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OAKLAND UNIFIED  
SCHOOL DISTRICT

*Community Schools, Thriving Students*

# Memo

**To** Board of Education

**From** Tony Smith, Superintendent  
Sharon Casanares, Executive Director, Programs for Exceptional Children

**Board Meeting Date** April 27, 2011

**Subject** **Resolution Authorizing District to Enter into MOU re: AB 3632 Services**

**Action Requested** **Adoption of the Resolution Authorizing the District, as the SELPA, to Enter into the MOU with County of Alameda Health Care Services Agency, Behavioral Health Care Services County of Alameda, Social Services Agency Services**

**Background** In October 2010, the Governor vetoed state funding reimbursing counties for AB 3632 services to school districts and declared that the mandate on county mental health services to provide these services suspended. The counties initiate litigation to determine whether counties are relieved of performing the mandate. The Court of Appeal held that the AB 3632 Mandate for fiscal year 2010-2011 was suspended. In the meantime, the State Superintendent of Public Instruction announced that CDE would continue to allocate federal funds to each county office of education to continue to provide the mental health services. CDE has allocated \$76 million in federal funds to the county offices of education. Generally, the funds allocated to Alameda will permit the county to continue to provide services to students who were identified on or before March 25, 2011 as needing AB 3632 services thru June 30, 2011.

**Discussion** The District, as the SELPA, must enter into a MOU with the county which covers the terms and conditions under which AB 3632 services will be provided to District students by the County for the period from March 31, 2011 to June 30, 2011. There is no agreement as to how AB 3632 services will be provided after June 30, 2011 or how such services will be paid. The resolution and MOU are emergency stop gap solutions to the immediate problem.

**Recommendation** Adoption of the Resolution authorizing the District as the SELPA to Enter into the MOU with County of Alameda Health Care Services Agency, Behavioral Health Care Services County of Alameda, Social Services Agency for AB 3632 Services

**Fiscal Impact** Funding resource: federal IDEA funds allocated to the State and distributed to the Alameda County offices of Education

**Attachments**

- Resolution
- MOU with County of Alameda Health Care Services Agency, Behavioral Health Care Services County of Alameda, Social Services Agency Services for AB 3632 Services

**RESOLUTION  
OF THE  
BOARD OF EDUCATION  
OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO. 1011-1086**

**APPROVING THE MEMORANDUM OF UNDERSTANDING  
Between County of Alameda Health Care Services Agency,  
Behavioral Health Care Services,  
County of Alameda Social Services Agency,  
Alameda County Office of Education and  
Oakland Unified School District Special Education Local Plan Area**

WHEREAS, the Oakland Unified School District ("District") through the Oakland Unified School District SELPA ("SELPA") and the County of Alameda have collaborated and enter into an MOU in order to work together for the continuity of the provision of educationally related mental health services to District students with disabilities who receive such services as part of their IEPs ("Students") with respect to the provision of educationally related mental health services under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. II 1400, et seq., and Section 26.5 of Division 7 of title 1 of the California Government Code, sections 7570-7590, commonly known as "AB 3632; and

WHEREAS, the federal law includes a requirement for educationally related mental health services for children with disabilities who require such services to benefit from special education; and

WHEREAS, in 1984, the California State Legislature enacted AB 3632, the Special Education Pupils Program, which transferred responsibility for providing mental health services required by special education students as determined by an individualized education program ("IEP") from school districts to county mental health departments ("AB3632 Mandate"); and

WHEREAS, the County of Alameda has provided (1) board and care costs for IEP designated residential placement for Seriously Emotional Disturbed ("SED") students ("Board and Care") provided through the Alameda County Social Services Agency ("SSA") and (2) educationally related mental health services which include assessment, assessment reports, consultations and IEP attendance, individual therapy – including those provided in a counseling enriched special day class, group therapy, family therapy, medication management, crisis intervention, collateral therapy, case management, day treatment both rehabilitative and intensive ("Educational Related Mental Health Services") provided through BHCS; and

WHEREAS, the California, in the Budget Act, provides federal funds for local assistance funding for the provision of AB 3632 services to by transmitting the funds to county offices of education; and

