

EATON BOARD OF EDUCATION REGULAR MEETING
Hollingsworth East Elementary School Cafeteria
August 10, 2015
6:00 p.m.

I. Opening of the Meeting

A. Call to Order – President

B. Roll Call – President

R. Cooper___ L. Noble ___ T. Parks___ J. Renner ___ K. Shepherd ___

C. Pledge of Allegiance

D. Recognition of Visitors

1. Rodger Clark will introduce representatives from Accent Phone Services to discuss phone support for East Elementary and Eaton High School.

E. Executive Session (if necessary)

To consider the employment of a public employee or official

_____ invited to participate in executive session.

Motion by _____, second by _____ to convene executive session.

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

President convenes executive session at _____ p.m.

President resumes open session at _____ p.m.

F. Other Opening Business

II. Treasurer's Business – Priscilla Dodson

A. The Treasurer recommends approval of the following:

1. Approve minutes of the July 8, 2015 Special Board Meeting.
2. Approve minutes of the July 13, 2015 Regular Board Meeting.
3. Submission of Warrants.
4. Submission of Financial Report.
5. Submission of Investment.
6. Approve FY16 Appropriations.
7. Return Advance from Title I FY15 572-9215 \$41,868.93 to General Fund 001.

8. Transfer \$376,346.00 from 001-0000 to 001-9413 Set Aside Instructional Material.
9. Transfer \$379,346.00 from 001-0000 to 001-9414 Set Aside Capital Improvements.
10. Transfer \$200,000.00 from General Fund 001-0000 to 024-000.
11. Approve new fund 300-9517 Fundraiser Athletic Football Moms.
12. Approve Now and Then purchase order to Darke Country ESC for Excess Cost for FY14-15 school year for a student at the ESC in the amount of \$10,320.35.
13. Approval of the Amendment to Health Care Flexible Spending Plan (Attachment A).
14. Approve professional Development Consortium 2015-2016 contract with the Preble County ESC in the amount of \$4,902.75.

Motion by _____, seconded by _____, to approve agenda Item II. A.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

III. Reports

- A. Miami Valley Career Technology Center Report – Terry Parks
- B. Parks and Recreation Board Report – Keith Shepherd
- C. Superintendent's Report – Dr. Barbara Curry
- D. Other Reports

IV. Old Business

V. New Business

A. Resignations

The Administration recommends approval of the following resignations.

1. Teresa Gels, Assistant Peer Counselor Advisor, contingent upon reemployment as the Peer Counselor Advisor.
2. Nathan Islamovsky, National Honor Society Advisor.

Motion by _____, seconded by _____, to approve agenda Item V.A.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

B. Resolution to Employee Contracts Pursuant the Reduction in Force

The Administration recommends approval of A RESOLUTION TO EMPLOYEE CONTRACTS PURSUANT THE REDUCTION IN FORCE.

WHEREAS, the Superintendent recommends a reduction in force due to financial reasons and lack of work; and

WHEREAS, the Ohio Revised Code of the current collective bargaining agreement between the Board of Education and the Eaton School Support Personnel Association authorize the Board of Education to reduce its force; and

WHEREAS, in accordance with the elimination of this position, the Superintendent recommends the suspension of an employee's contract in the classification of Educational Aide.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby finds that a reduction in force is necessary due to financial reasons and lack of work.

BE IT FURTHER RESOLVED that upon the recommendation of the Superintendent, the following position be eliminated effective August 13, 2015 subject to any bargaining obligation that the Board may have:

Education Aide

BE IT FURTHER RESOLVED that, taking into account employee seniority as required by the current Agreement between the Eaton Community School Board of Education and the Eaton School Support Personnel Association, the Board, upon the recommendation of the Superintendent, hereby suspends the employment contract of the following employee effective August 13, 2015, subject to any bargaining obligation that the Board may have:

Lindsey Baker

BE IT FURTHER RESOLVED that it is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in these formal actions were in meetings open to the public and in compliance with the law.

Motion by _____, seconded by _____, to approve agenda Item V.B.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

C. Employment – Certificated Staff Contract

The Administration recommends employment of the following personnel as listed. Salary, benefits and duties per Board Policy, Negotiated Agreement, and Administrative Rules and Regulations.

1. Samantha French, Teacher, on an initial one-year limited contract for the 2015-2016 school year (July 1, 2015 – June 30, 2016).

Motion by _____, seconded by _____, to approve agenda Item V.C.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

D. Employment – Certificated Staff Supplemental Contracts

The Administration recommends the following supplemental contracts for the 2015-2016 school year or as noted. Salaries and duties per Board Policy, Negotiated Agreement, Administrative Rules and Regulations, and any applicable state requirements.

1. Teresa Gels, Peer Counselor Advisor
2. Abigail Hinson, Assistant Band Director
3. Leslie Kelly, Assistant Peer Advisor
4. Nathan Islamovsky, Hi-Y Advisor
5. Randy McKinney, Reserve Boys Basketball Coach
6. Ron Neanen, 12th Grade Class Advisor
7. Jennifer Cross, 11th Grade Class Advisor
8. Gina Melling, National Honor Society Advisor
9. Kelli Wright, Bruce Elementary Yearbook Coordinator

Motion by _____, seconded by _____, to approve agenda Item V.D.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

E. Employment – Non-Certificated Staff – Athletics

The following positions have been posted and neither an employee of the district holding an educator license, who meets all of the Board's qualifications, nor a nonemployee of the district holding an educator license, who meets all of the Board's qualifications, has applied for, been offered, or accepted the position. The Administration recommends the employment of these nominees on one-year limited contracts for the 2015-2016 school year, or as noted, contingent upon completion of all state and local requirements. Salary and duties per Board Policy, Negotiated Agreement, and Administrative Rules and Regulations.

