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# Board Cover Memorandum

**To** Board of Education

**From** Sondra Aguilera, Acting Superintendent  
Jennifer Blake, Executive Director, Special Education Department  
Jorge Wahner, Director, Special Education School Supports

**Meeting Date** September 28, 2022

**Subject** Memorandum of Understanding – Piedmont Unified School District – Special Education Local Plan Area (SELPA) - Special Education Department

**Ask of the Board** Ratification by the Board of Education of Memorandum of Understanding (MOU) by and between the District and Piedmont Unified School District (PUSD), Oakland, CA and District, for the latter to provide special education placement and/or services for a student enrolled in Piedmont Unified School District, for the period of August 8, 2022 through July 7, 2023, with EFCPS paying District \$69,810.00 for said placement.

**Background** Piedmont Unified School District (PUSD) has a student with disabilities that cannot be served by their in their continuum of services. They are requesting placement and providing funding for the student to be one of our district’s special education classes, which will meet his unique needs.

**Discussion** The Special Education Department discussed the potential impacts and benefits of granting the placement request. The team determined that space in the program was not at issue as enrollment in this specific class is low, but not low enough to warrant closing the program. The team also considered the fiscal impact, but as PUSD is funding the entire cost of the placement there is no negative fiscal impact.

**Fiscal Impact** As stated above, PUSD is funding the entire cost of the placement. There is no negative fiscal impact to OUSD.

**Attachment(s)**

- Memorandum of Understanding

## MEMORANDUM OF UNDERSTANDING

Between  
OAKLAND UNIFIED SCHOOL DISTRICT AND PEIDMONT UNIFIED SCHOOL DISTRICT  
REGARDING

XXXXXX DATE OF BIRTH: XXXXXX

### *Placement into the Counseling Enriched Program*

This Memorandum of Understanding (MOU) is made and entered into as of 07/01/2022 between the Oakland Unified School District and the Piedmont Unified School District (Parties). This MOU shall be in effect until 7/7/23.

XXXXXXX (Student) resides in Piedmont Unified School District (PUSD), making PUSD the District of Residence (DOR). Student's Individualized Education Program (IEP) team has determined that the special education program that is appropriate for Student does not exist within PUSD, but does exist within OUSD. Accordingly, the purpose of this MOU is to allow Student to access to OUSD's special education program. The Parties agree that PUSD retains all financial and legal responsibilities under the Individuals with Disabilities Education Act (IDEA) and related federal and California laws. As Student's DOR and responsible LEA, PUSD remains the proper party to defend any and all legal disputes, claims, complaints, due process proceedings and/or civil litigation related to Student's educational program pursuant to this MOU.

OUSD's responsibility is limited to implementing the educational program provided for in the student's IEP and cooperating with the DOR. Thus, OUSD shall only be considered a service provider, and not the responsible LEA. Placements under this MOU shall not be deemed an inter-district transfer, as the student is considered to be a resident of the DOR. If, at any time during the term of this MOU, Student relocates outside of the jurisdictional boundaries of PUSD or otherwise disenrolls from PUSD, this MOU shall terminate.

The Parties agree to keep the terms of this MOU strictly confidential except as required by law. However, for purposes of implementation and enforcement of the Agreement, the Parties mutually consent to disclosure and admissibility of this MOU.

## **SPECIAL EDUCATION RESPONSIBILITIES**

### **DISTRICT OF RESIDENCE (DOR-PIEDMONT UNIFIED SCHOOL DISTRICT):**

#### **Prior to Initial Placement:**

1. Conduct all necessary assessments to determine student needs. Assessment reports shall not be more than 2.5 years old at the time of placement.
2. Convene an IEP meeting to 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 OUSD by contacting the OUSD special education administrator.
5. Enter into an MOU with OUSD outlining responsibilities of the parties.
6. Coordinate observations and IEP meetings with OUSD.
7. Arrange for and provide/fund transportation for the student to attend the OUSD program.