WHEREAS, on October 8, 2010, the Governor of the State of California used his line item veto to eliminate state funding dedicated to reimbursing counties for AB 3632 services. The Governor simultaneously declared that the mandate on county mental health services to provide these services was suspended; and

WHEREAS, the legal effect of the Governor's line item veto was litigated in an action to which BHCS is party with other California counties filed in the Superior Court of the County of Sacramento (County of Sacramento, et al. vs. State of California, et al. Case Number 34-2010-00090983, filed November 5, 2010, hereinafter the "County Action") to determine whether counties are relieved of performing the mandate; and

WHEREAS, the Court of Appeal on February 25, 2011, held that the AB 3632 Mandate for fiscal year 2010-2011 was suspended; and

WHEREAS, on October 29, 2010, the State Superintendent of Public Instruction announced that the California Department of Education ("CDE") will continue to allocate federal funds to each county office of education to transfer to the appropriate mental health agency to provide specified mental health services, as it has done for the last six years; and

WHEREAS, the amount of \$76 million in federal IDEA funds allocated to the State of California has been distributed in part by the State to the county offices of education to be used to maintain essential mental health services for students with educationally related mental health needs; and

WHEREAS, residential board and care for serious emotionally disturbed children in Alameda County is coordinated through the Alameda County Social Services Agency ("SSA") which has sent notification to school district superintendents and SELPA directors that they will cease to fund residential board and care costs after March 31, 2011; and

WHEREAS, the Parties have collaborated and enter into this MOU in order to work together for the continuity of the provision of educationally related mental health services to students with disabilities who receive such services as part of their IEPs; and

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. A. Educational Related Mental Health Services:

(1) BHCS will continue to provide Educational Related Mental Health Services to students who are in service on March 25, 2011, at no cost to the SELPA, through June 30, 2011. Students are considered "in service" if they have a completed IEP, including signatures from an authorized representative of BHCS, the school district, the parent/guardian of the student and all other members of the IEP team.

(2) Effective March 25, 2011, BHCS, for students who are not in service as of March 25, 2011 but who become in service prior to June 30, 2011, BHSC will provide Educational Related Mental Health Services, including work related to assessments and referrals, through June 30, 2011, and bill SELPA, and the SELPA shall be responsible for paying all costs, pursuant to the remaining terms of this MOU.

(3) Effective March 25, 2011, BHCS will participate in assessments and costs shall be charged to and paid for by SELPA.

(4) Educational Related Mental Health Services will begin for children under new referrals, and SELPAS will be responsible for payment of the services pursuant to the terms of the MOU. Services will continue until a change in service delivery is delineated in the student's IEP and specific notice of the change in services received by BHCS.

(5) If payment is not received by BHCS, they may at their sole discretion stop providing services to some or all SELPA students. However, services will not stop without written notice to the SELPA, providing the SELPA or district 15 calendar days to correct the problem. If full payment is provided to BHCS within those fifteen days, services will not be discontinued.

(6) In no event shall BHCS provide service beyond June 30, 2011. Nothing in this MOU is intended to establish or impose any financial responsibilities on SELPA for services rendered after June 30, 2011. The parties may negotiate and enter into a written agreement for payment and provision of services beyond June 30, 2011.

1. B. Board and Care:

(1) SSA will stop making any payments for Board and Care in and/or out of state, services provided, after March 31, 2011.

(2) SSA will continue to coordinate and make payments to providers for Board and Care after this MOU is fully executed for services provided through June 30, 2011, and bill SELPA, and the SELPA shall be responsible for paying, all costs, pursuant to the remaining terms of this MOU.

(3) SELPA agrees to fully reimburse SSA for payments made for Board and Care provided to eligible SED students from April 1, 2011 through June 30, 2011 as provided in the MOU.

(4) The MOU may be terminated for the provision of services not yet performed and costs not yet incurred by either party upon the giving of thirty (30) days prior written notice to the other party, however, all other terms and conditions will continue.

2. Funding: Should BHCS and SSA provide services as referenced in paragraph 1, the SELPA agrees to reimburse BHCS and SSA for costs, pursuant to the terms of this MOU through June 30, 2011, however, billing, invoicing and reconciliation will occur after that date and the obligation to make full payments pursuant to the terms of this MOU shall continue until full payment from SELPA.

