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Enactment Number	24-1309
Enactment Date	6/26/2024 er



# Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Sondra Aguilera, Chief Academic Officer  
Jennifer Blake, Executive Director of Special Education

**Meeting Date** June 26, 2024

**Subject** Amendment No. 1, Services Agreement 2023-2024 and Data Sharing Agreement 2023-2024 – CAB Publishing Company, LLC – Special Education Department

**Ask of the Board** Ratification by the Board of Education of Amendment No. 1, Services Agreement 2023-2024 and Data Sharing Agreement 2023-2024 between the District and CAB Publishing Company, LLC, Leesburg, VA, for the latter to provide services for an in depth audit of special education records as it pertains the significant disproportionality of African-American/black students identified under the classification of Other Health Impairment in order to review referral, evaluation, and eligibility practices used by relevant Oakland Unified School District (OUSD) staff and provide detailed feedback on any areas of the process that could be contributing to the significant disproportionality identified by the California Department of Education (CDE) and suggestions for improvement on how to promote equity through special education practices and evaluation via the Special Education Department, extending the contract term from March 15, 2024 through June 30, 2024 to October 31, 2024. All other terms and conditions of the contract remain in full force and effect.

**Background** The Special Education Department continues to have issues with disproportionality under specific classifications for specific student populations, despite attempts to make improvements internally. In particular, the Department went from being significantly disproportionate under the classification of Emotional Disturbance for students who identify as Black/African-American to also being significantly disproportionate in the classification of Other Health Impairment for our students who identify as Black/African-American. The Special Education department wants to have a neutral, outside party review our practices so that we are provided with an objective review to ensure that there are no underlying biases that are contributing to the current practices. By having a neutral party who is not invested in the welfare of our students as our own staff are, we hope to be able to dig deeper into any inequitable practices that may be uncovered and be provided with guidance in improving these practices

- Discussion** As a result of the contractor's services, the Special Education Department will be provided with insight into current practices that are contributing to the significant disproportionality of African American/black students identified as Other Health Impaired, what is going well within our current practices, and provide guidance to make necessary changes to those practices that are ineffective in order to reduce the current disproportionality ratio.
- Fiscal Impact** Special Education Department, Resource 6500
- Attachment(s)**
- Amendment No. 1, Services Agreement 2023-2024 and Data Sharing Agreement 2023-2024 – CAB Publishing Company, LLC
  - 24-0605 Services Agreement 2023-2024 with CAB Publishing Company, LLC



**AMENDMENT NO. 1**

to

24-0605 Services Agreement and Data Sharing Agreement - CAB Publishing Company, LLC - Special Education Department  
("Original Agreement")

This Amendment ("AMENDMENT") amends the attached Original Agreement, inclusive of any prior amendments to the Original Agreement (together, "AGREEMENT"). Except as explicitly stated herein, all provisions and terms of the Agreement remain unchanged and in full force and effect as originally stated.

1. The PARTIES hereby agree to amend the AGREEMENT as stated herein.

**A. Services.**

- The SERVICES are unchanged.
- The SERVICES have changed as indicated below:
  - A description of the changes in the SERVICES is attached.
  - The changes in the SERVICES involve the following: \_\_\_\_\_  
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 \_\_\_\_\_  
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 \_\_\_\_\_

**B. Term.**

- The term of the AGREEMENT is unchanged.
- The term of the AGREEMENT has changed as indicated below:  
 Original End Date: 6/30/24                      New End Date: 10/31/24

**C. Compensation.**

- The not-to-exceed amount in the AGREEMENT is unchanged
- The not-to-exceed amount in the AGREEMENT has changed as indicated below:  
 Original not-to-exceed amount is \$ \_\_\_\_\_.  
 The original not-to-exceed amount shall be increased by: \$ \_\_\_\_\_      OR      The original not-to-exceed amount shall be decreased by: \$ \_\_\_\_\_  
 The new not-to-exceed amount is \$ \_\_\_\_\_.

- D. **Insurance.** To the extent that the AGREEMENT required less than following insurance coverage amounts, by signing this AMENDMENT, VENDOR agrees, unless waived under the terms of the AGREEMENT, that it shall maintain Commercial General Liability Insurance with limits of at least one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate. All other terms in the AGREEMENT regarding Commercial General Liability Insurance remain the same.
- E. **Suspension.** To the extent that the AGREEMENT did not contain a provision regarding suspension of the AGREEMENT, VENDOR agrees, by signing this AMENDMENT, that if OUSD, at its sole discretion, develops health and safety concerns related to the VENDOR's provision of SERVICES, then the OUSD Superintendent or an OUSD Chief may, upon approval by OUSD legal counsel, issue a notice to VENDOR to suspend this AGREEMENT, in which case VENDOR shall stop providing SERVICES under this AGREEMENT until further notice from OUSD. OUSD shall compensate VENDOR for the SERVICES satisfactorily provided through the date of suspension.
- F. **Legal Notices.** To the extent the AGREEMENT did not contain the following provisions, legal notices may be sent either (i) via email, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested), to the contact identified in the Agreement. VENDOR agrees that the address for legal notice to OUSD is 1011 Union St., Site 946, Oakland, CA 94607.
2. The PARTIES acknowledge that this AMENDMENT, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
  3. Each PARTY has the full power and authority to enter into and perform this AMENDMENT, and the person(s) signing this AMENDMENT on behalf of each PARTY has been given the proper authority and empowered to enter into this AMENDMENT, except that only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel have authority under the Education Code or Board Policy to sign contracts for OUSD and only under limited circumstances, with ratification by the OUSD Governing Board being required. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this AMENDMENT or as legally binding in any way.
  4. OUSD shall not be bound by the terms of this AMENDMENT unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, Chiefs, Deputy Chiefs, or the General Counsel as authorized by the Education Code or Board Policy, and no payment shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this AMENDMENT and to be bound by its terms and conditions:

VENDOR

Name: Charles Barrett Signature: *Charles A. Barrett*  
Charles A. Barrett (May 28, 2024 17:14 EDT)  
Position: Owner Date: May 28, 2024

OUSD

Name: Jennifer Blake Signature: *Jennifer Blake*  
Position: Executive Director Date: May 28, 2024  
 Board President (for approvals)  
 Chief/Deputy Chief/Executive Director (for ratifications)

Name: Kyla Johnson-Trammell Signature: *Kyla Johnson-Trammell*  
Position: Superintendent & Secretary, Board of Education Date: 6/27/2024

**Template approved as to form by OUSD Legal Department**










# Amendment No. 1 - CAB Publishing Company, LLC - Special Education Department

Final Audit Report

2024-05-28

Created:	2024-05-24
By:	Angelica Lopez (angelica.lopez@ousd.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA7E7i5GctuGeja5RGqAU7S8vDjKUCbxZv

## "Amendment No. 1 - CAB Publishing Company, LLC - Special Education Department" History

-  Document created by Angelica Lopez (angelica.lopez@ousd.org)  
2024-05-24 - 7:18:17 PM GMT- IP address: 104.192.9.72
-  Document emailed to charles@charlesbarrett.org for signature  
2024-05-24 - 7:19:37 PM GMT
-  Email viewed by charles@charlesbarrett.org  
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-  Signer charles@charlesbarrett.org entered name at signing as Charles A. Barrett  
2024-05-28 - 9:14:31 PM GMT- IP address: 108.44.160.41
-  Document e-signed by Charles A. Barrett (charles@charlesbarrett.org)  
Signature Date: 2024-05-28 - 9:14:33 PM GMT - Time Source: server- IP address: 108.44.160.41
-  Document emailed to Jennifer Blake (jennifer.blake@ousd.org) for signature  
2024-05-28 - 9:14:34 PM GMT
-  Email viewed by Jennifer Blake (jennifer.blake@ousd.org)  
2024-05-28 - 9:36:50 PM GMT- IP address: 66.249.88.2
-  Document e-signed by Jennifer Blake (jennifer.blake@ousd.org)  
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-  Agreement completed.  
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Enactment Date	4/10/2024 er



# Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Sondra Aguilera, Chief Academic Officer  
Jennifer Blake, Executive Director of Special Education

**Meeting Date** April 10, 2024

**Subject** Services Agreement 2023-2024 and Data Sharing Agreement 2023-2024 – CAB Publishing Company, LLC – Special Education Department

**Ask of the Board** Ratification by the Board of Education of a Services Agreement 2023-2024 and Data Sharing Agreement 2023-2024 by and between the District and CAB Publishing Company, LLC, Leesburg, VA, for the latter to provide services for an in depth audit of special education records as it pertains the significant disproportionality of African-American/black students identified under the classification of Other Health Impairment in order to review referral, evaluation, and eligibility practices used by relevant Oakland Unified School District (OUSD) staff and provide detailed feedback on any areas of the process that could be contributing to the significant disproportionality identified by the California Department of Education (CDE) and suggestions for improvement on how to promote equity through special education practices and evaluation via the Special Education Department, for the period of March 15, 2024 through June 30, 2024, in an amount not to exceed \$35,000.00.

**Background** The Special Education Department continues to have issues with disproportionality under specific classifications for specific student populations, despite attempts to make improvements internally. In particular, the Department went from being significantly disproportionate under the classification of Emotional Disturbance for students who identify as Black/African-American to also being significantly disproportionate in the classification of Other Health Impairment for our students who identify as Black/African-American. The Special Education department wants to have a neutral, outside party review our practices so that we are provided with an objective review to ensure that there are no underlying biases that are contributing to the current practices. By having a neutral party who is not invested in the welfare of our students as our own staff are, we hope to be able to dig deeper into any inequitable practices that may be uncovered and be provided with guidance in improving these practices.