#### **Subsequent to Placement:**

8. Attend all IEP meetings, assess 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.
9. In accordance with the fiscal agreements in this MOU, the DOR shall reimburse OUSD for all services for the student.
10. Ensure that OUSD is implementing the student's educational program consistent with his/her IEP.
11. It shall be the financial and legal responsibility of the DOR to handle any and all legal disputes and claims, including but not limited to, negotiating settlement agreements, mediations, due process hearings, compliance complaints and any and all other legal actions related to a student's educational program pursuant to this MOU.
12. If OUSD is named as a party to a legal dispute, the DOR will cooperate in dismissing, with prejudice, OUSD as a party.
13. The DOR shall protect, defend, indemnify, forever hold harmless and assume the costs of defense including attorney's fees of OUSD, its Board, officers, members, representatives, agents, guests, invitees, and/or employees, from and against any and all liabilities, claims, losses, judgments, damages, demands or expenses resulting from educating the student, assessing the student and/or implementing the IEP by OUSD, excepting those liabilities, claims, losses, judgments, damages, demands or expenses arising out of or caused by the sole negligent, reckless, unlawful or intentional acts of OUSD, its Board, officers, members, representatives, agents, guests, invitees, and/or employees.

#### **OAKLAND UNIFIED SCHOOL DISTRICT (OUSD):**

##### **Prior to Initial Placement:**

1. Enter into an MOU with the DOR outlining responsibilities of the parties.

##### **Subsequent to Placement:**

2. Provide all services identified in the student's IEP. In the event OUSD is unable to implement any or all portions of the student's IEP, and/or it believes that the student cannot be provided a FAPE in its program, OUSD shall immediately notify the DOR in writing. Thus, it is the responsibility of the DOR to take any and all necessary action to ensure the student's IEP is properly implemented and he/she receives a FAPE.
3. Provide progress reports on at least a trimester basis to the DOR.
4. Attend all IEP meetings in cooperation with the DOR personnel. However, the DOR, not OUSD, is responsible for facilitating the IEP team meetings and making educational decisions as required by law.
5. Help complete all necessary IEP documents in cooperation with the DOR.
6. Provide all necessary low incidence materials and equipment consistent with the student's IEP.
7. Contact the DOR and offer to complete the necessary assessments prior to the DOR conducting new assessments.
8. Initiate billing to DOR. (see Fiscal Responsibilities for detailed instructions).
9. If a legal dispute arises regarding a student's educational program and/or an OUSD assessment, OUSD will fully cooperate with the DOR, including but not limited to making its employees and documents available.
10. OUSD shall indemnify and hold the DOR harmless from any adjudicated liability related to the OUSD's negligent, reckless, unlawful, or intentional acts arising out of its obligations under this MOU. In the event that an administrative body or court of law determines that the claim of a student arises out of the negligent, reckless, unlawful or intentional acts of OUSD, OUSD will be obligated to provide contribution to the DOR in accordance with its proportionate share of liability. The amount of the contribution shall be determined by informal resolution between the superintendents, or designees, going before the County Superintendent of Schools or arbitration and identifying who will incur the cost of this process.

## FISCAL RESPONSIBILITIES

1. The OUSD and DOR shall verify and approve Student's placement. OUSD must submit an invoice for payment, as appropriate based Student's placement beginning August 8, 2022 or actual date of enrollment. The DOR will claim the student on its CASEMIS report.
2. The DOR, shall sign the MOU verifying fiscal obligations, student placement and related services in a timely manner.
3. The costs for placement and services identified on the IEP are listed below.

Specialized Academic Instruction	\$ 15,000.
Embedded Counseling Services	\$ 44,000.
Occupational Therapy	\$ 4,410
Materials and Platforms	\$ 3,400.
ESY	\$ 3,000
Total Cost of Placement and Services	<b>\$ 69,810.</b>

If after Student is enrolled, his IEP team determines that any additional services are required, PUSD will provide additional funding for the cost of these services.

## MEMORANDUM OF APPROVAL

This MOU entered into this \_\_\_\_ day of July 2022 by and between the undersigned parties.

*Sandra Aguilera*

9-29-2022

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Sandra Aguilera  
Chief Academic Officer  
Oakland Unified School District

*Douglas Harter*

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Douglas Harter  
Director of Special Education  
Piedmont Unified School District

Approved as to form:

Approved as to form:

7/11/22

*Joanna J. Powell*

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Joanna Powell, OUSD Attorney

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Piedmont Unified Attorney