3. Right to Appeal Court Decision: Nothing in the MOU shall serve as a limitation on any party from pursuing an appeal in the County Action, or taking other actions to seek clarification or a determination as to the effect of the actions of the Governor and California State Legislature.

4. Term: This MOU is for the time period from July 1, 2010 to June 30, 2011.
5. Extension: The Parties agree to meet and confer on a regular basis to carry out the terms of this MOU and to discuss the extension of this MOU past June 30, 2011.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Board of Education of the Oakland Unified School District hereby adopts this Resolution approving the MEMORANDUM OF UNDERSTANDING Between County of Alameda Health Care Services Agency, Behavioral Health Care Services, County of Alameda Social Services Agency, Alameda County Office of Education and the District Special Education Local Plan Area.

**PASSED AND ADOPTED** by the Governing Board of the Oakland Unified School District this 27<sup>th</sup> day of April, 2011, by the following vote, to wit:

AYES:

NOES:

ABSTAINED:

ABSENT:

**CERTIFICATION**

I, Edgar Rakestraw, Secretary of the Governing Board of the Oakland Unified School District, Alameda County, State of California, do hereby certify that the foregoing Resolution was duly approved and adopted by the Governing Board of said District at a meeting thereof held on the 27<sup>th</sup> day of April, 2011 with a copy of such Resolution being on file in the Office of the Governing Board of said District.

\_\_\_\_\_  
Edgar Rakestraw, Jr.  
Secretary, Governing Board

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**MEMORANDUM OF UNDERSTANDING**  
**County of Alameda Health Care Services Agency, Behavioral Health Care Services**  
**County of Alameda Social Services Agency, Alameda County Office of Education and**  
**Oakland Unified School District Special Education Local Plan Area**

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), is made between the County of Alameda Health Care Services Agency, Behavioral Health Care Services ("BHCS"), the County of Alameda Social Services Agency ("SSA"), the Alameda County Office of Education, and the **Oakland Unified School District** Special Education Local Plan Area ("SELPA") with respect to the provision of educationally related mental health services under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. II 1400, et seq., and Section 26.5 of Division 7 of title 1 of the California Government Code, sections 7570-7590, commonly known as "AB 3632."

**RECITALS**

WHEREAS, the federal Individuals with Disabilities Education Act (IDEA) entitles all students with disabilities to a "free, appropriate public education;" and

WHEREAS, the federal law includes a requirement for educationally related mental health services for children with disabilities who require such services to benefit from special education; and

WHEREAS, in 1984, the California State Legislature enacted AB 3632, the Special Education Pupils Program, (at Government Code Sections 7570 et seq.) which transferred responsibility for providing mental health services required by special education students as determined by an individualized education program ("IEP") from school districts to county mental health departments; and

WHEREAS AB 3632 mandates that counties and their Mental Health Divisions conduct mental health assessments and provide an array of educationally related mental health services, required by students with disabilities as determined by an IEP ("AB3632 Mandate"). The California commission on State Mandates determined that AB 3632 constitutes a stated mandate for which counties are entitled to reimbursement under Article XIII B, section 6 of the California Constitution; and

WHEREAS, the County of Alameda has provided (1) board and care costs for IEP designated residential placement for Seriously Emotional Disturbed ("SED") students ("Board and Care") provided through the Alameda County Social Services Agency ("SSA") and (2) educationally related mental health services which include assessment, assessment reports, consultations and IEP attendance, individual therapy – including those provided in a counseling enriched special day class, group therapy, family therapy, medication management, crisis intervention, collateral therapy, case management, day treatment both rehabilitative and intensive ("Educational Related Mental Health Services") provided through BHCS;

WHEREAS, the California State Legislature, in the Budget Act, provides federal funds for local assistance funding for the provision of educationally related mental health services that are provided to

students with disabilities as determined by an IEP pursuant to IDEA and Government Code sections 7570 et seq. by transmitting the funds to county offices of education;

WHEREAS, on October 8, 2010, the Governor of the State of California used his line item veto to eliminate state funding dedicated to reimbursing counties for educationally related mental health services provided pursuant to Government Code sections 7570 et seq. The Governor simultaneously declared that the mandate on county mental health services to provide these services was suspended; and

WHEREAS, the legal effect of the Governor's line item veto was litigated in an action to which BHCS is party with other California counties filed in the Superior Court of the County of Sacramento (County of Sacramento, et al. vs. State of California, et al. Case Number 34-2010-00090983, filed November 5, 2010, hereinafter the "County Action") to determine whether counties are relieved of performing the mandate.