**Discussion** As a result of the contractor's services, the Special Education Department will be provided with insight into current practices that are contributing to the significant disproportionality of African American/black students identified as Other Health Impaired, what is going well within our current practices, and provide guidance to make necessary changes to those practices that are ineffective in order to reduce the current disproportionality ratio.

**Fiscal Impact** Special Education Department, Resource 6500

**Attachment(s)**

- Services Agreement 2023-2024 with CAB Publishing Company, LLC
- CAB Publishing Company, LLC - Data Sharing Agreement
- CAB Publishing Company, LLC - OAKLAND USD Proposal Final



## SERVICES AGREEMENT

This Services Agreement (“AGREEMENT”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the entity or individual (“VENDOR,” together with OUSD, “PARTIES”) named in **Exhibit A**, attached hereto and incorporated herein by reference. Unless otherwise stated herein, “VENDOR INDIVIDUAL” includes (to the extent they exist): VENDOR Board members, officers, trustees, and directors; VENDOR employees, agents, consultants, contractors and subcontractors, representatives, and other similar individuals; and volunteers and others unpaid persons under VENDOR’s direction, invitation, or control.

The PARTIES hereby agree as follows:

1. **Services.** VENDOR shall provide the services (“SERVICES”) as described in **Exhibit A**.
2. **Term.** The term (“TERM”) of this AGREEMENT is established in **Exhibit A**.
3. **Compensation.**
  - a. Over the TERM, OUSD agrees to pay VENDOR the amount of money stated in **Exhibit A** for satisfactorily performing the SERVICES. OUSD shall not pay and shall not be liable to VENDOR for any costs or expenses paid or incurred by VENDOR not described in **Exhibit A**.
  - b. Compensation for SERVICES performed outside of the TERM (e.g., prior to execution of this AGREEMENT or after its termination) shall be at OUSD’s sole discretion and in an amount solely determined by OUSD. VENDOR agrees that it shall not expect or demand compensation for the performance of such SERVICES.
  - c. VENDOR acknowledges and agrees not to expect or demand compensation for any SERVICES performed prior to the PARTIES, particularly OUSD, validly and properly executing this AGREEMENT and VENDOR shall not rely on verbal or written communication from any individual, other than the OUSD Superintendent or the OUSD Legal Counsel, stating that OUSD has validly and properly executed this AGREEMENT.
  - d. Payment for SERVICES shall be made for all undisputed amounts no more frequently than in monthly installment payments within sixty (60) days after VENDOR submits an invoice to OUSD, in accordance with Paragraph 4 (Invoicing), for the SERVICES actually performed and after OUSD’s written approval that the SERVICES were actually performed. The granting of any payment by OUSD, or the receipt thereof by VENDOR, shall in no way lessen the liability of VENDOR to correct unsatisfactory performance of SERVICES, even if the unsatisfactory character of the performance was not apparent or detected at the time a payment was made. If OUSD determines that VENDOR’s performance does not conform to the requirements of this AGREEMENT, VENDOR agrees to correct its performance without delay.

4. **Invoicing.** Invoices furnished by VENDOR under this AGREEMENT must be in a form acceptable to OUSD.
  - a. All amounts paid by OUSD shall be subject to audit by OUSD. Invoices shall include, without limitation: VENDOR name, VENDOR address, invoice date, invoice number, purchase order number, name of school or department to which the SERVICES were provided, name(s) of the person(s) performing the SERVICES, date(s) the SERVICES were performed, brief description of the SERVICES provided on each date, total invoice amount, and the basis for the total invoice amount (e.g., if hourly rate, the number of hours on each date and the rate for those hours).
  - b. If OUSD, at its sole discretion, determines an invoice fails to include the required elements, OUSD will not pay the invoice and will inform VENDOR of the missing items; VENDOR shall resubmit an invoice that includes the required elements before OUSD will pay the invoice.
  - c. Invoices must be submitted no more frequently than monthly, and within 30 days of the conclusion of the applicable billing period. OUSD reserves the right to refuse to pay untimely invoices.
  - d. OUSD reserves the right to add or change invoicing requirements. If OUSD does add or change invoicing requirements, it shall notify VENDOR in writing and the new or modified requirements shall be mandatory upon receipt by VENDOR of such notice.
  - e. To the extent that VENDOR has described how the SERVICES may be provided both in-person and not in-person, VENDOR's invoices shall—in addition to any invoice requirement added or changed under subparagraph (d)—indicate whether the SERVICES were provided in-person or not.
  - f. All invoices furnished by VENDOR under this AGREEMENT shall be delivered to OUSD via email unless OUSD requests, in writing, a different method of delivery.
  
5. **Suspension.** If OUSD, at its sole discretion, develops health and safety concerns related to VENDOR's provision of SERVICES, then the OUSD Superintendent or an OUSD Chief may, upon approval by OUSD legal counsel, issue a notice to VENDOR to suspend this AGREEMENT, in which case VENDOR shall stop providing SERVICES under this AGREEMENT until further notice from OUSD. OUSD shall compensate VENDOR for the SERVICES satisfactorily provided through the date of suspension.
  
6. **Termination.** Upon termination consistent with this Paragraph (Termination), VENDOR shall provide OUSD with all materials produced, maintained, or collected by VENDOR pursuant to this AGREEMENT, whether or not such materials are complete or incomplete or are in final or draft form.
  - a. For Convenience by OUSD. OUSD may at any time terminate this AGREEMENT upon thirty (30) days prior written notice to VENDOR. OUSD shall compensate VENDOR for SERVICES satisfactorily provided through the date of termination. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief may issue the termination notice without prior approval by the OUSD Governing Board, in which case this AGREEMENT would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was

provided, whichever is later. VENDOR shall immediately stop providing SERVICES upon receipt of the termination notice from the OUSD Superintendent or OUSD Chief.

- b. For Cause. Either PARTY may terminate this AGREEMENT by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate, which shall include (i) material violation of this AGREEMENT or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief may issue the termination notice without prior approval by the OUSD Governing Board, in which case this AGREEMENT would terminate upon ratification of the termination by the OUSD Governing Board or three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for its correction are made. VENDOR shall immediately stop providing SERVICES upon receipt of the termination notice from the OUSD Superintendent or OUSD Chief.
  - c. Due to Unforeseen Emergency or Acts of God. Notwithstanding any other language of this AGREEMENT, if there is an unforeseen emergency or an Act of God during the TERM that would prohibit or limit, at the sole discretion of OUSD, the ability of VENDOR to perform the SERVICES, OUSD may terminate this AGREEMENT upon seven (7) days prior written notice to VENDOR. The OUSD Governing Board may issue this type of termination notice or the OUSD Superintendent, upon approval by OUSD legal counsel, may issue this type of the termination notice without the need for approval or ratification by the OUSD Governing Board. VENDOR shall immediately stop providing SERVICES upon receipt of the termination notice from the OUSD Superintendent.
  - d. Due to Failure to Ratify by OUSD Board. If, consistent with Paragraph 41 (Signature Authority), this AGREEMENT is executed on behalf of OUSD by the signature of the Superintendent, a Chief, a Deputy Chief, or an Executive Director, and the Board thereafter declines to ratify this AGREEMENT, this AGREEMENT shall automatically terminate on the date that the Board declines to ratify it. OUSD shall compensate VENDOR for the SERVICES satisfactorily provided through the date of termination.
7. **Data and Information Requests.**
- a. VENDOR shall timely provide OUSD with any data and information OUSD reasonably requests related to the provision of the SERVICES.
  - b. VENDOR shall register with and maintain current information within OUSD's Community Partner database unless OUSD communicates to VENDOR in writing otherwise, based on OUSD's determination that the SERVICES are not related to community school outcomes. If and when VENDOR's programs and school site(s) change (either midyear or in subsequent years), VENDOR shall promptly update the information in the database.

8. **Confidentiality and Data Privacy.**
  - a. OUSD may share information with VENDOR pursuant to this AGREEMENT in order to further the purposes thereof. VENDOR and VENDOR INDIVIDUALS shall maintain the confidentiality of all information received in the course of performing the SERVICES, provided such information is (i) marked or identified as “confidential” or “privileged,” or (ii) reasonably understood to be confidential or privileged.
  - b. VENDOR understands that student data is confidential. VENDOR or VENDOR INDIVIDUALS may only access or receive identifiable student data, other than directory information, in connection with this AGREEMENT only after VENDOR and OUSD execute (i) a California Student Data Privacy Agreement (“CSDPA”) or CSDPA Exhibit E, if VENDOR is a software vendor, or (ii) the OUSD Data Sharing Agreement, if VENDOR is not a software vendor. Notwithstanding Paragraph 24 (Indemnification), should VENDOR or VENDOR INDIVIDUALS access or receive identifiable student data, other than directory information, without first executing such an agreement, VENDOR shall be solely liable for any and all claims or losses resulting from its access or receipt of such data.
  - c. All confidentiality requirements, including those set forth in the separate data sharing agreement, extend beyond the termination of this AGREEMENT.
  