1. Haley Sittloh, 7th Grade Volleyball Coach, retroactive to August 7, 2015.
2. Clayton Genth, Freshman Boys Basketball Coach.

Motion by _____, seconded by _____, to approve agenda Item V.E.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

F. Employment – Certificated Staff – Substitute Teachers/Tutors as Certified by the Preble County Educational Service Center

The Administration recommends approval of the substitute teachers/home instruction tutors list for the 2015-2016 school year, as certified by the Preble County Educational Service Center (Attachment B).

Motion by _____, seconded by _____, to approve agenda Item V.F.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

G. Employment – Non-certificated Substitutes

The Administration recommends employment of the following personnel for the 2015-2016 school year. Employment contingent upon certification (if necessary), criminal record check, and all other state and local requirements. Salary and duties per Board Policy and Administrative Rules and Regulations with no fringe benefits.

1. Jeffery Barney, Substitute Bus Driver
2. Christy Campbell, Substitute Bus Driver

Motion by _____, seconded by _____, to approve agenda Item V.G.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

H. Amend Job Descriptions

The Administration recommends approval to amend all job descriptions to include the following information:

CONDUCT: Each staff member shall remain free of any alcohol or nonprescribed controlled substance and abuse of any prescribed controlled substance in the workplace throughout his/her employment in the District.

Each staff member shall serve as a role model for students in how to conduct themselves as citizens and as responsible, intelligent human beings. Each staff member has a legal responsibility to help instill in students the belief in and practice of ethical principles and democratic values.

Motion by _____, seconded by _____, to approve agenda Item V.H.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

I. Approval of Bus Routes and Walk Zones

The Administration recommends approval of bus routes and walk zones for the 2015-2016 school year as submitted by the Director of Operations. Bus Routes and Walk Zones are subject to change based on student and/or district needs. Bus Routes are on file in the Transportation Department Office.

Motion by_____, seconded by_____, to approve agenda Item V.I.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

J. Purchase of Service Agreement

The Administration recommends approval of the following purchase of service contracts.

1. With Dr. Jill Vosler as team physician for the 2015-2016 school year, at a rate of \$100.00 per year.
2. With Dr. Scott Vosler as school physician for the 2015-2016 school year, at a rate of \$100.00 per year.

Motion by_____, seconded by_____, to approve agenda Item V.J.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

K. Agreement with the Eaton Police Association

The Administration recommends approval of the agreement with the Eaton Police Association to provide an officer at Aukerman Street and Eagle Lane, for a maximum of two (2) hours per day to assist in maintaining safety and order during student arrival and dismissal times (Attachment C).

Motion by_____, seconded by_____, to approve agenda Item V.K.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

L. Agreement with the Preble County Educational Service Center for Para-Teacher Services

The Administration recommends approval of the agreement for the Preble County Educational Service Center to provide two (2) Para-Teachers to assist teachers in providing students with academic instruction and intervention (Attachment D).

Motion by _____, seconded by _____, to approve agenda Item V.L.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

M. Agreement with the Preble County Educational Service Center for a Project MORE Coordinator

The Administration recommends approval of the agreement for the Preble County Educational Service Center to provide a Project MORE Coordinator (Attachment E).

Motion by _____, seconded by _____, to approve agenda Item V.M.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

N. Agreement with the Preble County Educational Service Center for Psychologist Consultant Services

The Administration recommends approval of the agreement for the Preble County Educational Service Center to provide Psychologist Consultant Services (Attachment F).

Motion by _____, seconded by _____, to approve agenda Item V.N.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

O. Agreement with the Preble County Educational Service Center for Speech/Language Pathologist Services

The Administration recommends approval of the agreement for the Preble County Educational Service Center to provide Psychologist Consultant Services (Attachment G).

Motion by_____, seconded by_____, to approve agenda Item V.O.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

P. Agreement with Humanus Corporation for Psychologist Services

The Administration recommends approval of the agreement with Humanus Corporation for staffing needs for the School Psychologist position, subject to any bargaining obligation the Board may have (Attachment H).

Motion by_____, seconded by_____, to approve agenda Item V.P.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

Q. Approval of Out-of-State Employee Travel

The Administration recommends approval for Jim Richards to attend an out-of-state seminar for ACP Chemistry, November 16, 2015, Bloomington, Indiana.

Motion by_____, seconded by_____, to approve agenda Item V.Q.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

R. Surplus Items

The Administration recommends approval to declare certain items as surplus/obsolete and to dispose of them accordingly.

1. Cannon PC-6RE Copier, Serial Number NTW76926CT, Tag Number 010041, Eaton High School.
2. Computer Storage Cabinet, Tag Number 13314, Eaton High School.

Motion by _____, seconded by _____, to approve agenda Item V.R.

Discussion

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

S. Executive Session (if needed)

To consider the employment of a public employee or official

_____ invited to participate in executive session.

Motion by _____, seconded by _____ to convene executive session.

Cooper___ Parks ___ Renner ___ Shepherd ___ Noble___

President declares motion _____.

President convenes executive session at _____ p.m.

President resumes open session at _____ p.m.

VI. Adjournment

Motion by _____, seconded by _____

_____ to adjourn the meeting.

Discussion

Cooper____ Parks ____ Renner ____ Shepherd ____ Noble____

President declares motion _____.

President adjourns meeting at _____ p.m.

Upcoming Board Meetings

Special Meeting

Wednesday, August 19, 2015 – 5:00 p.m.

Hollingsworth East Elementary

Regular Meeting

Monday, September 14, 2015 – 6:00 p.m.

Hollingsworth East Elementary

Monday, October 2, 2015 – 6:00 p.m.