WHEREAS, there are two other lawsuits related to the Governor's actions, to which BHCS and SELPA are not parties: A.C., et al. v. Schwarzenegger, et al., which was filed in federal district court, and dismissed in March 2011, and California School Boards Association, et al., v. Brown, et al., which was filed on November 10, 2010 in the second appellate district of the state Court of Appeal; and

WHEREAS, the Court of Appeal on February 25, 2011, rendered a published legal opinion holding that the AB 3632 Mandate for fiscal year 2010-2011 was suspended by the collective actions of the Legislature and the Governor on October 8, 2010, in the case of California School Boards Association, et al., v. Brown et al. (CSBA v. Brown) (2011) Docket Number B228680; and

WHEREAS, the Superior Court of Sacramento County (hereinafter "Trial Court") in the County Action had issued a ruling, that funding for the residential board and care for serious emotionally disturbed children, provided pursuant to Welfare and Institutions Code section 18355, were not appropriated by the Legislature and did not make a finding as the mandate for other services provided by the counties. The court reconsidered its decision and on March 25, 2011, the Trial Court granted the motion for judgment on the pleadings and declared that the AB 3932 Mandate has been suspended for the fiscal year 2010-2011; and

WHEREAS, on October 29, 2010, the State Superintendent of Public Instruction announced that the California Department of Education ("CDE") will continue to allocate federal funds to each county office of education to transfer to the appropriate mental health agency to provide specified mental health services, as it has done for the last six years; and

WHEREAS, the amount of \$76 million in federal IDEA funds allocated to the State of California has been distributed in part by the State to the county offices of education to be used to maintain essential mental health services for students with educationally related mental health needs. This money is from a federal funding source that is different and not included in the line-item veto of \$133 million in state general fund monies for services provided by county mental health offices; and

WHEREAS, residential board and care for serious emotionally disturbed children in Alameda County is coordinated through the Alameda County Social Services Agency ("SSA") which has sent

notification to school district superintendents and SELPA directors that they will cease to fund residential board and care costs after March 31, 2011; and

WHEREAS, the Parties have collaborated and enter into this MOU in order to work together for the continuity of the provision of educationally related mental health services to students with disabilities who receive such services as part of their IEPs; and

**NOW, THEREFORE, it is agreed as follows:**

1. A. Educational Related Mental Health Services:

(1) BHCS will continue to provide Educational Related Mental Health Services to students who are in service on March 25, 2011, at no cost to the SELPA, through June 30, 2011. Students are considered "in service" if they have a completed IEP, including signatures from an authorized representative of BHCS, the school district, the parent/guardian of the student and all other members of the IEP team.

(2) Effective March 25, 2011, BHCS, for students who are not in service as of March 25, 2011 but who become in service prior to June 30, 2011, BHSC will provide Educational Related Mental Health Services, including work related to assessments and referrals, through June 30, 2011, and bill SELPA, and the SELPA shall be responsible for paying all costs, pursuant to the remaining terms of this MOU.

(3) Effective March 25, 2011, BHCS will participate in assessments and costs shall be charged to and paid for by SELPA.

(4) Educational Related Mental Health Services will begin for children under new referrals, and SELPAS will be responsible for payment of the services pursuant to the terms of this MOU, once a completed IEP for the child is received by BHCS. Services will continue until a change in service delivery is delineated in the student's IEP and specific notice of the change in services received by BHCS.

(5) Costs include the array of Educational Related Mental Health Services as delineated on the student's IEP and will reflect actual, verifiable costs, including clinician salaries and benefits and agreed upon administrative costs specifically attributable to the services, including cost associated with students failure to attend appointments, and implementation of this MOU, and any charges allowed pursuant to state and federal claiming such for SB90.