9. **Copyright/Trademark/Patent/Ownership.** VENDOR understands and agrees that all matters produced under this AGREEMENT, excluding any intellectual property that existed prior to execution of this AGREEMENT, shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by VENDOR in connection with the SERVICES performed under this AGREEMENT. VENDOR cannot use, reproduce, distribute, publicly display, perform, alter, remix, or build upon matters produced under this AGREEMENT without OUSD’s express written permission. OUSD shall have all right, title and interest in said matters, including the right to register the copyright, trademark, and/or patent of said matter in the name of OUSD. OUSD may, with VENDOR’s prior written consent, use VENDOR’s name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
  
10. **Alignment and Evaluation.**
  - a. VENDOR agrees to work and communicate with OUSD staff, both formally and informally, to ensure that the SERVICES are aligned with OUSD’s mission and are meeting the needs of students as determined by OUSD.
  - b. OUSD may evaluate VENDOR or VENDOR INDIVIDUALS in any reasonable manner which is permissible under the law. OUSD’s evaluation may include, without limitation: (i) requesting that OUSD employee(s) evaluate the performance of

VENDOR or VENDOR INDIVIDUALS, and (ii) announced and unannounced observance of VENDOR or VENDOR INDIVIDUALS.

11. **Inspection and Approval.** VENDOR agrees that OUSD has the right and agrees to provide OUSD with the opportunity to inspect any and all aspects of the SERVICES performed including, but not limited to, any materials (physical or electronic) produced, created, edited, modified, reviewed, or otherwise used in the preparation, performance, or evaluation of the SERVICES. In accordance with Paragraph 3 (Compensation), the SERVICES performed by VENDOR must meet the approval of OUSD, and OUSD reserves the right to direct VENDOR to redo the SERVICES, in whole or in part, if OUSD, in its sole discretion, determines that the SERVICES were not performed in accordance with this AGREEMENT.
12. **Equipment and Materials.** VENDOR shall provide all equipment, materials, and supplies necessary for the performance of this AGREEMENT.
13. **Legal Notices.** Based on contact information set forth in **Exhibit A**, all legal notices provided for under this AGREEMENT shall be sent: (i) via email, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY. Notice shall be effective when received if personally served or emailed or, if mailed, three days after mailing. Either PARTY must give written notice of a change of mailing address or email.
14. **Status.**
  - a. This is not an employment contract. VENDOR, in the performance of this AGREEMENT, shall be and act as an independent contractor.
  - b. If VENDOR is a natural person, VENDOR verifies all of the following:
    - (i) VENDOR is free from the control and direction of OUSD in connection with VENDOR's work;
    - (ii) VENDOR's work is outside the usual course of OUSD's business; and
    - (iii) VENDOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for OUSD.
  - c. If VENDOR is a business entity, VENDOR understands and agrees that it and any and all VENDOR INDIVIDUALS shall not be considered employees of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. VENDOR shall assume full responsibility for payment of all Federal, State, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to VENDOR INDIVIDUALS. VENDOR verifies all of the following:
    - (i) VENDOR is free from the control and direction of OUSD in connection with the performance of the work;
    - (ii) VENDOR is providing the SERVICES directly to OUSD rather than to customers of OUSD;

- (iii) the contract between OUSD and VENDOR is in writing;
- (iv) VENDOR has the required business license or business tax registration, if the work is performed in a jurisdiction that requires VENDOR to have a business license or business tax registration;
- (v) VENDOR maintains a business location that is separate from the business or work location of OUSD;
- (vi) VENDOR is customarily engaged in an independently established business of the same nature as that involved in the work performed;
- (vii) VENDOR actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from OUSD;
- (viii) VENDOR advertises and holds itself out to the public as available to provide the same or similar services;
- (ix) VENDOR provides its own tools, vehicles, and equipment to perform the SERVICES;
- (x) VENDOR can negotiate its own rates;
- (xi) VENDOR can set its own hours and location of work; and
- (xii) VENDOR is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code.

15. **Qualifications, Training, and Removal.**

- a. VENDOR represents and warrants that VENDOR and all VENDOR INDIVIDUALS have the necessary and sufficient experience, qualifications, and ability to perform the SERVICES in a professional manner, without the advice, control or supervision of OUSD. VENDOR will perform the SERVICES in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable laws, codes, rules, regulations, and/or ordinances.
- b. VENDOR represents and warrants that all VENDOR INDIVIDUALS are specially trained, experienced, competent and fully licensed to provide the SERVICES identified in this AGREEMENT in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.
- c. VENDOR agrees to immediately remove or cause the removal of any VENDOR INDIVIDUAL from OUSD property upon receiving notice from OUSD of such desire. OUSD is not required to provide VENDOR with a basis or explanation for the removal request.

16. **Certificates/Permits/Licenses/Registration.** VENDOR shall ensure that all VENDOR INDIVIDUALS secure and maintain in force such certificates, permits, licenses, and registration as are required by law in connection with the furnishing of the SERVICES pursuant to this AGREEMENT.

17. **Insurance.**

- a. Commercial General Liability Insurance. VENDOR shall maintain Commercial General Liability Insurance, including automobile coverage, with limits of at least one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate, sexual misconduct, harassment, bodily injury and property damage. Coverage for corporal punishment, sexual misconduct, and harassment may either be provided through General Liability Insurance or Professional Liability Insurance. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured with the additional insured endorsement provided to OUSD within 15 days of effective date of this AGREEMENT (and within 15 days of each new policy year thereafter during the TERM). Evidence of insurance shall be attached to this AGREEMENT or otherwise provided to OUSD upon request. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against VENDOR. The policy shall protect VENDOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured. The requirements of this subparagraph may be specifically waived as noted in **Exhibit A**.
- b. Workers' Compensation Insurance. VENDOR shall procure and maintain, at all times during the TERM of this AGREEMENT, Workers' Compensation Insurance in conformance with the laws of the State of California (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than one million dollars (\$1,000,000) per accident or disease. The requirements of this subparagraph may be specifically waived as noted in **Exhibit A**.

18. **Testing and Screening.**

- a. Tuberculosis Screening. VENDOR shall ensure that all VENDOR INDIVIDUALS who will be working at OUSD sites for more than six hours in total during the TERM or who work with students (regardless of the length of time) have submitted to a tuberculosis risk assessment as required by Education Code section 49406 within the prior 60 days. If tuberculosis risk factors were identified for a VENDOR INDIVIDUAL, that VENDOR INDIVIDUAL must submit to an intradermal or other approved tuberculosis examination to determine if that VENDOR INDIVIDUAL is free of infectious tuberculosis. If the results of the examination are positive, VENDOR shall obtain an x-ray of the lungs. VENDOR, at its discretion, may choose to submit a VENDOR INDIVIDUAL to the examination instead of the risk assessment. The requirements of this subparagraph may be specifically waived as noted in **Exhibit A**.
- b. Fingerprinting/Criminal Background Investigation. For all VENDOR INDIVIDUALS providing the SERVICES, VENDOR shall ensure completion of fingerprinting and criminal background investigation and shall request and regularly review

subsequent arrest records. VENDOR confirms that no VENDOR INDIVIDUAL providing the SERVICES has been convicted of a felony, as that term is defined in Education Code section 45122.1. VENDOR shall provide the results of the investigations and subsequent arrest notifications to OUSD. For purposes of this subparagraph, VENDOR shall use either California Department of Justice or Be A Mentor, Inc. (<http://beamentor.org/OUUSDPartner>) finger-printing and subsequent arrest notification services. The requirements of this subparagraph may be specifically waived as noted in **Exhibit A**.

19. **Incident/Accident/Mandated Reporting.**

- a. VENDOR shall notify OUSD, via email pursuant to Paragraph 13 (Legal Notices), within twelve (12) hours of learning of any significant accident or incident in connection with the provision of the SERVICES. Examples of a significant accident or incident include, without limitation, an accident or incident that involves law enforcement, or possible or alleged criminal activity, or possible or actual exposure to a communicable disease such as COVID-19. VENDOR shall properly submit required accident or incident reports within one business day pursuant to the procedures specified by OUSD. VENDOR shall bear all costs of compliance with this Paragraph.
- b. To the extent that a VENDOR INDIVIDUAL is included on the list of mandated reporters found in Penal Code section 11165.7, VENDOR agrees to inform that VENDOR INDIVIDUAL, in writing, that they are a mandated reporter, and describing the associated obligations to report suspected cases of abuse and neglect pursuant to Penal Code section 11166.5.

20. **Health and Safety Orders and Requirements; Site Closures.**

- a. VENDOR shall adhere to any health or safety orders or requirements issued at the time of the execution of this AGREEMENT or in the future by OUSD or other public entities (“Orders”).
- b. Except as possibly stated otherwise in **Exhibit A**, VENDOR is able to meet its obligations and perform the SERVICES required pursuant to this AGREEMENT in accordance with any Order; to the extent that VENDOR becomes unable to do so, VENDOR shall immediately inform OUSD in writing.
- c. Except as possibly stated otherwise in **Exhibit A**, to the extent that there may be a site closure (e.g., due to poor air quality, planned loss of power, strike) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, VENDOR is able to meet its obligations and perform the SERVICES required pursuant to this AGREEMENT; to the extent that VENDOR becomes unable to do so, VENDOR shall immediately inform OUSD in writing.
- d. VENDOR shall bear all costs of compliance with this Paragraph, including but not limited lost compensation for failure to provide SERVICES.