Hollingsworth East Elementary

Monday, November 2, 2015 – 6:00 p.m.

Hollingsworth East Elementary

**Note this will be the 1st Monday of the month.*

Monday, December 14, 2015 – 6:00 p.m.

Hollingsworth East Elementary

HEALTH CARE FLEXIBLE SPENDING ACCOUNT AMENDMENT

ARTICLE I

PREAMBLE

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the Eaton City Schools ("Plan") to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

ARTICLE II

NONDISCRIMINATION REQUIREMENTS

- 2.1 **Effective Date.** This Amendment is effective as of August 1, 2015.
- 2.2 **Nondiscrimination Requirements.** Notwithstanding any provision contained in this Health Care Flexible Spending Account Plan to the contrary, the "Adjustment to avoid test failure." shall read as follows:
- (c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

2015-2016

Substitute Teachers

Aker, Wendy
Albright, Martha
Bachman, Kurt J
Bowser, Nina S
Carico, Susan R
Clabaugh, Sarah
Cline, Mark E
Conley, Lisa K
Cooley, Keith D
Fahrenholz, Shirleann
Foster, Cynthia
Freckman, Kevin
Furlong, Jacob
Hamilton, Karen E
Hamilton-Sosa, Janette L
Haynes, Sara
Hedges, Joey E
Howard, Victoria
Howett, Randy
Howse, Kathy R.
Kiracofe, Susan
Knese, Dane
Lee, Mandi K
Locke, Kimberly
McCampbell, Ruth L
McCreary, Kathleen
Melke-Marks, Jennifer
Michael, Daryl M
Minium, Michael J
Mize, Melissa
Moormeier, Belinda
Murphy, Elizabeth K
Price, Curtis
Redick, Joella A
Robbins, Candy
Schamel, Judy
Seim, Sandra K
Silvers, Mark G
Sosa Fuentes, Salvador
St. John, Melissa
Sullender, Marcia
Titkemeyer, Randy
Wilson, Henry D
Winkler, Lois A

SCHOOL POLICE OFFICER SERVICES CONTRACT BETWEEN
EATON COMMUNITY SCHOOLS AND
EATON POLICE ASSOCIATION

THIS SCHOOL POLICE OFFICER SERVICES CONTRACT (this “Agreement”) is entered into and made effective as of this 10th day of August, 2015, between **EATON COMMUNITY SCHOOL DISTRICT BOARD OF EDUCATION, 306 EATON LEWISBURG RD., EATON, OH, 45320**, (the “District”) and the **EATON POLICE ASSOCIATION, OHIO, 328 N. MAPLE STREET, EATON, OH, 45320**, (the “Association”). Each of the signatories hereto is referred to individually as a “Party” and collectively as the “Parties.”

WHEREAS, it is the desire of the District and the Association to enter into an agreement under which a Eaton Police Officer will provide Services, as specified below in provision 2., at the District during student arrival and departure times during the 2015-2016 school year.

NOW, THEREFORE, the Parties, in exchange for and in consideration of the mutual promises and covenants contained herein agree as follows:

1. NATURE OF AGREEMENT

- A. The Association shall assign a Police Officer to provide police supervision and other safety services (the “Services”) at the District.
- B. The Association is a private, non-for profit corporation duly authorized in the State of Ohio to do business and it is not under the authority, control, or direction of the City of Eaton.
- C. The Police Officer has full police authority while performing duties in the City of Eaton and is a certified Ohio Peace Officer. The Police Officer while engaged in the Services shall at all times be an employee of the Association and not the City of Eaton.
- D. The Police Officer shall provide Services at the intersection of Aukerman Street and Eagle Lane in Eaton, Ohio.
- E. Services shall be provided for one hour during student arrival and for one hour during student dismissal every school day during the 2015-2016 school year.
- F. The District shall pay the City \$20.00 for each hour of Services up to \$40.00 per day.

- G. In performing the Services, the Association shall be an independent contractor, and neither the Association nor the assigned Police Officer shall be an employee of the District.
- H. The Association shall determine the method, details and means of performing the Services and shall supply all tools, vehicles, and instrumentalities required to perform the Services under this Agreement.
- I. Throughout the term of this Agreement, the assigned Police Officer shall maintain any and all licenses and certifications, and shall remain current as to training and professional development. The Association shall be responsible for all costs associated with such licensure, certification, and training.

2. THE SERVICES

- A. The Police Officer shall be a sworn City of Eaton Police Officer assigned to provide the law enforcement activities to assist the District in maintaining safety and order during student arrival and dismissal times.
- B. In general, the Services will be provided one hour before school during student arrival time (8:00 AM to 9:00 AM) and one hour after school during student dismissal time (3:00 PM to 4:00 PM). In case where arrival and dismissal times are different (e.g., late start, snow delay, early dismissal, etc.), the time of providing the Services shall be adjusted, but shall be provided for one-hour periods during student arrival and dismissal times.
- C. The Police Officer shall wear the regulation police officer uniform and operate a marked police officer vehicle while on duty unless otherwise authorized. One purpose of the Police Officer is to provide a visible deterrent to crime and a positive representation of the Eaton Police Division to students and staff.
- D. The duties outlined in this Agreement are not exhaustive. The Police Officer may have additional duties as assigned by the District in cooperation with the Eaton Police Association.

3. TERMINATION AND SUBSTITUTION OF POLICE OFFICER

- A. Either Party may terminate this Agreement at any time upon 14-days notice. Written notice of the termination shall be delivered to either party, via certified mail at the address stated above.
- B. Upon request by either Party, the Police Officer may be replaced by another individual to serve in the position of Police Officer.

4. PAYMENT TERMS

- A. The Association shall invoice the District within thirty (30) days of month end for the cost of Services.
- B. The District shall pay the Association within 30 days of receipt of invoice. If the District fails to make timely payment, it shall have 10 days to cure any late payment without penalty.