(6) If payment is not received by BHCS, they may at their sole discretion stop providing services to some or all SELPA students. However, services will not stop without written notice to the SELPA, providing the SELPA or district fifteen calendar days to correct the problem. If full payment is provided to BHCS within those fifteen days, services will not be discontinued.

(7) In no event shall BHCS provide service beyond June 30, 2011. Nothing in this MOU is intended to establish or impose any financial responsibilities on SELPA for services rendered



after June 30, 2011. The parties may negotiate and enter into a written agreement for payment and provision of services beyond June 30, 2011.

1. B. Board and Care:

(1) SSA will stop making any payments for Board and Care in and/or out of state, services provided, after March 31, 2011.

(2) SSA will continue to coordinate and make payments to providers for Board and Care after this MOU is fully executed for services provided through June 30, 2011, and bill SELPA, and the SELPA shall be responsible for paying, all costs, pursuant to the remaining terms of this MOU.

(3) SELPA agrees to fully reimburse SSA for payments made for Board and Care provided to eligible SED students from April 1, 2011 through June 30, 2011.

(4) SELPA shall provide, or arrange for each school district to provide directly, to SSA with a monthly list of current SED students approved for residential board and care services. Schools will be provided with and shall use a standard form from SSA to transmit notification of authorization for new residential placements made during the month, and then include the names of those students on the next monthly list.

(5) SSA will invoice the SELPA, with a copy to the school district, on a monthly basis for Board and Care costs.

(6) SELPA will provide an individual Point of Contact for itself, and one for each school district, who can provide information on students approved for residential services and to whom SA will submit invoices for reimbursement for costs and payments made to providers.

(7) SELPA will submit payment to SSA within thirty (30) days of receipt of invoice from SSA.

(8) Reimbursement Procedure on the collection of SED payment from the SELPA are that group homes generally bill SSA the first week after the placement service month though timing varies by provider. Once SSA has verified the student is on the school district's approved list, SSA will use its best efforts to pay the group home provider and invoice the SELPA, with a copy to the school district, that same day.

(9) The payment to SSA for Board and Care costs are to be remitted to:

Alameda County Social Services Agency  
Trust Unit  
P. O. Box 1888  
Oakland, CA 94604  
Attn: Carmelino Gozum

(10) SSA will continue to advance payment for Board and Care for each eligible student only as long as reimbursement from SELPA, meaning each school district, is current in reimbursement payments. If payments are not current SSA, in its sole discretion, may stop making payments and direct providers that bills be sent directly to SELPA.

(11) This MOU shall be effective for Board and Care provided to SED students from April 1, 2011 through June 30, 2011.

(12) This MOU may be terminated for the provision of services not yet performed and costs not yet incurred by either party upon the giving of thirty (30) days prior written notice to the other party, however, all other terms and conditions will continue.

2. Funding: Should BHCS and SSA provide services as referenced in paragraph 1, the following will apply:

- a. SELPAS agree to reimburse BHCS and SSA for costs, pursuant to the terms of this MOU. This MOU addresses services through June 30, 2011, however, billing, invoicing and reconciliation will occur after that date and the obligation to make full payments pursuant to the terms of this MOU shall continue until full payment from SELPA.
- b. For students that have no alternative funding source, SELPA shall pay the full costs. Funding for any student from Medi-Cal reimbursements and federal IDEA funds provided through ACOE received by BHCS for AB 3632 services shall offset any amount SELPA may be required to reimburse. Medical reimbursement are considered the actual amounts received from the MediCal state program for that student. Any match funding that may be required are part of actual costs and, pursuant to the terms of this MOU, shall be paid by SELPA. Federal IDEA funds provided through ACOE shall first be used to reimburse BHCS and SSA for costs that have already been incurred prior to March 25, 2011. The SELPA understands that MediCal eligibility may change while the student is in service, and shall reimburse BHCS for any costs if MediCal eligibility, status or reimbursement amount changes. SELPA understands that the MediCal reimbursement process, through no fault of BHCS, can take years to be reconciled by the state and agrees to make final payments for all amounts due under the terms of this MOU at the time of reconciliation.
- c. The Alameda County Office of Education will continue to transfer any federal Individuals with Disabilities Education Act (IDEA) funds received to BHCS in accordance with the practices and procedures detailed in the MOU between Alameda County Behavioral Health Care Services and Alameda County Office of Education to be used for the cost of providing mental health services to Special Education youth pursuant to their IEP. SELPAS agree to reimburse BHCS for the cost of delivering mental health services to their special education students that exceeds the amount reimbursed by public funding sources or federal IDEA funds.