21. **Conflict of Interest.**
- a. VENDOR and all VENDOR INDIVIDUALS shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. VENDOR shall not hire, contract with, or employ any officer or employee of OUSD during the TERM without the prior approval of OUSD Legal Counsel.
  - b. VENDOR affirms, to the best of his/her/its knowledge, that there exists no actual or potential conflict of interest between VENDOR's family, business, or financial interest and the SERVICES provided under this AGREEMENT, and in the event of any change in either private interest or the SERVICES under this AGREEMENT, any question regarding a possible conflict of interest which may arise as a result of such change will be immediately brought to OUSD's attention in writing.
  - c. Through its execution of this AGREEMENT, VENDOR acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event VENDOR receives any information subsequent to execution of this AGREEMENT which might constitute a violation of said provisions, VENDOR agrees it shall immediately notify OUSD in writing.
22. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.** VENDOR certifies, to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this AGREEMENT, certifies that neither it nor its principals appear on the Excluded Parties List (<https://www.sam.gov/>).
23. **Limitation of OUSD Liability.** Other than as provided in this AGREEMENT, OUSD's financial obligations under this AGREEMENT shall be limited to the compensation described in Paragraph 3 (Compensation). Notwithstanding any other provision of this AGREEMENT, in no event shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this AGREEMENT for the SERVICES performed in connection with this AGREEMENT.
24. **Indemnification.**
- a. To the furthest extent permitted by California law, VENDOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("OUSD Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of VENDOR's performance of this AGREEMENT. VENDOR also agrees to hold harmless, indemnify, and defend OUSD Indemnified Parties from any and all claims or losses incurred by any supplier or subcontractor furnishing work, services, or materials to VENDOR arising out of the performance of this AGREEMENT. VENDOR shall, to the fullest extent permitted by California law, defend OUSD Indemnified Parties at VENDOR's own expense, including attorneys'

fees and costs, and OUSD shall have the right to accept or reject any legal representation that VENDOR proposes to defend OUSD Indemnified Parties.

- b. To the furthest extent permitted by California law, OUSD shall indemnify, defend, and hold harmless VENDOR and VENDOR INDIVIDUALS from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OUSD's performance of this AGREEMENT. OUSD shall, to the fullest extent permitted by California law, defend VENDOR and VENDOR INDIVIDUALS at OUSD's own expense, including attorneys' fees and costs.
25. **Audit.** VENDOR shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of VENDOR transacted under this AGREEMENT. VENDOR shall retain these books, records, and systems of account during the TERM and for three (3) years after the earlier of (i) the TERM or (ii) the date of termination. VENDOR shall permit OUSD, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the SERVICES covered by this AGREEMENT. Audit(s) may be performed at any time, provided that OUSD shall give reasonable prior notice to VENDOR and shall conduct audit(s) during VENDOR'S normal business hours, unless VENDOR otherwise consents.
  26. **Non-Discrimination.** It is the policy of OUSD that, in connection with all work performed under legally binding agreements, there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, VENDOR agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code section 12900 and Labor Code section 1735 and OUSD policy. In addition, VENDOR agrees to require like compliance by all its subcontractor (s). VENDOR shall not engage in unlawful discrimination in employment on the basis of actual or perceived: race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
  27. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, VENDORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
  28. **Waiver.** No delay or omission by either PARTY in exercising any right under this AGREEMENT shall operate as a waiver of that or any other right or prevent a subsequent act from constituting a violation of this AGREEMENT.
  29. **Assignment.** The obligations of VENDOR under this AGREEMENT shall not be assigned by VENDOR without the express prior written consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.

30. **No Rights in Third Parties.** This AGREEMENT does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
31. **Litigation.** This AGREEMENT shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this AGREEMENT.
32. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this AGREEMENT are incorporated herein by reference. VENDOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this AGREEMENT, the terms and provisions of this AGREEMENT shall govern.
33. **Integration/Entire Agreement of Parties.** This AGREEMENT constitutes the entire agreement between the PARTIES and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This AGREEMENT may be amended or modified only by a written instrument executed by both PARTIES.
34. **Severability.** If any term, condition, or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
35. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this AGREEMENT shall be deemed to be inserted herein and this AGREEMENT shall be read and enforced as though it were included therein.
36. **Captions and Interpretations.** Paragraph headings in this AGREEMENT are used solely for convenience, and shall be wholly disregarded in the construction of this AGREEMENT. No provision of this AGREEMENT shall be interpreted for or against a PARTY because that PARTY or its legal representative drafted such provision, and this AGREEMENT shall be construed as if jointly prepared by the PARTIES.
37. **Calculation of Time.** For the purposes of this AGREEMENT, "days" refers to calendar days unless otherwise specified and "hours" refers to hours regardless of whether it is a work day, weekend, or holiday.
38. **Counterparts and Electronic Signature.** This AGREEMENT, and all amendments, addenda, and supplements to this AGREEMENT, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations


promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving PARTY may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this AGREEMENT, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

39. **W-9 Form.** If VENDOR is doing business with OUSD for the first time, VENDOR acknowledges that it must complete and return a signed W-9 form to OUSD.
40. **Agreement Publicly Posted.** This AGREEMENT, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
41. **Signature Authority.**
  - a. Each PARTY has the full power and authority to enter into and perform this AGREEMENT, and the person(s) signing this AGREEMENT on behalf of each PARTY has been given the proper authority and empowered to enter into this AGREEMENT.
  - b. Notwithstanding subparagraph (a), VENDOR acknowledges, agrees, and understands (i) that only the Superintendent, and the Chiefs, Deputy Chiefs, and Executive Directors who have been delegated such authority, may validly sign contracts for OUSD and only under limited circumstances, and (ii) that all such contract still require ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other individual as having the proper authority to enter into this AGREEMENT on behalf of OUSD.
42. **Contract Contingent on Governing Board Approval.** The PARTIES acknowledge, agree, and understand that OUSD shall not be bound by the terms of this AGREEMENT unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, a Chief, or a Deputy Chief authorized by the Education Code or Board Policy, and no compensation shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

**REST OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this AGREEMENT and to be bound by its terms and conditions:


VENDOR

Name: Charles Barrett Signature:   
Charles Barrett (Mar 7, 2024 21:45 EST)

Position: Owner Date: Mar 7, 2024


*One of the terms and conditions to which VENDOR specifically agrees by its signature is subparagraph (c) of Paragraph 3 (Compensation), which states that VENDOR acknowledges and agrees not to expect or demand compensation for any SERVICES performed prior to the PARTIES, particularly OUSD, validly and properly executing this AGREEMENT and shall not rely on verbal or written communication from any individual, other than the OUSD Superintendent or OUSD Legal Counsel, stating that OUSD has validly and properly executed this AGREEMENT.*

OUSD

Name: Jennifer Blake Signature:   
Jennifer Blake (Mar 7, 2024 19:33 PST)

Position: Executive Director, Special Education Department Date: Mar 7, 2024

Board President (for approvals)  
 Chief/Deputy Chief/Executive Director (for ratifications)

Name: Kyla Johnson-Trammell Signature: 

Position: Superintendent Date: 4/11/2024

**Template approved as to form by OUSD Legal Department.**

**SERVICES AGREEMENT  
EXHIBIT A**

(Paragraph numbers in Exhibit A corresponds to the applicable Paragraph number in this Agreement.)

**VENDOR:** CAB Publishing Company, LLC

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1. **Services.** Describe the SERVICES VENDOR will provide: \_\_\_\_\_  
an in depth audit of special education records as it pertains the the significant  
disproportionality of African-American/black students identified under the classification  
of Other Health Impairment in order to review referral, evaluation, and eligibility  
practices used by relevant Oakland Unified School District (OUSD) staff and provide  
detailed feedback on any areas of the process that could be contributing to the  
significant disproportionality identified by the California Department of Education (CDE)  
and suggestions for improvement on how to promote equity through special education  
practices and evaluation.
  
2. **Term.**
  - a. This AGREEMENT shall start on the below Start Date. If no date is entered, then this AGREEMENT shall start on the latest of the dates on which each of the PARTIES signed this AGREEMENT.  
**Start Date:** March 15,2024
  
  - b. Unless terminated earlier, this AGREEMENT shall end on the below End Date. If no date is entered, then this AGREEMENT shall end on the first June 30 after start date listed in subparagraph (a). If the dates set forth in this subparagraph and subparagraph (a) would cause this AGREEMENT to exceed the limits set forth in state law (e.g., Education Code section 17596), this AGREEMENT shall instead automatically end upon reaching said limit.  
**End date:** June 30, 2024
  
3. **Compensation.**
  - a. The basis for payment to VENDOR shall be:
    - Hourly Rate: 500.00 per hour
    - Daily Rate: \_\_\_\_\_ per day
    - Weekly Rate: \_\_\_\_\_ per week
    - Monthly Rate: \_\_\_\_\_ per month
    - Per Student Served Rate: \_\_\_\_\_ per student served
    - Performance/Deliverable Payments: Describe below the performance and/or deliverable(s) as well as the associated rate(s): \_\_\_\_\_
  
  - b. Over the TERM, the total compensation under this AGREEMENT shall not exceed the below amount. This sum includes (but is not limited to) compensation for the full performance of this AGREEMENT and all fees, costs, and expenses incurred by VENDOR including (but not limited to) labor, materials, taxes, profit, overhead, travel, insurance, permitted subcontractor costs, and other costs.  
**Not-To-Exceed Amount:** \$35,000.00

13. **Legal Notices.**

OUSD

Site/Dept: Legal Department  
Address: 1011 Union Street, Site 946  
City, ST Zip: Oakland, CA 94607  
Phone: 510-879-5060  
Email: [ousdlegal@ousd.org](mailto:ousdlegal@ousd.org)

VENDOR

Name/Dept: CAB Publishing Company, LLC  
Address: PO Box 1108  
City, ST Zip: Leesburg, VA 20177  
Phone: 703-855-3025  
Email: charles@charlesbarrett.org

17. **Insurance.** OUSD has waived the following insurance requirements. Written confirmation of a waiver (e.g., email from OUSD Risk Management Officer) is attached hereto. Failure to attach such written confirmation voids any such waiver even if otherwise properly given.