5. MISCELLANEOUS

- A. This Agreement constitutes the entire agreement between the Parties and supersedes all prior or contemporaneous agreements or understandings, oral and written, among the Parties with respect to the subject matter hereunder. In the event of any conflict between the terms of this Agreement, the terms of this Agreement shall control.
- B. This Agreement may only be amended in writing signed by each of the Parties. No term or condition of this Agreement shall be deemed waived, nor shall any estoppels exist against the enforcement of any provision of this Agreement, except by written instrument signed by the Party charged with such waiver or estoppels. No single waiver of any term or condition of this Agreement shall be deemed to be a continuing waiver unless so indicated in a written instrument signed by the Party charged with the waiver.
- C. This agreement may be executed in multiple counterparts, each of which shall be deemed an original and all signatures delivered by facsimile and/or electronically shall be as effective as original signatures.
- D. Each party warrants that the individual signing this Agreement on behalf of such party has the authority to enter into this Agreement and to bind the principal in whose behalf he or she signs. Further, each party agrees and affirms that the undersigned possesses all requisite right and authority of his or her principal to order or provide, and to obligate his or her principal to pay for, or to provide those services described herein.
- E. Should any provision of this Agreement, or the application thereof, be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or alternative applications thereof, other than the provision(s) which shall have been held invalid or unenforceable, shall not be affected thereby and shall continue to be valid and enforceable to the fullest extent permitted by law or equity.
- F. No Party may assign this Agreement or the rights, interests or obligations hereunder without the written consent of the other Party.

G. This Agreement will be governed and interpreted under and in accordance with laws of the State of Ohio.

Dated August 10, 2015

For Eaton Community School District
Board of Education:

For the Eaton Police Association:

By:
Its:

By:
Its:

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made by and between the Eaton Community Schools (ECS), 306 Eaton Lewisburg Road, Eaton, Ohio 45320 and the Preble County Educational Service Center (PCESC), 597 Hillcrest Drive, Eaton, Ohio 45320-9510.

The Preble County Educational Service Center, for and in consideration,

Agrees to employ up two (2) certified teachers on a substitute, when called as needed basis, during the 2015-2016 School Year, to serve as Substitute Classroom Para-Teachers to assist teachers in providing students with academic instruction and intervention as assigned by Eaton Community Schools.

The Eaton Community Schools, agrees to pay the

Sum of approximately, Forty Three Thousand Three Hundred Twenty Six and 00/100 Dollars (\$43,326.00) according to the estimated budget that is attached. Any follow-up costs to this employment in succeeding years (i.e., unemployment expense) that is incurred will also be included.

The Preble County Educational Service Center will invoice the Eaton Community Schools monthly. Payment for providing the Substitute Classroom Para-Teachers will be processed upon receipt of an invoice provided by PCESC and payment made within 30 days of receipt of the invoice.

by **Eaton Community Schools**

by **Preble County Educational Service Center**

SUBSTITUTE PARATEACHER

Salary per Day	98.40
Total Cost Per Day	120.35
Number of Work Days	180.00
Total Per Teacher	21,663
No. of Teachers	2.00
GRAND TOTAL	43,326

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made by and between the Eaton Community Schools (ECS), 306 Eaton Lewisburg Road, Eaton, Ohio 45320 and the Preble County Educational Service Center (PCESC), 597 Hillcrest Drive, Eaton, Ohio 45320-9510.

The Preble County Educational Service Center, for and in consideration,

Agrees to employ one (1) classified individual on a substitute, when called as needed basis, during the 2015-2016 School Year, to serve as the Project MORE Coordinator.

The Eaton Community Schools, agrees to pay the

Sum of approximately, Fourteen Thousand Six Hundred Seventy Six and 00/100 Dollars (\$14,676.00) according to the estimated budget that is attached. Any follow-up costs to this employment in succeeding years (i.e., unemployment expense) that is incurred will also be included.

The Preble County Educational Service Center will invoice the Eaton Community Schools monthly. Payment for providing the Project MORE Coordinator will be processed upon receipt of an invoice provided by PCESC and payment made within 30 days of receipt of the invoice.

by **Eaton Community Schools**

by **Preble County Educational Service Center**

PROJECT

MORE

COORDINATOR

Salary per Hour	20.00
Total Cost Per Hour	24.46
Number of Hours	600.00
Total	14,676.00

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made by and between the Eaton Community Schools (ECS), 306 Eaton Lewisburg Road, Eaton, Ohio 45320 and the Preble County Educational Service Center (PCESC), 597 Hillcrest Drive, Eaton, Ohio 45320.

The Preble County Educational Service Center, for and in consideration,

Agrees to employ one (1) certified psychologist as a consultant, when called as needed basis, during the 2015-2016 School Year, to assist the Eaton Community Schools with testing, planning and support as directed by the Eaton Community School Administration.

The Eaton Community Schools, agrees to pay the

Sum of approximately, Twenty Five Thousand one Hundred Sixty Nine and 00/100 Dollars (\$25,169.00) according to the estimated budget that is attached. Any follow-up costs to this employment in succeeding years (i.e., unemployment expense) that is incurred will also be included.

The Preble County Educational Service Center will invoice the Eaton Community Schools monthly. Payment for providing the certified psychologist consultant will be processed upon receipt of an invoice provided by PCESC and payment made within 30 days of receipt of the invoice.

ATTACHMENT

	PSYCH SERVICES
Salary per Day	\$228.65
Total Cost Per Day	\$279.65
Number of Work Days	90.00
Total Per Teacher	\$25,168.64
No. of Teachers	1.00
GRAND TOTAL	<u>\$25,168.64</u>

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made by and between the Eaton Community Schools (ECS), 306 Eaton Lewisburg Road, Eaton, Ohio 45320 and the Preble County Educational Service Center (PCESC), 597 Hillcrest Drive, Eaton, Ohio 45320-9510.