- d. BHCS will provide SELPA with invoices accounting for actual costs incurred on a monthly basis. (Board and Care costs through SSA will be invoiced separately.) The invoices will include the student's name, the student's school district of residence, AB 3632 Educational Related Mental Health Services provided, the date(s) on which such services were provided, amount of service, and costs incurred by BHCS in providing the services. The invoices may be subject to verification by an independent audit, at SELPA's election. Cost for this audit will be borne by SELPA SELPA shall pay no later than 30 days after receiving each invoice.
  - e. Confidentiality of records: As the invoices are records that will contain confidential information concerning specific student information, and information that could identify the student, even if the names were redacted, the invoices shall be treated as confidential to the extent allowed by law. These records may contain information and be considered protected health information and/or student records protected under the Education Code.
  - f. Nothing in the MOU is intended to, or shall, prevent any party to this MOU from pursuing reimbursement from any state agency for Educational Related Mental Health Services and Board and Care costs.
  - g. Parties agree to meet and confer regarding whether any funding appropriated to the SELPA or school districts subsequent to this agreement may be used as reimbursement for services provided prior to March 25, 2011. With respect to SB 70, the parties will meet and confer after clarification is received from California Department of Education regarding limitations on the use of such funds, and after the funds are released to SELPAs or the school districts.
  - h. This MOU is created in part to create predictability and certainty for the providing and funding services for the time period of the MOU. Regardless of any further court determination, including appeals, neither party shall pursue reimbursement from the other except as specifically set forth in this MOU.
3. Right to Appeal Court Decision: Nothing in this MOU shall serve as a limitation on any party from pursuing an appeal in the County Action, or taking other actions to seek clarification or a determination as to the effect of the actions of the Governor and California State Legislature.
  4. Informal Resolution: If a dispute arises between any of the signatories of this MOU, the Parties involved in the dispute will make a good faith effort to resolve the dispute between themselves in a timely fashion before seeking an intervention.
  5. Term: This MOU is for the time period from July 1, 2010 to June 30, 2011.
  6. Extension: The Parties agree to meet and confer on a regular basis to carry out the terms of this MOU and to discuss the extension of this MOU past June 30, 2011.

7. **Integration:** This MOU represents the entire understanding of the Parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This agreement may not be modified or altered except in writing signed by all parties hereto.
8. **Laws and Venue:** This MOU contains the complete and final understanding of the parties' rights, duties and obligations with respect to the transaction discussed in this MOU and supersedes all prior MOUs, contracts, understandings and commitments whether oral or written with respect to the provision of Educational Related Mental Health Services and Board and Care for the term of this MOU. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term agreement, the action shall be brought in a state or federal court with the jurisdiction of Alameda County, State of California.
9. **Third Party Rights:** Nothing in this agreement shall be construed to give any rights or benefits to anyone other than the Parties to this MOU.
10. **Imposition of Obligations:** Nothing in this MOU is intended to establish or impose upon BHCS and/or SSA any legal obligation under IDEA to provide Educational Related Mental Health Services and/or Board and Care. Nothing in this MOU is intended to establish or impose any financial responsibilities on SELPA after June 30, 2011.
11. **Severability:** The unenforceability, invalidity or illegality of any provision(s) of this MOU shall not render the other provisions unenforceable, invalid, or illegal. If a court of competent jurisdiction holds any provision of this MOU to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this MOU would be defeated by the loss of the illegal, unenforceable, or invalid provision.
12. **Waiver:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this MOU shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
13. **Headings:** Herein are for convenience of reference only and shall in no way affect interpretation of the MOU.
14. **Notices:** All notices, requests, demands, or other communications under this MOU shall be in writing. Notices shall be given for all purposes as follows:

**Personal delivery:** When personally delivered to the recipient, notices are effective on delivery.

**First Class Mail:** When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States

Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

ALAMEDA COUNTY OFFICE OF EDUCATION:

313 W. Winton Avenue  
Hayward, CA 94544

BHCS:

Carolyn Novosel, LCSW  
Director, Child & Youth Services  
Alameda County Behavioral Health Care Services  
2000 Embarcadero Cove, Fourth Floor  
Oakland, CA 94606

SSA:

Martin Torow  
Financial Services Officer  
Alameda County Social Services Agency  
2000 San Pablo Avenue, Fourth Floor  
Oakland, CA 94612

SELPA:

Dr. Sharon Casanares, Executive Director  
Oakland Unified School District  
Programs for Exceptional Children  
2850 West Street  
Oakland, CA 94608

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

15. **Authority:** SELPA represents and warrants that it has the legal and actual authority to enter into this MOU, including all terms and conditions, on behalf of each and every school district in the SELPA. SELPA shall use due diligence in ensuring school districts promptly make all payments, however, this shall not relieve SELPA of the responsibilities under this MOU, including payments. A list of all school districts in SELPA, including the address to which copies of bills should be sent is attached hereto as Exhibit A.
16. **Resolution:** SELPA shall obtain the approval and ratification of this MOU from the governing board of each school district ("School Board"). The approval and ratification shall be done by resolution duly passed and adopted by each School Board. Attached as Exhibit B are draft resolutions for each School Board, which shall be replaced with an original copy of the dully passed and adopted resolution from each School Board. SELPA shall obtain and forward, to BHCS and SSA, no later than April 11, 2011, written confirmation from each school district of that district's agreement to the terms of the MOU and the date it will be presented to the School Board for ratification. SELPA shall provide, pursuant to paragraph 14, original signed resolutions by April 30, 2011. If a signed resolution is not received by BHCS and SSA, they may at their sole discretion stop providing services to some or all SELPA students.
17. By entering this MOU it shall not be considered as a waiver of the rights of HSCA and SSA to pursue and be reimbursed for services and actual costs incurred during the 2010-11 fiscal year from any funding received by the SELPAs and school districts.
18. **Signatory:** By signing this agreement, signatory warrants and represents that he/she executed this MOU in his/her authorized capacity and that by his/her signature on this MOU, he/she or the entity upon behalf of which he/she acted, executed this MOU.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the dates of their signatures.

**Alameda County Office of Education**

By \_\_\_\_\_  
Sheila Jordan, Superintendent

Date \_\_\_\_\_

**Alameda County, Behavior Health Care Services:**

By \_\_\_\_\_  
Marye L. Thomas, M.D.

Date \_\_\_\_\_

**Alameda County, Social Services Agency:**

By \_\_\_\_\_  
Daniel Kaplan, Interim Co-Director

Date \_\_\_\_\_

\_\_\_\_\_  
Lori Jones, Interim Co-Director

Date \_\_\_\_\_

APPROVED AS TO FORM  
Alameda Office of the County Counsel

by \_\_\_\_\_

OAKLAND UNIFIED SCHOOL DISTRICT --SELPA

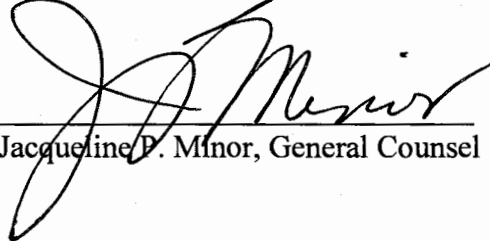
By: \_\_\_\_\_  
Dr. Gary Yee  
President, Board of Education  
Oakland Unified School District

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Edgar Rakestraw, Jr.  
Secretary, Board of Education  
Oakland Unified School District

Date: \_\_\_\_\_

Approved as to form and content:

  
\_\_\_\_\_  
Jacqueline P. Minor, General Counsel

Date: 4/19/2011

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