- Commercial General Liability Insurance.* Waiver typically available by OUSD if no VENDOR INDIVIDUAL interacts or has contact with OUSD students (in-person or virtual) and the not-to-exceed amount is \$25,000 or less.
- Workers' Compensation Insurance.* Waiver typically available by OUSD if VENDOR has no employees.

18. **Testing and Screening.** OUSD has waived the following testing and screening requirements. Written confirmation of a waiver (e.g., email from OUSD Risk Management Officer) is attached hereto. Failure to include such written confirmation voids any such waiver even if otherwise properly given.

- Tuberculosis Screening.* Waiver typically available by OUSD if VENDOR INDIVIDUALS will have no in-person contact with OUSD students.
- Fingerprinting/Criminal Background Investigation.* Waiver typically available by OUSD if no VENDOR INDIVIDUAL interacts or has contact with OUSD students (in-person or virtual).

20. **Health and Safety Orders and Requirements; Site Closures.** If there is an Order or event in which school sites and/or District offices may be closed or otherwise inaccessible, would the SERVICES be able to continue?

- Yes, the SERVICES would be able to continue as described herein.
- No, the SERVICES would not be able to continue.

## DATA SHARING AGREEMENT

This Data Sharing Agreement (“AGREEMENT”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the below named entity(ies) or individual(s) (“RECIPIENT,” together with OUSD, “PARTIES”) named in **Exhibit A**, attached hereto and incorporated herein by reference. Unless otherwise stated herein, “RECIPIENT INDIVIDUAL” includes (to the extent they exist): RECIPIENT Board members, officers, trustees, and directors; RECIPIENT employees, agents, consultants, contractors and subcontractors, representatives, and other similar individuals; and volunteers and others unpaid persons under RECIPIENT’s direction, invitation, or control.

To the extent that OUSD seeks to impose any other legal obligations on RECIPIENT (e.g., RECIPIENT’s provision of services to OUSD), or RECIPIENT seeks to impose any other legal obligations on OUSD (e.g., OUSD payment of compensation to RECIPIENT), such obligations shall be set forth in a separate agreement. If one or more such agreements exist at the time of execution of this AGREEMENT, the Parties shall identify it in **Exhibit A**.

The PARTIES hereby agree as follows:

1. **Purpose.** This AGREEMENT pertains only to OUSD’s transmission of data to RECIPIENT and RECIPIENT INDIVIDUALS, and RECIPIENT and RECIPIENT INDIVIDUALS’s protection of such data (“PURPOSE”).
  - a. The elements/categories of data to be transmitted shall be listed in **Exhibit A**. These data, and any portion thereof (including without limitation, meta data, user content or other non-public information and/or personally identifiable information contained in that data), shall be referred to hereinafter as “OUSD Data.”
  - b. The basis under state and federal law (e.g., the Family Educational Rights and Privacy Act) upon which OUSD may transmit the OUSD Data to RECIPIENT shall be delineated in **Exhibit A**. The PARTIES acknowledge that OUSD limited to student directory information, as defined in 34 C.F.R. § 99.31(a)(11) and OUSD Administrative Regulation 5125.1), or de-identified student information, as defined in 34 C.F.R. § 99.31(b), does not require completion of a data sharing agreement.
  - c. No OUSD Data whatsoever may be used for any purpose other than as agreed herein and/or otherwise legally authorized. RECIPIENT shall not make any re-disclosure of any OUSD Data without the express written consent of OUSD.
2. **Term.** The term (“TERM”) of this AGREEMENT is established in **Exhibit A**. If the TERM is longer than one calendar year and the OUSD Data transmitted is part of a research project approved by OUSD’s Department of Research, Assessment, and Data (“RAD”), RECIPIENT acknowledges that (i) it will need to obtain approval from RAD prior to extending the research project into the second and subsequent calendar years and (ii) no OUSD Data will be shared during the second and subsequent calendar years unless and until this approval is obtained.



3. **Privacy Compliance.** RECIPIENT shall comply with all applicable state and federal laws and regulations pertaining to data privacy and security, including the Family Educational Rights and Privacy Act, the Children’s Online Privacy Protection Act, the Protection of Pupil Rights Amendment, the Student Online Personal Information Protection Act, AB 1584, and all other California privacy statutes.
4. **Advertising Prohibition.** RECIPIENT is prohibited from using or selling OUSD Data to: (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising, or other commercial efforts by RECIPIENT; (c) develop a profile of a student, family member/guardian, or group for any commercial purpose unless authorized by a separate agreement with OUSD; or (d) use the OUSD Data for the development of commercial products or services.
5. **Property of OUSD.** All OUSD Data transmitted to the RECIPIENT pursuant to this AGREEMENT is and will continue to be the property of and under the control of OUSD. RECIPIENT acknowledges and agrees that all copies of such OUSD Data transmitted to the RECIPIENT, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this AGREEMENT in the same manner as the original OUSD Data. The PARTIES agree that as between them, all rights, including all intellectual property rights in and to OUSD Data shall remain the exclusive property of OUSD.
6. **Correction of Records.** OUSD shall establish reasonable procedures by which a parent/guardian of an OUSD pupil or an eligible OUSD pupil may review OUSD Data in the pupil’s records, correct erroneous information regarding the pupil, and transfer content generated by the pupil to a personal account. RECIPIENT shall respond in a timely manner to OUSD’s request for OUSD Data in a pupil’s records held by RECIPIENT to view or correct, as necessary.
7. **Third Party Request.** Should a Third Party, including law enforcement and government entities, contact RECIPIENT with a request for OUSD data or other data provided by OUSD and held by RECIPIENT pursuant to this AGREEMENT, RECIPIENT shall redirect the Third Party to request the data directly from OUSD. To the maximum extent permitted by law, RECIPIENT shall notify OUSD in advance of a compelled disclosure to a Third Party.
8. **Employee Obligation.** RECIPIENT shall require all RECIPIENT INDIVIDUALS who have access to OUSD Data to comply with all applicable provisions of this AGREEMENT with respect to the data shared under the AGREEMENT.
9. **Subprocessors.** RECIPIENT shall enter into written agreements with all Subprocessors performing functions pursuant to this AGREEMENT or any other agreement identified in **Exhibit A**, whereby the Subprocessors agree to protect OUSD Data in manner consistent with the terms of this AGREEMENT.

10. **No Re-Identification or Re-Disclosure.** RECIPIENT agrees not to attempt to re-identify de-identified OUSD Data and not to transfer de-identified OUSD Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to OUSD who has provided prior written consent for such transfer. RECIPIENT shall not copy, reproduce, or transmit any data obtained, except as necessary to fulfill the AGREEMENT.
11. **Disposition of Data.** RECIPIENT shall dispose or delete all OUSD Data upon written request by OUSD or when it is no longer needed for the purpose for which it was obtained. Disposition shall include: (1) the shredding of any hard copies of any OUSD Data; (2) erasing; or (3) otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in this AGREEMENT authorizes RECIPIENT to maintain OUSD Data beyond the time period reasonably needed to complete the disposition. RECIPIENT shall provide written notification to OUSD when the OUSD Data has been disposed.
12. **Data Security.** RECIPIENT agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect OUSD Data from unauthorized disclosure or acquisition by an unauthorized person.
13. **Data Breach.** In the event that OUSD Data is accessed or obtained by an unauthorized individual, RECIPIENT shall provide a notification to OUSD within a reasonable amount of time of the incident, and not exceeding forty-eight (48) hours. If, after RECIPIENT provides the initial notice under this Paragraph, RECIPIENT becomes aware of additional information related to such an event, RECIPIENT shall provide additional notifications to OUSD within a reasonable amount of time of the incident, and not exceeding forty-eight (48) hours. In provide notice to OUSD under this Paragraph, RECIPIENT shall follow the following process:
  - a. The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described herein under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.
  - b. The security breach notification described above shall include, at a minimum, the following information:
    - i. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
    - ii. The date of the breach, the estimated date of the breach, the date range within which the breach occurred, or an estimate of how soon RECIPIENT will know this information.
    - iii. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.
    - iv. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

- c. RECIPIENT agrees to adhere to all requirements in applicable state and federal law with respect to a data breach related to the OUSD Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
  - d. RECIPIENT further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of OUSD Data or any portion thereof, including personally identifiable information and agrees to provide OUSD, upon request, with a copy of said written incident response plan.
  - e. RECIPIENT is prohibited from directly contacting the parents/guardians of affected OUSD pupils or eligible OUSD pupils unless expressly requested by OUSD. If OUSD requests RECIPIENT's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to RECIPIENT, RECIPIENT shall notify affected such parents/guardians or OUSD pupils of the unauthorized access, which shall include the information listed above. If requested by OUSD, RECIPIENT shall reimburse OUSD for costs incurred to provide such notifications.
14. **Equipment and Materials.** RECIPIENT shall provide all equipment, materials, and supplies necessary for the performance of this AGREEMENT.
15. **Certificates/Permits/Licenses/Registration.** RECIPIENT shall ensure that all RECIPIENT INDIVIDUALS secure and maintain in force such certificates, permits, licenses, and registration as are required by law in order to perform its responsibilities under this AGREEMENT.
16. **Qualifications, Training, and Removal.**
- a. RECIPIENT represents and warrants that RECIPIENT and all RECIPIENT INDIVIDUALS have the necessary and sufficient experience, qualifications, and ability to perform its responsibilities under this AGREEMENT in a professional manner, without the advice, control or supervision of OUSD. RECIPIENT will perform its responsibilities under this AGREEMENT in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable laws, codes, rules, regulations, and/or ordinances.
  - b. RECIPIENT represents and warrants that all RECIPIENT INDIVIDUALS are specially trained, experienced, competent and fully licensed to perform its responsibilities under this AGREEMENT in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.
  - c. RECIPIENT agrees to immediately remove or cause the removal of any RECIPIENT INDIVIDUAL from using, reviewing, or otherwise accessing OUSD Data upon receiving notice from OUSD of such desire. OUSD is not required to provide RECIPIENT with a basis or explanation for the removal request.