The Preble County Educational Service Center, for and in consideration,

Agrees to provide a speech/language pathologist to assist Eaton Community School's staff with providing speech services to their students as directed by Eaton Community Schools.

The Eaton Community Schools, agrees to pay the

Sum of Thirty Thousand and 00/100 Dollars (\$30,000.00) for two (2) days of service per week throughout the 2015-2016 school year.

The Preble County Educational Service Center will invoice Eaton Community Schools \$3,333.33 per month from September 2015 through May 2016. Payment for providing the speech/language pathologist will be processed upon receipt of an invoice provided by the Preble County Educational Service Center and payment made within 30 days of receipt of the invoice.

AGREEMENT FOR STAFFING SERVICES

AGREEMENT made this _____ day of _____ 20__ and between **Humanus Corporation** (“HUMANUS”) and Eaton Community Schools (“Client”), and WITNESSETH

WHEREAS, Humanus is engaged in the business of supplying highly skilled Independent Contractors to Clients in need of such Independent Contractor services on a limited basis ; and

WHEREAS, Client desires to engage HUMANUS to assist Client with its staffing needs for one or multiple locations as required to satisfy overall staffing needs;

NOW, THEREFORE, in consideration of the promises set forth above, and the mutual covenants and undertakings herein contained, and intending to be legally bound hereby, IT IS AGREED:

TERMS

1. Engagement. Client engages HUMANUS to provide contracted staffing services to Client on an “as needed” basis throughout the duration of this Agreement as required by Client. Unless otherwise specified and agreed to, Humanus will not require Client to provide a guaranteed number of fixed hours for Independent Contractor services.

2. Duration. The respective duties and obligations of the parties shall be effective beginning on the date in which this Agreement was executed by the Client, and shall continue for a period of 12 months. After this 12-month period, the contract will expire unless the parties agree in writing to extend the length of the contract.

3. Qualifications/Hiring/Supervision. HUMANUS will only refer to Client qualified Independent Contractors who possess the requisite skills within the guidelines of their respective governing body and who fulfill professional standards necessary for Client to meet the standards of the Department of Education and any other applicable accrediting agency. It shall be the responsibility of HUMANUS to initially screen all Independent Contractors to ensure that any referral meets the foregoing requirements. It is the decision of Client, not Humanus, whether to hire the Independent Contractor. HUMANUS shall not be responsible for, control, or supervise the rendition of services by Independent Contractor to Client.

4. Client Policies and Procedures. Client will provide to Independent Contractor all pertinent information concerning Client’s policies and procedures, including but not limited to, Client’s policies in the Independent Contractor’s specified department and other clinical areas, general information necessary for Independent Contractor to render services to Client, and all emergency procedures.

5. Proof of Qualifications . HUMANUS shall require Independent Contractor to produce a proof of license or license eligibility, CPR certification (when required), child abuse clearance, FBI and state background checks, Act 24, Act 168 and any other certification required by the state accreditation body. HUMANUS agrees to provide said information to Client within 24 hours from the time of request. If an Independent Contractor subcontracts all or part of the services provided to Client, the Independent Contractor will require all subcontractors to provide the information under paragraph 5 to Humanus.

6. Compensation. Client shall receive invoices from HUMANUS on a weekly basis, and Client agrees to pay such invoices within thirty (30) days of receipt of invoice. Nonpayment or delinquent payment could result in an interest charge of 1.5% monthly to Client and or the right of HUMANUS to discontinue providing referrals under the Agreement until payment is received. The rates to be charged Client for referrals are set forth in Exhibit A and HUMANUS agrees to maintain these rates for the duration of the Term of service, after which they may be modified at HUMANUS' discretion upon thirty (30) days' notice. Said rates include the compensation to be paid Independent Contractor for their provision of services to Client. In the event that HUMANUS uses legal counsel to collect any amount owed under the terms of this Agreement, Client agrees to pay all of HUMANUS' costs and expenses in connection therewith, including attorneys' fees and costs.

7. Independent Contractor Relationship.

A) HUMANUS and Client hereby agree that the relationship of HUMANUS to Client is at all times that of an independent contractor and not that of an employee, partner, agent or joint-venturer of or with Client. HUMANUS and Client further acknowledge and agree that the relationship between any Independent Contractor and HUMANUS and any Independent Contractor engaged by Client is at all times that of an independent contractor and not that of an employee, partner, agent or joint-venturer of or with either HUMANUS or Client.

B) At no time shall any Independent Contractor possess the authority to charge items or incur debts or other financial obligations on behalf of HUMANUS or bind HUMANUS to any contracts, agreements, covenants or obligations of any kind whatsoever.

C) Each Independent Contractor referred by HUMANUS shall perform the duties required by Client consistent with their professional obligations. To the extent that any direction or supervision is required, such direction or supervision shall be provided by Client and not Humanus.

D) In recognition of each Independent Contractor's independent contractor status, Client acknowledges that each Independent Contractor is not prohibited from providing his or her services to others or from engaging in other business(es) during the term of this Agreement, so long as such other activities do not unreasonably interfere with the Independent Contractor's obligations to Client.

E) Neither HUMANUS nor Client assume any liability or responsibility for any liability incurred by or judgments entered against Independent Contractor for their provision of professional services on behalf of Client. HUMANUS and Client agree to hold each other harmless for any personal injury or property damage directly or indirectly arising out of or relating to the professional services rendered by Independent Contractor to Client.

