for complaints filed with the United States Department of Education Office for Civil Rights, or litigation filed in federal or state court will be primarily assumed by the party whose actions form the basis of the particular complaint. The parties shall collaborate depending upon the nature of each case.
- E. Notwithstanding the above, each Party shall fully cooperate with the other in defending against any claims/complaints by, for example, making its records available and its employees reasonably available for testimony in cases involving the other party

NEGLIGENT, WILLFUL ACTS OR OMISSIONS INDEMNIFICATION

- A. DOS shall indemnify and hold DOR and its Board Members, administrators, employees, agents, attorneys, volunteers and subcontractors harmless against all liability, loss, damage and expense (including reasonable attorney 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 negligent or willful act or omission of DOS, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it.
- B. DOR shall indemnify and hold DOS and its Board Members, administrators, employees, agents attorneys, volunteers and subcontractors harmless against all liability, loss, damage and expense (including reasonable attorney 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 negligent or willful act or omission of DOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it.
- C. In case of comparative fault, where the DOS and DOR are each adjudged partially negligent; the party's indemnification obligations shall be co-extensive with the percentage apportionment of fault.

TERM

- A. This Agreement supersedes all other agreements and shall remain in effect until replaced by another agreement.
- B. This Agreement shall be in effect until revised by mutual consent of all Parties. Agreements terminate at the end of each extended school year. However, agreements will be considered renewed for the subsequent school year unless either party gives notice of termination at least 30 days prior to the end of the regular school year.
- C. This Agreement may be terminated for good cause at any time by either party, or by mutual agreement, or by provision of written notification through the U.S. Mail at least thirty (30) days prior to the date of the end of the school year as stated in Section IX(B). Termination is subject to stay put rights, as discussed above.
- D. This Agreement shall be effective on the date of signature by all Parties.

Disputes Involving Districts

- A. If a dispute should arise between the two districts concerning the proposed placement, services to be provided, costs and/or program exit, the districts agree to attempt to resolve the problem(s) through, first, a direct meeting of the special education directors and then, if not resolve, a meeting between the superintendent/designee. The superintendents may request the SELPA director to facilitate this resolution process.

- B. If a dispute cannot be resolved after a meeting of the superintendent/designee, the DOR or DOS may remove the student(s) from the receiving district subject to legal obligations, if any arising outside of this Agreement, after a 30 day written notice has been delivered to the DOR/DOS by the DOS/DOR. Under these circumstances the specific Agreement relating to the student(s) will be void; however, the General Agreement between the districts will remain in place. Any agreed upon costs for the student(s) removed by the district of residence will be prorated for the student(s) based on the number of days of enrollment.

MISCELLANEOUS

- A. Each Party agrees to cooperate fully in the execution of any and all other documents and the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
- B. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either Party. Any rule of construction that a document is to be construed against the drafting Party shall not be applicable to this Agreement.
- C. Any change, modification, or addition to this Agreement must be in writing and signed by all Parties.
- D. This Agreement constitutes the entire agreement and understanding between the Parties. There are no oral understandings, terms, or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement. All prior understandings, terms, or conditions are deemed merged into this Agreement and its attachments. This Agreement cannot be changed or supplemented orally and may be modified or superseded only by written instrument executed by all Parties.
- E. This Agreement may be signed in counterparts and a facsimile signature acts as an original.

Dr. Ayinde Rudolph

Superintendent

Title

MVWSD

Date Signed

Sandra McGonagle

Superintendent

Title

LASD

Date Signed