17. **Suspension.** If OUSD, at its sole discretion, develops health and safety concerns related to RECIPIENT's performance under this AGREEMENT, then the OUSD Superintendent or an OUSD Chief may, upon approval by OUSD legal counsel, issue a notice to RECIPIENT to suspend this AGREEMENT, in which case RECIPIENT shall cease using, reviewing, or otherwise accessing OUSD Data under this AGREEMENT until further notice from OUSD.
  
18. **Termination.**
  - a. For Convenience by OUSD. OUSD may at any time terminate this AGREEMENT upon thirty (30) days prior written notice to RECIPIENT. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief may issue the termination notice without prior approval by the OUSD Governing Board, in which case this AGREEMENT would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was provided, whichever is later. RECIPIENT shall immediately cease using, reviewing, or otherwise accessing OUSD Data upon receipt of such a termination notice.
  - b. For Cause. Either PARTY may terminate this AGREEMENT by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate, which shall include (i) material violation of this AGREEMENT or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief may issue the termination notice without prior approval by the OUSD Governing Board, in which case this AGREEMENT would terminate upon ratification of the termination by the OUSD Governing Board or three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for its correction are made. RECIPIENT shall immediately cease using, reviewing, or otherwise accessing OUSD Data upon receipt of such a termination notice.
  - c. Due to Unforeseen Emergency or Acts of God. Notwithstanding any other language of this AGREEMENT, if there is an unforeseen emergency or an Act of God during the TERM that would prohibit or limit, at the sole discretion of OUSD, the ability of one or both PARTIES to perform their obligations under this AGREEMENT, OUSD may terminate this AGREEMENT upon seven (7) days prior written notice to RECIPIENT. The OUSD Governing Board may issue this type of termination notice or the OUSD Superintendent, upon approval by OUSD legal counsel, may issue this type of the termination notice without the need for approval or ratification by the OUSD Governing Board. RECIPIENT shall immediately cease using, reviewing, or otherwise accessing OUSD Data upon receipt of such a termination notice.
  - d. Upon termination, RECIPIENT shall provide OUSD with all materials produced, maintained, or collected by RECIPIENT pursuant to this AGREEMENT, whether or not such materials are complete or incomplete or are in final or draft form.

19. **Legal Notices.** Based on contact information set forth in **Exhibit A**, all legal notices provided for under this AGREEMENT shall be sent: (i) via email, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY. Notice shall be effective when received if personally served or emailed or, if mailed, three days after mailing. Either PARTY must give written notice of a change of mailing address or email.
20. **Conflict of Interest.**
- a. RECIPIENT and all RECIPIENT INDIVIDUALS shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. RECIPIENT shall not hire, contract with, or employ any officer or employee of OUSD during the TERM without the prior approval of OUSD Legal Counsel.
  - b. RECIPIENT affirms, to the best of his/her/its knowledge, that there exists no actual or potential conflict of interest between RECIPIENT's family, business, or financial interest and the PURPOSE under this AGREEMENT. In the event of any change in a private interest, any question regarding a possible conflict of interest which may arise as a result of such change will be immediately brought to OUSD's attention in writing.
  - c. Through its execution of this AGREEMENT, RECIPIENT acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event RECIPIENT receives any information subsequent to execution of this AGREEMENT which might constitute a violation of said provisions, RECIPIENT agrees it shall immediately notify OUSD in writing.
21. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.** RECIPIENT certifies, to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this AGREEMENT, certifies that neither it nor its principals appear on the Excluded Parties List (<https://www.sam.gov/>).
22. **Limitation of OUSD Liability.** OUSD shall have no financial obligations under this AGREEMENT other than as provided in this AGREEMENT. Notwithstanding any other provision of this AGREEMENT, in no event shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this AGREEMENT.
23. **Indemnification.**
- a. To the furthest extent permitted by California law, RECIPIENT shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("OUSD Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage,

or death of any person or entity arising out of RECIPIENT's performance of this AGREEMENT. RECIPIENT also agrees to hold harmless, indemnify, and defend OUSD Indemnified Parties from any and all claims or losses incurred by any supplier or subcontractor furnishing work, services, or materials to RECIPIENT arising out of the performance of this AGREEMENT. RECIPIENT shall, to the fullest extent permitted by California law, defend OUSD Indemnified Parties at RECIPIENT's own expense, including attorneys' fees and costs, and OUSD shall have the right to accept or reject any legal representation that RECIPIENT proposes to defend OUSD Indemnified Parties.

- b. To the furthest extent permitted by California law, OUSD shall indemnify, defend, and hold harmless RECIPIENT and RECIPIENT INDIVIDUALS from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OUSD's performance of this AGREEMENT. OUSD shall, to the fullest extent permitted by California law, defend RECIPIENT and RECIPIENT INDIVIDUALS at OUSD's own expense, including attorneys' fees and costs.
24. **Audit.** RECIPIENT shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of RECIPIENT transacted under this AGREEMENT. RECIPIENT shall retain these books, records, and systems of account during the TERM and for three (3) years after the earlier of (i) the TERM or (ii) the date of termination. RECIPIENT shall permit OUSD, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all such books, records, and systems. Audit(s) may be performed at any time, provided that OUSD shall give reasonable prior notice to RECIPIENT and shall conduct audit(s) during RECIPIENT'S normal business hours, unless RECIPIENT otherwise consents.
  25. **Non-Discrimination.** It is the policy of OUSD that, in connection with all work performed under legally binding agreements, there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, RECIPIENT agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code section 12900 and Labor Code section 1735 and OUSD policy. In addition, RECIPIENT agrees to require like compliance by all its subcontractor (s). RECIPIENT shall not engage in unlawful discrimination in employment on the basis of actual or perceived: race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
  26. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, RECIPIENTS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.

27. **Waiver.** No delay or omission by either PARTY in exercising any right under this AGREEMENT shall operate as a waiver of that or any other right or prevent a subsequent act from constituting a violation of this AGREEMENT.
28. **Assignment.** The obligations of RECIPIENT under this AGREEMENT shall not be assigned by RECIPIENT without the express prior written consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.
29. **No Rights in Third Parties.** This AGREEMENT does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
30. **Litigation.** This AGREEMENT shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this AGREEMENT.
31. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this AGREEMENT are incorporated herein by reference. RECIPIENT agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this AGREEMENT, the terms and provisions of this AGREEMENT shall govern.
32. **Integration/Entire Agreement of Parties.** This AGREEMENT constitutes the entire agreement between the PARTIES and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This AGREEMENT may be amended or modified only by a written instrument executed by both PARTIES.
33. **Severability.** If any term, condition, or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
34. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this AGREEMENT shall be deemed to be inserted herein and this AGREEMENT shall be read and enforced as though it were included therein.
35. **Captions and Interpretations.** Paragraph headings in this AGREEMENT are used solely for convenience, and shall be wholly disregarded in the construction of this AGREEMENT. No provision of this AGREEMENT shall be interpreted for or against a PARTY because that PARTY or its legal representative drafted such provision, and this AGREEMENT shall be construed as if jointly prepared by the PARTIES.
36. **Calculation of Time.** For the purposes of this AGREEMENT, "days" refers to calendar days unless otherwise specified and "hours" refers to hours regardless of whether it is a work day, weekend, or holiday.


37. **Counterparts and Electronic Signature.** This AGREEMENT, and all amendments, addenda, and supplements to this AGREEMENT, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving PARTY may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this AGREEMENT, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.
38. **Agreement Publicly Posted.** This AGREEMENT, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
39. **Signature Authority.**
- a. Each PARTY has the full power and authority to enter into and perform this AGREEMENT, and the person(s) signing this AGREEMENT on behalf of each PARTY has been given the proper authority and empowered to enter into this AGREEMENT.
  - b. Notwithstanding subparagraph (a), RECIPIENT acknowledges, agrees, and understands (i) that only the Superintendent, and the Chiefs, Deputy Chiefs, and Executive Directors who have been delegated such authority, may validly sign contracts for OUSD and only under limited circumstances, and (ii) that all such contract still require ratification by the OUSD Governing Board. RECIPIENT agrees not to accept the signature of another other individual as having the proper authority to enter into this AGREEMENT on behalf of OUSD.
40. **Contract Contingent on Governing Board Approval.** The PARTIES acknowledge, agree, and understand that OUSD shall not be bound by the terms of this AGREEMENT unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, a Chief, or a Deputy Chief authorized by the Education Code or Board Policy, and no compensation shall be owed or made to RECIPIENT absent such formal approval or valid and proper execution.