8. HUMANUS Insurance. HUMANUS agrees that during the term of this Agreement, it shall maintain, at its sole cost and expense, liability insurance with minimum limits of \$1 million/\$3 million. The Certificate of Insurance is available for inspection upon request.

9. Impossibility of Performance. This Agreement is subject to force majeure, and is contingent upon strikes, accidents, acts of God, weather conditions, regulations or restrictions imposed by any government or governmental agency, or other impediments beyond the control of the parties. If performance hereunder is prevented by any cause of force majeure, then performance of this Agreement shall be excused without penalty to either party for the performance not rendered.

10. Notice. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given to a party hereto if hand-delivered, or if mailed, postage pre-paid, by certified mail, return receipt requested, to such party, or to such other address as such party shall designate by notice provided herein:

If to Humanus:

HUMANUS CORPORATION
1100 First Avenue, Ste 503
King of Prussia, PA 19604
Attn: Corporate Counsel

If to Client:

Eaton Community Schools
306 Eaton-Lewisburg Road
Eaton, OH 45320

11. Governing Law. This Agreement shall be governed in all respects, including without limitation, validity, interpretation, effect, performance and enforcement, by the laws of the State of Ohio (without application of any principles of conflicts or choice of law that may otherwise be applicable).

12. Non-solicitation/Non-circumvention. During the term of this Agreement and for a continuous period of one (1) year thereafter commencing upon expiration or termination of this Agreement for any reason, Client shall not, individually or jointly with others, directly or indirectly, without the express advance written consent of HUMANUS, disturb, hire, entice away, or in any manner induce or persuade any Independent Contractor or agent affiliated with HUMANUS to terminate or circumvent their relationship with HUMANUS. This Section shall survive termination for any reason.

13. Confidentiality. Client shall take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, but in no event less than reasonable

care, to keep confidential the confidential information of HUMANUS to the extent permitted by law. Client may disclose Confidential Information or Materials, as defined below, only to its employees on a need-to-know-basis. For purposes of this Agreement, "Confidential Information or Materials" means information designated as confidential or which ought to be considered as confidential from its nature or from the circumstances surrounding its disclosure. Confidential Information or Materials includes, without limiting the generality of the foregoing, information: (1) relating to HUMANUS' methodologies, techniques, tools, or know how; (2) relating to HUMANUS' business, marketing, and sales and corporate policies, strategies, operations, finances, plans, or opportunities including the identity of, or particulars about, HUMANUS' clients or suppliers; and (3) marked or otherwise identified as confidential, restricted, secret, or proprietary including, without limiting the generality of the foregoing, information acquired by inspection or oral or visual disclosure. The parties shall execute and comply with the terms of the Business Associate Agreement as set forth in Exhibit B attached hereto. Nothing in this paragraph shall be interpreted as prohibiting Client from complying with any disclosure required by law, including but not limited to Ohio Rev. Code 149.43.

14. Warranties. HUMANUS WARRANTS THAT THE SERVICES RENDERED BY THE INDEPENDENT CONTRACTOR WILL BE PERFORMED IN ACCORDANCE WITH CURRENTLY ACCEPTED PROFESSIONAL STANDARDS AND PRACTICES FOR SERVICES OF A SIMILAR NATURE.

15. Integration. This Agreement contains and represents the entire understanding and agreement of Humanus and Client with respect to its subject matter, superseding, canceling and voiding all prior agreements, understandings, negotiations, warranties, commitments, and representations in such regard.

16. Severance. In the event that a specific provision of this Agreement, or any portion thereof, is determined to be invalid by statute or administrative or judicial decision – provided the time for appeal of such decision has expired with no appeal having been made – the parties shall conform their conduct to satisfy the requirements of such statute or administrative or judicial decision. The remainder of the Agreement shall not be affected by any such determination and shall continue in full force and effect as provided herein.

17. Modification. This Agreement may be modified or amended only in a writing executed by both HUMANUS and Client.

18. Binding Effect and Assignability. The rights and obligations of both parties under this Agreement shall inure to the benefit of and shall be binding upon their respective successors, assign, heirs, legal representatives and devisees, but shall not be assigned without the written consent of both parties.

EXHIBIT A

2015-16 REFERRAL RATES

HUMANUS shall receive payment based upon the following schedule which is valid for 12 months, in accordance to the terms of the Agreement for Staffing Services:

<u>Specialty</u>	<u>Per Hour</u>
Psychologist	\$89.00
Speech Language Pathologist	\$75.00
Occupational Therapist	\$75.00
Physical Therapist	\$75.00
Intervention Specialist	\$43.00

Rates are calculated in increments of quarter hours and rounded up to the nearest quarter hour. Services include, but not limited to, evaluation, report writing, therapy services, documentation, progress notes, meetings, conferences, billing, breaks and travel time between facilities when necessary.

Client agrees to be billed for one (1) hour of service or travel time [whichever is longer] if scheduled therapy session(s) were cancelled or Client would be closed and the assigned Therapist was not notified, via mail, telephone, form notice or electronic mail, 4 hours in advance. This cancellation policy does not apply to weather-related cancellations.

EXHIBIT B

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) effective as of date of Agreement, (“Effective Date”) is entered into by and between Humanus Corporation (“Business Associate” or “Supplier”) and _____ (“Covered Entity”)

RECITALS

The purpose of this Agreement is to enable the parties to comply with certain requirements of the “HIPAA Regulations” (as defined below) under the Health Insurance Portability and Accountability Act of 1996 Pub. L. No. 104-191 (“HIPAA”) and related provisions of the HITECH Act (as defined below) that involve Protected Health Information (as defined below, and including but not limited to Electronic Protected Health Information) that is used or disclosed by Business Associate for or on behalf of the Covered Entity in connection with those certain services performed by Business Associate on behalf of the Covered Entity pursuant to any oral or written agreement(s) for the provision of services to the Covered Entity (a “Services Agreement”) that has been or may be entered into by the parties.