**REST OF PAGE INTENTIONALLY LEFT BLANK**





IN WITNESS WHEREOF, the PARTIES hereto agree and execute this AGREEMENT and to be bound by its terms and conditions:

RECIPIENT

Name: Charles Barrett Signature:   
Charles Barrett (Mar 7, 2024 21:45 EST)  
Position: Owner Date: Mar 7, 2024

OUSD

Name: Jennifer Blake Signature:   
Jennifer Blake (Mar 7, 2024 19:33 PST)  
Position: Executive Assistant, Special Education Department Date: 03/07/24  
 Board President (for approvals)  
 Chief/Deputy Chief/Executive Director (for ratifications)

Name: Kyla Johnson-Trammell Signature:   
Position: Superintendent Date: 4/11/2024

**Template approved as to form by OUSD Legal Department**

**DATA SHARING AGREEMENT  
EXHIBIT A**

(Paragraph numbers in Exhibit A corresponds to the applicable Paragraph number in this AGREEMENT)

RECIPIENT: CAB Publishing, LLC

**OTHER AGREEMENTS BETWEEN THE PARTIES:**

- Services Agreement for Audit of Special Education Evaluations
- \_\_\_\_\_
- \_\_\_\_\_

1. **Purpose.** The following elements, if checked, shall constitute the OUSD Data for purposes of this AGREEMENT:

Category	Elements	
<i>Application Technology Metadata</i>	IP addresses of users, use of cookies, etc.	<input type="checkbox"/>
<i>Application Use Statistics</i>	Metadata on user interaction with application	<input type="checkbox"/>
	SBAC results	<input checked="" type="checkbox"/>
	ELPAC results	<input checked="" type="checkbox"/>
	IAB Results	<input type="checkbox"/>
	Other assessment results (list below):	
<i>Assessment</i>	<ul style="list-style-type: none"> <li>• <u>Records in SEIS (IEPs, Evaluations)</u></li> <li>• _____</li> <li>• _____</li> <li>• _____</li> <li>• _____</li> <li>• _____</li> </ul>	<input checked="" type="checkbox"/>
<i>Attendance</i>	Attendance rate	<input checked="" type="checkbox"/>
	Number of absences	<input checked="" type="checkbox"/>
<i>Communications</i>	Online communications that are captured (emails, blog entries, etc.)	<input type="checkbox"/>
<i>Conduct</i>	Number of suspensions	<input checked="" type="checkbox"/>
	Days suspended	<input checked="" type="checkbox"/>
	Gender	<input checked="" type="checkbox"/>
	Race/ethnicity	<input checked="" type="checkbox"/>
	Date of birth	<input checked="" type="checkbox"/>
<i>Demographics</i>	Special ed. flag	<input checked="" type="checkbox"/>
	Home language	<input checked="" type="checkbox"/>
	Language proficiency	<input checked="" type="checkbox"/>
	Birth country	<input checked="" type="checkbox"/>

<i>Enrollment</i>	School	<input checked="" type="checkbox"/>
	Grade level	<input checked="" type="checkbox"/>
<i>Parent/Guardian Contact Information</i>	Name	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
<i>Schedule</i>	Student scheduled courses	<input type="checkbox"/>
	Teacher names	<input type="checkbox"/>
<i>Special Indicator</i>	English language learner	<input type="checkbox"/>
	Socio-economic disadvantaged (SED) status (Note: OUSD cannot share Free/Reduced Lunch status as a standalone data element)	<input checked="" type="checkbox"/>
	Newcomer	<input checked="" type="checkbox"/>
	Title 1 flag (schoolwide)	<input checked="" type="checkbox"/>
<i>Student Contact Information</i>	Name	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
<i>Local Identifiers</i>	Local student ID number	<input checked="" type="checkbox"/>
	Teacher ID number	<input type="checkbox"/>
	State student ID number	<input type="checkbox"/>
	Provider/app assigned student ID number	<input type="checkbox"/>
	Student app username	<input type="checkbox"/>
	Student app password(s)	<input type="checkbox"/>
	Dummy identifiers	<input type="checkbox"/>
<i>Student Work</i>	Student generated content; writing, pictures, etc.	<input type="checkbox"/>
<i>Transcript</i>	Student course grades	<input checked="" type="checkbox"/>
	Current year GPA	<input checked="" type="checkbox"/>
	Cumulative GPA	<input checked="" type="checkbox"/>
<i>Transportation</i>	Student bus assignment	<input type="checkbox"/>
	Student pick up and/or drop off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>
<i>Other</i>	List additional data elements here	
	● <u>Access to records in SEIS</u>	
	● _____	
	● _____	
	● _____	
	● _____	
	● _____	<input checked="" type="checkbox"/>

The basis under state and federal law (e.g., Family Educational Rights and Privacy Act) upon which OUSD may transmit the OUSD Data to RECIPIENT is as follows (check all that apply):

- 
- OUSD Data includes personally identifiable information from a student record other than directory information. **Note: RECIPIENT is responsible for obtaining parental consent, as defined in 34 C.F.R. § 99.30, and presenting evidence thereof to OUSD.**
- 
- OUSD Data includes personally identifiable information from a student record, **AND at least one of the following:**
- 
- RECIPIENT is a contractor, consultant, volunteer, or other party to whom OUSD has outsourced institutional services or functions, and RECIPIENT performs an institutional service or function for which the agency or institution would otherwise use employees; is under the direct control of the agency or institution with respect to the use and maintenance of education records; and is subject to the requirements of § 99.31(a) governing the use and redisclosure of personally identifiable information from education records. (See 34 C.F.R. § 99.31(a)(1)(i)(B).)
- 
- RECIPIENT is another school, school system, or institution of postsecondary education where an OUSD student seeks or intends to enroll, or where the student is already enrolled, and the disclosure is for purposes related to the student's enrollment or transfer. (See 34 C.F.R. § 99.31(a)(2).)
- 
- RECIPIENT is an authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of Education; or state and local educational authorities. (See 34 C.F.R. § 99.31(a)(3).)
- 
- RECIPIENT is an authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of Education; or state and local educational authorities. (See 34 C.F.R. § 99.31(a)(3).)
- 
- RECIPIENT requires the data in order to determine an OUSD student's eligibility for financial aid; amount of aid; conditions for aid; or to enforce the terms and conditions of the aid. (See 34 C.F.R. § 99.31(a)(4).)
- 
- RECIPIENT is an organization conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. (See 34 C.F.R. § 99.31(a)(6).) Any RECIPIENT receiving OUSD Data pursuant to this subsection must first submit a research application pursuant to OUSD's Department of Research, Assessment, and Data protocols, and such application shall be incorporated into this AGREEMENT by reference.
- 
- The disclosure is in connection with a health or safety emergency. (See 34 C.F.R. §§ 99.31(a)(10) & 99.36.)
-

2. **Term.**

a. This AGREEMENT shall start on the below Start Date. If no date is entered, then this AGREEMENT shall start on the latest of the dates on which each of the PARTIES signed this AGREEMENT.

**Start Date:** March 15, 2024

b. Unless terminated earlier, this AGREEMENT shall end on the below End Date. If no date is entered, then this AGREEMENT shall end on the first June 30 after start date listed in subparagraph (a). If the dates set forth in this subparagraph and subparagraph (a) would cause this AGREEMENT to exceed the limits set forth in state law (e.g., Education Code section 17596), this AGREEMENT shall instead automatically end upon reaching said limit.

**End date:** June 30, 2024

19. **Legal Notices.**

OUSD

Site/Dept: Legal Department

Address: 1011 Union Street, Site 946

City, ST Zip: Oakland, CA 94607

Phone: 510-879-5060

Email: [ousdlegal@ousd.org](mailto:ousdlegal@ousd.org)

RECIPIENT

Name/Dept: CAB Publishing Company, LLC

Address: PO Box 1108

City, ST Zip: Leesburg, VA 20177

Phone: 703.855.3025

Email: charles@charlesbarrett.org

Addressing Disproportionality:  
Implications for Promoting Equitable Outcomes  
through Special Education Referral Practices and Evaluations

An audit proposal for Oakland Unified School District  
Office of Special Education  
Related Services and Supports  
Psychological and Mental Health Services

Prepared and Submitted by

Charles A. Barrett, PhD, NCSP  
School Psychologist, Graduate Educator, Writer, Consultant  
[www.charlesbarrett.org](http://www.charlesbarrett.org)

December 2023

## OVERVIEW

According to data that is available on the Oakland Unified School District (OUSD) [website](#), during the 2022-2023 school year, 34,265 students were enrolled in the school district. Of these students, the following percentages reflect the racial and ethnic backgrounds of OUSD students: Pacific Islander (.9%), White (11.3%), African American (20.6%), Asian (10.5%), Filipino (.6%), Latino (46.1%), Multi-Ethnic (7.1%), Native American (.2%), and not reported (2.7%). The number of students with disabilities receiving special education services was 5,203 (15.2%). English Language Learners (ELLs) accounted for 34.4% of the student population, and 49.3% of students spoke a language other than English at home. These data are some of the most salient related to the forthcoming proposal: the disproportionate identification of certain students (e.g., by race/ethnicity, languages spoken at home, SES) with educational disabilities (e.g., Specific Learning Disability, Emotional Disturbance/Emotional Disability, Other Health Impairment, Intellectual Disability/Cognitive Impairment).

## AUDIT ELEMENTS

Using semi-structured interviews with relevant stakeholders (e.g., building administrators, central office administrators, school psychologists), surveys, and a review of existing data, records, and other products (e.g., redacted psychological evaluation reports, assessment and eligibility guidelines provided by the Office of Special Education), the proposed audit will include the following:

### **A COMPREHENSIVE REVIEW OF THE SPECIAL EDUCATION REFERRAL, EVALUATION, AND ELIGIBILITY PRACTICES THAT ARE USED BY RELEVANT STAFF IN OAKLAND UNIFIED SCHOOL DISTRICT.**

Related to referral practices, the following questions will be explored:

1. In the areas of academics, behavior, and social/emotional wellness, what Tier 1 supports are available to students?
2. In the areas of academics, behavior, and social/emotional wellness, what Tier 2 supports are available to students?
3. In the areas of academics, behavior, and social/emotional wellness, what Tier 3 supports are available to students?
4. For students who require Tier 2 and Tier 3 support, how are they referred for such intervention?
5. For students who are receiving Tier 2 and Tier 3 support, how is their progress monitored?