INTENDING TO BE LEGALLY BOUND, and for mutual satisfactory consideration received, the parties agree as follows.

1. DEFINITIONS

- (a) Catch-all definition: Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are given when defined in the HIPAA Regulations.
- (b) “Availability” shall mean the same as it means at 45 C.F.R. §164.304.
- (c) “Breach” shall mean the acquisition, access, use, or disclosure of protected health information in a manner not permitted under the Privacy Regulations which compromises the security or privacy of the protected health information. For purposes of this definition, “compromises the security or privacy of the protected health information” means poses a significant risk of financial, reputational, or other harm to the individual.

Except that a use or disclosure of protected health information that does not include the identifiers listed at 45 C.F.R. §164.514(e)(2) of the Privacy Regulations, date of birth, and zip codes does not compromise the security or privacy of the protected health information and is deemed not to be a “Breach” for purposes of this Agreement.

“Breach” also excludes:

(i) Any unintentional acquisition, access, or use of protected health information by a workforce member or person acting under the authority of a covered entity or a business associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rules.

(ii) Any inadvertent disclosure by a person who is authorized to access protected health information at a covered entity or business associate to another person authorized to access protected health information at the same covered entity or business associate, or organized health care arrangement in which the covered entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rules.

(iii) A disclosure of protected health information where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

(d) "Breach Notification Regulations" shall mean the rules set forth primarily at set forth primarily at Subpart D of Part 164 of Title 45 of the Code of Federal Regulations.

(e) "Business Associate" shall mean the entity so designated in the preamble to this Agreement.

(f) "Confidentiality" shall mean the same as it means at 45 C.F.R. §164.304.

(g) "Covered Entity" shall mean the entity so designated in the preamble to this Agreement.

(h) "Days" shall mean a calendar day unless a provision specifies "business days."

(i) "Discovery of a Breach" means that Business Associate, or an employee, officer or agent of Business Associate, has acquired actual knowledge of a Breach or by the exercise of reasonable diligence should have acquired knowledge of a Breach.

(j) "Electronic Protected Health Information" or "EPHI" shall mean the same as it means at 45 C.F.R. §160.103.

(k) "HIPAA Regulations" shall mean the Privacy Regulations, the Security Regulations, the Breach Notification Regulations and such other applicable rules and regulations that are set forth in 45 C.F.R. Parts 160 and 164.

- (l) "HITECH Act" shall mean Division A, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No 111-5.
- (m)
- (m) "Integrity" shall mean the same as it means at 45 C.F.R. §164.304.
- (n) "Protected Health Information" or "PHI" shall have the meaning set forth at 45 C.F.R. §160.103.
- (o) "Privacy Regulations" shall mean the rules set forth primarily at Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations.
- (p) "Required by Law" shall mean the same as it means at 45 C.R.R. 164.§103.
- (q) "Security Incident" shall mean the same as it means at 45 C.F.R. §164.304.
- (r) "Security Measures" shall mean that same as it means at 45 C.F.R. §164.304.
- (s) "Security Regulations" shall mean the rules set forth primarily at Subparts A and C of Part 164 of Title 45 of the Code of Federal Regulations.
- (t) "Unsecured PHI" means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of the HITECH Act on the HHS Web site.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- (a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to use appropriate Security Measures to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement. With respect to EPHI, Business Associate agrees to develop, implement, maintain and use appropriate and reasonable Administrative, Physical, and Technical Security Measures to insure the Integrity, Confidentiality and Availability of, and to prevent non-permitted uses and disclosures of EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate acknowledges and agrees that pursuant to section 13401(a) of the HITECH Act [42 USC §17931(a)] that it will implement and document its Security Measures in order to comply with sections 164.308, 164.310, 164.312 and 164.316 of Title 45 of the Code of Federal Regulations in the same manner that Business Associate would if it were a Covered Entity subject to those rules.

- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate, or an agent or subcontractor of Business Associate, in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity:
- (i) Any use or disclosure by the Business Associate of Protected Health Information not provided for by this Agreement of which it becomes aware.
 - (ii) Within ten (10) days any Security Incident of which it becomes aware that results in an unauthorized access, use modification, destruction or disclosure of EPHI or interference with information systems for EPHI.
 - (iii) Within ten (10) days of receipt of a written request any Security Incident of which it becomes aware that was an unsuccessful attempt to obtain unauthorized access, use modification, destruction or disclosure of EPHI or interference with information systems for EPHI.
 - (iv) A Discovery of a Breach of Covered Entity's Unsecured PHI that is used or disclosed by Business Associate in any manner arising out of this Agreement, Business Associate shall timely notify Covered Entity as provided in subsection 5 of this section 2(d). Prior to notifying Covered Entity of the Discovery of a Breach, Business Associate shall take reasonable steps to satisfy itself based upon reasonable diligence that the acquisition, access, use, or disclosure of PHI was not unintentional or inadvertent and that it poses a significant risk of financial, reputational, or other harm to the individual.
 - (v) Following Discovery of a Breach of Covered Entity's Unsecured PHI, Business Associate without unreasonable delay, but in no case later than Thirty (30) days, shall provide written notice to Covered Entity setting forth the information described in subsection 2(d).
 - (vi) Business Associate's written notification shall provide the following information:
 - 1. To the extent possible, the names of each individual whose Unsecured PHI has been, or is reasonably believed to have been accessed, acquired, used or disclosed during the Breach.
 - 2. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 3. A description of the types of unsecured protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

4. Any steps individuals should take to protect themselves from potential harm resulting from the Breach;
5. A brief description of what the Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and,
6. Contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, Web site, or postal address.