Related to psychological evaluation practices, the following questions will be explored:

1. Are there written guidelines or expectations for school psychologists completing comprehensive special education evaluations for students?
2. How are (including the degree to which) school psychologists using a multi-method (e.g., record review, observations, interviews, testing) and multi-source assessment paradigm to inform diagnostic impressions and eligibility decisions?
3. How are (including the degree to which) differential diagnoses considered and appropriately ruled out before making eligibility decisions?
4. How are alternative explanations (e.g., exclusionary factors) for children's behavior considered and appropriately ruled out before making eligibility decisions?

Related to eligibility practices, the following question will be explored:

1. What are the eligibility requirements (state or LEA) to support a student's eligibility for various educational disability categories? Depending on the focus of the audit, some, but not necessarily all, educational disabilities will be examined.

**DETAILED FEEDBACK ABOUT HOW EACH ASPECT OF THE SPECIAL EDUCATION REFERRAL, ASSESSMENT, AND ELIGIBILITY PROCESS COULD BE CONTRIBUTING TO THE DISPROPORTIONATE IDENTIFICATION OF CERTAIN STUDENTS WITH EDUCATIONAL DISABILITIES.**

**DETAILED FEEDBACK AND SUGGESTIONS FOR HOW TO PROMOTE EQUITY THROUGH SPECIAL EDUCATION REFERRAL PRACTICES AND EVALUATIONS.**

**PROPOSED TIMELINE**

<b>Month</b>	<b>Task</b>	<b>Description</b>	<b>Comments</b>
January	<b>CLARIFICATION OF THE PROBLEM AND FOCUS OF THE AUDIT</b>	Through telephone calls, virtual meetings, and reviewing relevant data requested by the consultant, he will develop a clear understanding of the scope of the problem, including the specific question(s) that will be answered through the audit.	Review current and historical (last 5 years) disproportionality data; disaggregate data by race/ethnicity, languages spoken at home, SES, and eligibility category. The exact variables to include/consider (disaggregate) will be mutually agreed upon by the consultant and OUSD staff. The scope of the problem and specific questions to be answered will be mutually agreed upon by the consultant and OUSD staff.
February-March	<b>REFERRAL PRACTICES</b>	Through telephone calls, virtual meetings, and reviewing relevant data requested by the consultant, he will examine the practices that lead to special education referrals in OUSD.	The analysis will include reviewing the pre-referral process and the extent to which a multi-tiered system of support (MTSS) paradigm is used to identify students in need of Tier 2 and Tier 3 support for academic, behavioral, or social/emotional concerns.
March-April	<b>EVALUATION PRACTICES</b>	Through telephone calls, virtual meetings, and reviewing relevant data requested by the consultant, he will examine the psychological evaluation practices in OUSD.	The analysis includes reviewing a subset of evaluation reports (number TBD) that are representative of OUSD's early childhood education (i.e., pre-kindergarten/transitional kindergarten) programs as well as K-12 schools, and such factors as student race/ethnicity, languages spoken at home, SES, and relevant disability categories to be explored (see Clarification of the Problem and focus of the Audit above).
April-May	<b>ELIGIBILITY PRACTICES</b>	Through telephone calls, virtual meetings (e.g., observation), and reviewing relevant data requested by the consultant, he will examine the practices that lead to students	If possible, the consultant would like to virtually attend eligibility meetings to gain a better understanding of this aspect of the evaluation and eligibility process.



		becoming eligible to receive special education services in OUSD.	
May-June	<b>SYNTHESIS, ANALYSIS, CONCLUSION, AND WRITTEN FEEDBACK</b>	The consultant will provide detailed feedback that summarizes the main findings, including strengths and weakness of OUSD referral, evaluation, and eligibility practices, and implications for improving systems-wide operations and functioning.	The written document will address referral, evaluation, and eligibility practices, including opportunities for implementing policies and implications for professional learning for school psychologists and other staff.

### CONSULTANT FEES

The consultant's daily speaking rate (6 hours) is \$10,000.00. Though this fee/rate is not being requested for the current proposal, given the scope of what has been described above, a significant amount of time over six (6) months is needed to gather, analyze, and comprehensively synthesize the necessary information for the benefit of OUSD staff and students. Deliverables (exact products TBD in consultation with OUSD staff) will include a comprehensive report that details the following information:

#### 1. THE MOST SALIENT AUDIT RESULTS.

- a. Strengths of OUSD related to special education referral, evaluation, and eligibility practices.
- b. Areas in need of improvement in OUSD related to referral, evaluation, and eligibility practices.

#### 2. PSYCHOLOGICAL EVALUATION STANDARDS FOR OUSD.

- a. This iterative guidance document can be used to establish minimal expectations for school psychologists completing psychological evaluations for all students (i.e., early childhood education, K-12, adult learners) suspected of an educational disability.
- b. The Psychological Evaluation Standards will include specific guidance and recommendations related to the selection of cognitive assessment batteries (e.g., IQ tests); achievement tests; social, emotional, and behavioral rating scales; adaptive behavior rating scales; behavioral observations; and interviews.
- c. Implications for integrating assessment results, case formulation, and report writing will also be included.

#### 3. Eligibility Practices Manual for OUSD.

- a. This manual can be used to establish minimal expectations for staff facilitating eligibility meetings to promote consistency in practice throughout OUSD.

#### 4. Discounted professional learning facilitated by the consultant for any OUSD school or department (through December 2024).

Month	Task	Description	Hours	Estimated Cost
January	<b>CLARIFICATION OF THE PROBLEM AND FOCUS OF THE AUDIT</b>	Through telephone calls, virtual meetings, and reviewing relevant data requested by the consultant, he will develop a clear understanding of the scope of the problem, including the specific question(s) that will be answered through the audit.	10	\$5,000.00
February-March	<b>REFERRAL PRACTICES</b>	Through telephone calls, virtual meetings, and reviewing relevant data requested by the consultant, he will examine the practices that lead to special education referrals in OUSD.	10	\$5,000.00
March-April	<b>EVALUATION PRACTICES</b>	Through telephone calls, virtual meetings, and reviewing relevant data requested by the consultant, he will examine the psychological evaluation practices in OUSD.	20	\$10,000.00
April-May	<b>ELIGIBILITY PRACTICES</b>	Through telephone calls, virtual meetings (e.g., observation), and reviewing relevant data requested by the consultant, he will examine the practices that lead to students becoming eligible to receive special education services in OUSD.	10	\$5,000.00
May-June	<b>SYNTHESIS, ANALYSIS, CONCLUSION, AND WRITTEN FEEDBACK</b>	The consultant will provide detailed feedback that summarizes the main findings, including strengths and weakness of OUSD referral, evaluation, and eligibility practices, and implications for improving systems-wide operations and functioning.	20	\$10,000.00
<b>TOTAL</b>			70	\$35,000.00

#### ABOUT THE CONSULTANT

**Charles A. Barrett, PhD, NCSP**, a district-level administrator in Virginia, practiced as a school psychologist for 13 years at the elementary and secondary levels. He serves as an adjunct lecturer at several universities, where he is actively involved in the training and development of future school psychologists. Dr. Barrett was named School Psychologist of the Year by the Virginia Academy of School Psychologists and received the Rookie of the Year Award from the National Association of School Psychologists (NASP). His past leadership positions within NASP include co-chair of the Social Justice Task Force and African American Subcommittee, chair of the Multicultural Affairs and Social Justice Committees, and Virginia Delegate to the NASP Leadership Assembly. Dr. Barrett serves on the editorial boards of *School Psychology Review* and *School Psychology*. He is a frequent speaker and workshop presenter for educators, families, and community organizations. His website is [www.charlesbarrett.org](http://www.charlesbarrett.org).

Attached, Curriculum Vitae.

Please [click this link](#) to review current professional learning offerings.









# 24-0605 Services Agreement 2023-2024 - Charles Barrett - Special Education Department

Final Audit Report

2024-03-08

Created:	2024-03-07
By:	Angelica Lopez (angelica.lopez@ousd.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAArYZiAXzbgRV9Gz1Jnjeidjr_d6_BmBYe

## "24-0605 Services Agreement 2023-2024 - Charles Barrett - Special Education Department" History

-  Document created by Angelica Lopez (angelica.lopez@ousd.org)  
2024-03-07 - 10:38:03 PM GMT- IP address: 104.192.9.109
-  Document emailed to charles@charlesbarrett.org for signature  
2024-03-07 - 10:40:22 PM GMT
-  Email viewed by charles@charlesbarrett.org  
2024-03-08 - 0:57:17 AM GMT- IP address: 172.226.204.4
-  Signer charles@charlesbarrett.org entered name at signing as Charles Barrett  
2024-03-08 - 2:45:07 AM GMT- IP address: 108.44.160.41
-  Document e-signed by Charles Barrett (charles@charlesbarrett.org)  
Signature Date: 2024-03-08 - 2:45:09 AM GMT - Time Source: server- IP address: 108.44.160.41
-  Document emailed to Jennifer Blake (jennifer.blake@ousd.org) for signature  
2024-03-08 - 2:45:11 AM GMT
-  Email viewed by Jennifer Blake (jennifer.blake@ousd.org)  
2024-03-08 - 3:32:10 AM GMT- IP address: 66.249.88.1
-  Document e-signed by Jennifer Blake (jennifer.blake@ousd.org)  
Signature Date: 2024-03-08 - 3:33:33 AM GMT - Time Source: server- IP address: 108.85.24.70
-  Agreement completed.  
2024-03-08 - 3:33:33 AM GMT