- (vii) If Business Associate has been requested orally or in writing by law enforcement officials that notification of affected individuals of a Breach may impede a criminal investigation, Business Associate shall so inform Covered Entity.

(e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees in an enforceable written agreement to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information (including but not limited to the post termination assurances that are specified in section 5(f) of this Agreement). With respect to EPHI, Business Associate will ensure that any agent or subcontractor to whom Business Associate provides EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity agrees to develop, implement, maintain and use appropriate and reasonable Administrative, Physical, and Technical Security Measures to insure the Integrity, Confidentiality and Availability of, and to prevent non-permitted uses and disclosures of, EPHI.

(f) Business Associate agrees to provide access to and copies of Protected Health Information maintained in a Designated Record Set, to Covered Entity or, when requested in writing by Covered Entity, to an Individual in order for Covered entity to meet the requirements of 45 C.F.R. §164.524. Business Associate shall provide access to and copies of Protected health Information in a reasonable time, not to exceed fifteen (15) days [unless Business Associate and Covered Entity reasonably agree otherwise in writing]; and, in a reasonable manner.

(g) Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary, in the time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Regulations. Upon receipt of a request from the Secretary, Business Associate shall notify Covered Entity in writing unless such notification would be contrary to law.

(h) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Entity determines is required to enable Covered Entity to comply with 45 C.F.R. §164.526. Except for good cause shown in writing to Covered Entity, Business

Associate shall act upon Covered Entity's request for an amendment within thirty (30) days of receipt Covered Entity's request.

(i) Business Associate agrees to identify, track and document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected health Information in accordance with 45 C.F.R. §164.528. Upon Covered Entity's written request, Business Associate shall furnish to Covered Entity a copy of its policies or procedures that it has, and will maintain, that describe how it carries out its obligations under this subsection.

(j) Business Associate agrees to provide to Covered Entity or to an Individual, in writing and not later than thirty (30) days after receiving a request under this subsection (i), information collected in accordance with the foregoing sub-section (h) of this Section 2 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. §164.528.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

(a) General Use and Disclosure Provisions.

(i) Except as otherwise provided in this Agreement, Business Associate shall use or disclose Protected Health Information only in a manner permitted by the Privacy Regulations if done by Covered Entity.

(b) Specific Use and Disclosure Provisions

(i) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(ii) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law, or for the purpose for which it was disclosed to the person, and the person notified the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

- (iii) Only when specifically authorized by Covered Entity in writing separate from this Agreement or in accordance with a specific provision of the Services Agreement, Business Associate may use Protected Health Information to: (i) provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. §164.504(e) (2) (i) (B); or, create de-identified health information in accordance with 45 C.F.R. §164.514.
- (iv) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §164.502(j)(1).

4. OBLIGATIONS OF COVERED ENTITY

Provisions for Covered Entity To Inform Business Associate of Privacy Practices and Restrictions.

- (a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices, prepared for compliance with 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate use or disclosure of Protected Health Information.
- (d) Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Regulations if done by Covered Entity.

5. TERMS AND TERMINATION

- (a) Term. The term of this Agreement shall be effective as of (, 20__), and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, if it is infeasible to return or destroy Protected Health Information, protections area extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination by the Covered Entity. Covered Entity may immediately terminate this Agreement and any Services Agreement if the Covered Entity makes the determination that Business Associate has breached a material term of this Agreement. Alternatively, the Covered Entity may choose to: (i) provide Business Associate with 30 days written notice of the existence of an alleged material breach;

and (ii) afford Business Associate an opportunity to cure said alleged material breach upon mutually agreeable terms. Nonetheless, in the event that mutually agreeable terms cannot be achieved within 30 days, Business Associate must cure said breach to the satisfaction of the Covered Entity. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of this Agreement and any Services Agreement. Nothing contained in this Section shall be deemed to require the Covered Entity to terminate this Agreement if termination is not feasible, and the Covered Entity shall have the right to report any such breach to the Secretary as provided for under 45 C.F.R. §164.504(e)(1)(II).

(c) Termination by Business Associate. If Business Associate makes the determination that a condition material to the performance of this Agreement has changed under any Services Agreement or this Agreement, or that the Covered Entity has breached a material term of this Agreement, Business Associate may provide (30) days notice of its intention to terminate this Agreement and the Services Agreement. Business Associate agrees, however, to cooperate with Covered Entity find a mutually satisfactory resolution to the matter prior to terminating and further agrees that, notwithstanding this provision, it shall not terminate this Agreement so long as any Services Agreement is in effect.

(d) Automatic Termination. This Agreement will automatically terminate without any further action of the parties upon the termination or expiration of the last Service Agreement in effect between the parties.

(e) Effect of Termination. Upon any termination pursuant to this Section 5, Business Associate agrees to return or destroy all Protected Health Information pursuant to 45 C.F.R. §164.504(e)(2)(ii)(I), if it is feasible to do so. Prior to doing so, Business Associate further agrees to recover any Protected Health Information in the possession of its subcontractors or agents. If it is not feasible for Business Associate to return or destroy said Protected Health Information, Business Associate will notify the Covered Entity in writing. Said notification shall include: (i) a statement that Business Associate has determined that it is infeasible to return or destroy the Protected Health Information in its possession, and (ii) the specific reason for such determination, which reasons must be agreed to by Covered Entity. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Agreement to Business Associate's use and/or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible. If it is infeasible for Business Associate to obtain Protected Health Information from a subcontractor or agent, Business Associate must provide a written explanation to the Covered Entity and require the subcontractors and agent to agree to extend any and all protections, limitations and restriction contained in this Agreement to the subcontractors' and/or agents' use and/or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible.