

**ORANGE COUNTY
BOARD OF EDUCATION
AGENDA ITEM ABSTRACT**

Meeting Date: May 13, 2013

**AGENDA
ITEM No.** 13-05-15

ACTION ITEM: (Y/N) N

SUBJECT: Duke Employee Assistance Program Report

INFO. CONTACT: Marcie Holland, Asst. Superintendent for Human Resources **PHONE:** 919-732-8126

ATTACHMENT: 1. Revised Memorandum of Understanding with the Duke Employee Assistance Program

PURPOSE: The purpose of this item is to provide the Board of Education an opportunity to hear about and discuss the benefits available to Orange County Schools' employees.

BACKGROUND: As part of the Orange County Schools Health Advisory Council (SHAC) 2007-2008 review, SHAC recommended that the school system enter into a service contract with the Duke Employee Assistance Program (EAP) to provide support for school system employees. The original contract with Duke EAP was entered into during the 2008-2009 school year.

The Duke EAP provides annualized utilization data quarterly. The range of utilization ranges from a low of 2.1% (Second Quarter 2010) to a high of 6.6% (First Quarter 2013). The current agreement has a service delivery model of up to five (5) sessions per employee or employee family member.

The cost of the current model is \$4.74 per employee, per quarter, or a total of \$18.96 per employee per year, which is an estimated \$18,500.00 per year. Based on a review of the models available, and the fluctuation in utilization by employees, we are recommending that the service delivery model be reduced to include up to four (4) sessions per employee or employee family member. No other benefits previously offered by the Duke EAP are being changed in this new Memorandum of Understanding.

FINANCIAL IMPACT: The annual cost for the Duke Employee Assistance Program is estimated at \$16,500.00 per year, based on a charge of \$4.28 per permanent employee (full-time), per quarter, or \$17.10 per employee per year. Billing is received each quarter and is based upon the total number of full-time, permanent employees on record that quarter.

RECOMMENDATION: The Superintendent recommends the Board of Education accept this as an information item.

**EMPLOYEE ASSISTANCE PROGRAM
AGREEMENT BETWEEN
DUKE UNIVERSITY
AND
ORANGE COUNTY SCHOOLS**

This Agreement is made effective as of the date of the last signature of a party hereon (the "Effective Date"), between Duke University through its School of Medicine, Department of Community and Family Medicine, Division of Occupational and Environmental Medicine ("Duke"), located in Durham, North Carolina, and Orange County Schools, a public school system located in Orange County, North Carolina.

WHEREAS, Orange County Schools desires to provide occupational mental health services to its employees and other eligible persons;

WHEREAS, Duke is capable of providing various occupational mental health services and the provision of such services is consistent with the instructional and research objectives of Duke and its status as a nonprofit institution;

WHEREAS, Orange County Schools desires to engage Duke to render occupational mental health services described in this Agreement; and

WHEREAS, Orange County Schools and Duke believe that such a collaborative relationship between Orange County Schools and Duke is of mutual interest and benefit to the parties.

NOW, THEREFORE, the parties agree as follows:

1. Responsibilities of Duke

Duke will provide to Orange County Schools occupational mental health services as set-forth herein and included in Exhibit A of this Agreement, attached hereto and incorporated herein by reference ("Services"). All Services as described in Exhibit A will be provided by Duke mental health professionals or by an independent mental health professional who has contracted with Duke to provide such Services as part of an "Extended Provider Network" comprised of such independent contractors. Collectively, the Duke mental health professionals and the independent contractor mental health professionals rendering Services under this Agreement shall be referred to as "Practitioners."

2. Qualifications/Compliance with Laws/Standards of Performance

Duke covenants at all times during the term of this Agreement that the Practitioners rendering the Services shall:

- A. Be licensed mental health professionals in the state in which they provide the Services;
- B. Be duly qualified by training, education and experience to provide the Services;
- C. Comply with all applicable laws, rules, regulations, standards and ethical canons of all applicable state and federal governmental agencies, regulatory and accreditation bodies, and professional associations;

D. Deliver the Services consistent with community standards of practice, the policies and procedures of Orange County Schools, and to the reasonable satisfaction of Orange County Schools.

3. Responsibilities of Orange County Schools

Orange County Schools agrees to provide Duke with the support necessary for Duke to satisfy its obligations under this Agreement. This assistance shall include financial support of Services as set forth in Exhibit A.

4. Financial Arrangements

The financial arrangements for services provided pursuant to this Agreement are described in Exhibit A. As applicable, Duke reserves the right to increase fees not to exceed ten percent (10%) per year at the beginning of subsequent contract years by providing Orange County Schools with ninety (90) days' written notice prior to the end of the then-current contract year. All fee increases will be documented by Duke in an updated Exhibit A and will become an addendum to this Agreement. Any such fee increase will become effective ninety (90) days after written notice to Orange County Schools, unless Orange County Schools has previously provided notice of termination of this Agreement pursuant to Section 9. Fees under this Agreement shall not exceed \$20,000.00 for each one (1) year term of this Agreement.

5. Insurance

Duke shall provide for its employees, and ensure that Practitioners within the Extended Provider Network maintain, professional liability insurance in an amount not less than \$1 million per occurrence/\$3 million annual aggregate that will cover the services provided pursuant to this Agreement. Duke will provide Orange County Schools with proof of insurance coverage upon request.

6. Use of Parties' Names

A. Orange County Schools agrees not to use the names, symbols, trademarks, or service marks currently existing or subsequently established of Duke without the prior written consent of Duke. All material to be reviewed should be sent or faxed to: Paul Lindia, Associate VP - Network Services, Duke University Health System, Inc., 3100 Tower Blvd. - Suite 600, Durham, North Carolina 27707. Fax number: (919) 493-9159.

B. Duke agrees not to use the name, symbols, trademarks, or service marks currently existing or subsequently established of Orange County Schools without the prior written consent of the Orange County Schools. All materials to be reviewed should be sent or faxed to: Marcie Holland, Ph.D., Assistant Superintendent for Human Resources & District Title IX Coordinator, Orange County Schools, 200 East King Street, Hillsborough, North Carolina 27278. Fax number: (919) 732-8120

7. Independent Contractors

The relationship of the parties under this Agreement shall be that of independent contractors, and no party shall be construed to be an agent, partner, employee, or joint venture of the others. No party shall exercise control over the manner in which the other party performs their duties hereunder except to assure compliance with this Agreement.

8. Publication

Consistent with state and federal human research subject protection requirements and applicable health information privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Duke mental health professionals may collect data associated with the Services provided pursuant to this Agreement, analyze the data, and publish the results of such research in scholarly and professional journals, provided such Duke mental health professionals shall comply with all applicable state and federal laws governing the confidentiality of individually identifiable health information or personnel information and refrain from the publication of any data identifying Orange County Schools, or any individual receiving services under this Agreement.

9. Term and Termination

- A. This Agreement shall be made effective as of its Effective Date and shall remain in full force and effect for one (1) year unless earlier terminated as provided in this Section 9. Upon expiration of the initial term and each renewal term thereafter, the Agreement shall automatically renew for an additional term of one (1) year, unless either party gives written notice to the other at least thirty (30) days prior to the end of the then-current term.
- B. Any party may immediately terminate this Agreement upon written notice to the other party for illegal or wrongful conduct, fraud, or material breach of this Agreement by the other party.
- C. Duke may terminate this Agreement immediately upon written notice to Orange County Schools in the event that Orange County Schools is overdue by more than seventy-five (75) days in making any payment required under this Agreement provided, however, that Duke shall provide Orange County Schools with written notice of an overdue payment and the opportunity to make payment in full within ten (10) days of Orange County Schools' receipt of such overdue notice prior to exercising its termination rights under this Section 9.C.
- D. Either party may terminate this Agreement immediately in the event the other party declares bankruptcy, is adjudicated to be insolvent, makes an assignment for benefits of creditors, or takes (or is subject to) other legal action indicative of that party's inability to pay its debts as they come due.
- E. Either party may terminate this Agreement for any other reason upon ninety (90) days' prior written notice to the other party. In the event this Agreement is terminated, Orange County Schools agrees to pay the fees listed in Exhibit A, prorated to the date the Agreement terminates.
- F. Orange County Schools may terminate this Agreement immediately if: (i) any Practitioner becomes incapable of providing the Services hereunder, with or without

reasonable accommodation, by reason of mental or physical incapacity and Duke fails to remove such Practitioner from the provision of Services hereunder immediately after Duke's receipt of notice thereof; (ii) the license of any Practitioner lapses, is not renewed, or is denied, suspended or revoked, and Duke fails to remove such Practitioner from the provision of Services immediately after Duke's receipt of notice thereof; or (iii) Duke fails to maintain the professional liability insurance required hereunder.

10. Notice

Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed given as of the date it is (A) delivered by hand; (B) mailed, postage prepaid return receipt requested, to the parties at the addresses listed below or later specified in writing; or (C) sent shipping prepaid, by a national courier service to the parties at the addresses listed below:

As to Duke: Judith C. Holder-Cooper, Ph.D., Director
Duke Occupational Mental Health Programs
Division of Occupational & Environmental Medicine
DUHS Box 3834
Durham, North Carolina 27710

With Copy to: Paul Lindia
Associate Vice President – Network Services
Duke University Health System, Inc.
3100 Tower Blvd, Suite 600
Durham, North Carolina 27707

As to Orange
County Schools: Marcie Holland, Ph.D.
Assistant Superintendent for Human Resources & District Title IX
Coordinator
Orange County Schools
200 East King Street
Hillsborough, North Carolina 27278

11. Assignment

This Agreement is for professional services. No party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.

12. Entire Agreement

This Agreement, including any schedules or other attachments which are incorporated herein by reference, contains the entire agreement among the parties as to its subject matter. This Agreement supersedes all prior discussions and agreements between the parties, including without limitation the Occupational Mental Health Services Agreement effective September 9, 2008. No party shall be bound by conditions, definitions, warranties, understandings, or representations concerning such subject matter except as provided in this Agreement or as may be specified later in writing and signed by properly authorized representatives of the parties.

13. Waiver

The failure of a party in any instance to insist upon the strict performance of the terms of this Agreement shall not be construed to be a waiver or relinquishment of any of the terms of this Agreement, either at the time of the party's failure to insist upon strict performance or at any time in the future, and such term or terms shall continue in full force and effect.

14. Governing Law

The construction and performance of this Agreement shall be governed by and construed pursuant to the laws of the State of North Carolina.

15. Severability

Each clause of this Agreement is a distinct and severable clause and if any clause is deemed illegal, void or unenforceable, the validity, legality and/or enforceability of the remaining clauses or portion of this Agreement shall not be affected thereby.

16. Modification for Change in Law

To the extent that any law, rule, or regulation of any authority (including The Joint Commission or other relevant accrediting agency) having jurisdiction over the parties to this Agreement shall raise question as to the legality, enforceability, or appropriateness of this Agreement or any provision hereof, the parties agree to negotiate promptly regarding modification as may be required to bring this Agreement into compliance with such applicable law, rule, or regulation. Should the parties be unable to agree upon such modification within a period of thirty (30) days from the date any party shall give notice to the others of such changes in law, rule, or regulation, this Agreement shall be deemed terminated.

17. Binding Obligations

The rights and responsibilities of this Agreement shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

18. Confidentiality of Records

Except as authorized by this Agreement or as required by law, Duke shall maintain in confidence any and all Protected Health Information, as that term is defined under HIPAA, and any personnel records or information obtained from Orange County Schools and from individuals receiving services pursuant to this Agreement. Consistent with HIPAA requirements, Duke may provide to Orange County Schools certain statistical and other general information regarding the services rendered by Duke pursuant to this Agreement. Duke shall not disclose to Orange County Schools any Protected Health Information with respect to particular individuals who receive services pursuant to this Agreement, except as authorized by the prior, written consent of such individuals in a manner that is fully compliant with all requirements under the privacy provisions of HIPAA. Duke shall be the owner and custodian of any records developed pursuant to this Agreement.

19. Referrals

Duke may, from time-to-time, deem it appropriate to refer particular individuals receiving Services under this Agreement to physicians, psychologists, social workers, counselors, and other therapists whose services are not covered under this Agreement ("Outside Providers"). Duke has no contractual or other legal relationship with such Outside Providers, and the services provided by such Outside Providers will not be provided pursuant to the terms of this Agreement. The Outside Providers shall not be deemed to be agents of Duke, and Duke shall not be liable for the acts or omissions of Outside Providers nor shall it be liable for supervision or failure to supervise outside referrals. In addition, Duke shall not be liable for payment to any Outside Providers to which individuals receiving services under this Agreement may be referred. Individuals receiving services not covered under this Agreement shall be responsible for guaranteeing and coordinating payment with the Outside Provider.

20. Amendment

Any amendment to this Agreement shall be in writing and duly executed by appropriate representatives of each of the parties.

21. Non-Appropriation

Pursuant to N.C. General Statute 143C-6-8, it is understood and agreed between Duke and Orange County Schools that Orange County Schools' payment obligation under this Agreement is contingent upon the availability of appropriated funds from which payment for Agreement purposes can be made, and, if payment obligations are made with State funds, upon the availability of appropriated funds that are not State funds.

22. Compliance with Applicable Laws

During the term of this Agreement, Duke shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules and regulations, including securing and maintaining in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Agreement. Duke represents that it is aware of and in compliance with the Immigration Reform and Control Act, and that it will collect properly verified I-9 forms from each employee providing services under this Agreement. Duke shall not employ any individuals to provide services to the Orange County Schools who are not authorized by federal law to work in the United States.

23. Lunsford Act/Criminal Background Checks

All parties acknowledge that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school or other facility dedicated to the care of minors. Duke shall conduct an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry on each of its employees or agents who, pursuant to this Agreement, provide services on Orange County Schools' property. The mandatory sex-offender registry checks may be completed by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>. Under no circumstances shall any employee or agent be assigned to work on Orange County Schools' property or events if said worker appears on any of the aforesaid sex-offender registries. Duke

further agrees that it has an ongoing obligation to provide Orange County Schools with the name of any new contractual personnel who may deliver goods or provide services under the Agreement on Orange County Schools' property and to complete the aforementioned sex-offender registry checks on any new contractual personnel prior to assigning such personnel to work on Orange County Schools' property. Failure to comply with this provision shall be grounds for immediate termination of the Agreement.

24. Applicable OCS Policies

Duke acknowledges that the Orange County Board of Education has adopted policies governing conduct on school property and agrees to abide by any and all relevant Orange County Schools' policies while on school property. The Orange County Board of Education policies are accessible online at http://www.orange.k12.nc.us/board_pages/board_policies.html.

Signature page follows.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be signed by the duly authorized officers.

ORANGE COUNTY SCHOOLS

DUKE UNIVERSITY

By: _____
G. Patrick Rhodes
Superintendent

By: _____
Judith C. Holder-Cooper Ph.D., Director
Duke Occupational Mental Health
Programs

Date: _____

Date: _____

By: _____
J. Lloyd Michener, MD, Chairman
Dept. of Community and Family Medicine

Date: _____

By: _____
Scott Gibson
Exec. Vice Dean for Administration
Duke University School of Medicine

Date: _____

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

By: _____
Finance Officer
Orange County Schools

Date: _____

**EXHIBIT A
EAP SERVICES CAPITATED PROGRAM COSTS
EMPLOYEE ASSISTANCE PROGRAM**

Duke is a nonprofit organization. Our charges are directly related to the costs of delivering our services and fulfilling our training commitments. The primary factors affecting our prices are our overhead costs (e.g., department and university overhead, rent and telephone), our labor costs, and the amount of time required to deliver services. The higher the time requirements (e.g., if utilization is high), the greater our price. We typically place a utilization limit* on the total volume of services provided within the capitated price. This limit exists to insure our financial viability especially in the unlikely event of a disaster; e.g., a bombing, or a major storm. Events such as these would dramatically increase requests for services above the anticipated rate.

Session Model	Description	Rate
Capitated 4 Sessions of Face-to-Face Counseling	Face-to-face counseling for: <ul style="list-style-type: none"> • Assessment • Intervention • Crisis Management • Short-term Counseling • Referral 	\$4.28 per employee per quarter (\$17.10 per employee per year) *Capitated fee covers program costs up to a 5% utilization rate
EAP Talks		

SERVICES INCLUDED IN THE CAPITATED EAP RATE

- ◆ **Assessment and Short-term EAP counseling* for a range of issues including relationship, marital, child, parent/child, anxiety, depression, substance abuse, work related, work family balance, stress, and/or stress related to financial, medical, or legal issues.**
- ◆ **As authorized and clinically indicated, assist with the coordination of care to resources through covered employee's mental health/substance abuse benefit.**
- ◆ **Promotional Material**
 - EAP brochures and posters (provided annually and based on employee count)
 - Monthly *Frontline Supervisor*
- ◆ **Voluntary and Mandatory Supervisory Referral Case Management**
- ◆ **Supervisor, Manager, and/or HR Consultation**
- ◆ **Quarterly Utilization Reports**
- ◆ **24 Hour Emergency Access to the Counselor on Call**
- ◆ **Inclusion of Family Members- Members covered by or eligible for the Orange County Schools' medical benefits**

*Please note for clarification:

(1) When dealing with individuals presenting with alcohol/substance abuse problems, the Practitioner

conducts a thorough assessment to ascertain the level of usage and dysfunction, as well as the type of treatment needed (e.g., educational, intensive outpatient, or inpatient). In cases involving a substance abusing (not dependence) individual who is highly motivated to change, the Practitioner may provide brief, supportive psychotherapy for the individual and/or the family.

When an individual presents with more severe dependency issues that cannot be resolved by the Practitioner and which require intensive treatment, the Practitioner coordinates referral to resources through the individual's behavioral health benefit. If the client does not have behavioral health benefit through Orange County Schools, a self-pay community resource is recommended.

(2) Practitioners are prepared to address the psychological ramifications of financial and legal problems by providing supportive short-term counseling that may examine the individual's present distress as well as any underlying behavioral patterns that have contributed to the individual's legal/financial situation. Duke does not contract with lawyers or financial specialists and cannot offer legal and/or financial advice. Duke can provide a list of local non-profit legal and/or financial resources. These resources have not been credentialed nor are they endorsed by Duke, but are simply local resources available to the public. Fees for legal consultation and/or financial services are the responsibility of the individual seeking the service and are not covered under the EAP benefit.

(3) Individuals covered by this Agreement shall access Services according to procedures mutually agreed to by Orange County Schools and Duke.

RATES FOR SERVICES BEYOND THOSE INCLUDED IN THE CAPITATED RATE

If Orange County Schools would like to purchase additional services (outside of the capitated EAP Services) the rates for these services are as follows:

<u>Service</u>	<u>Rate</u>
Supervisor Training(<i>options are set forth below</i>)	\$185 Per Hour*
EAP Talks	\$185 Per Hour*
Critical Incident Debriefing	\$185 Per Hour*
Organizational Consultation/Special Projects	\$200 Per Hour*
Ad Hoc Reports	\$45 Per Administrative Hour \$100 Per Management Hour
Design of Custom Presentation	\$125 Per Hour

All trainings set forth above are designed for a minimum of one (1) hour. Customized talks addressing topics not included above are subject to a development fee of \$125 per hour.

Services Through Duke Professional and Personal Development Program

Coaching Services

- Leadership Coaching
- Professional Coaching
- Career Coaching
- Personal/Life Coaching
- Wellness Coaching

Price Ranges From
\$175-\$225 Per Hour

***Please note for clarification:**

(1) If Duke mental health professionals (located in Durham, NC) are asked to travel outside the Triangle area, Orange County Schools will be charged for travel and living expenses.

(2) Duke does not contract with lawyers or financial specialists and cannot offer legal and/or financial advice. Duke can provide a list of local non-profit legal and/or financial resources. These resources have not been credentialed nor are they endorsed by Duke, but are simply local resources available to the public. Fees for legal consultation and/or financial services are the responsibility of the individual seeking the service and are not covered under the EAP benefit.

(3) EAP Talks and Supervisor Training Options:

Increasing Workplace Effectiveness

- Managing Stress
- Preventing Job Burnout
- Growing Through Change and Transition
- Dealing With Difficult People
- Managing Conflict at Work
- Spirituality and Work
- Tapping Your Creativity
- Improvisation—A Key to Thinking on Your Feet

Increasing Managerial and Leadership Effectiveness

- What Does it Mean to be a Supervisor?
- Giving Effective Feedback
- Effective Listening
- Emotions in the Workplace
- Managing Difficult Employees
- Stress Management for Managers

Increasing Personal Effectiveness

Emotional Intelligence:

- Exploring Emotional Intelligence
- Increasing Self-Awareness
- Managing Your Emotions
- Enhancing Interpersonal Expertise

The Art & Skill of Effective Listening:

- The Power of Listening
- Listening Skills

Enhancing Personal Well-Being

- Stress Management
- Managing Life's Transitions
- Living a Mindful Life
- Recognizing and Seeking Treatment for Depression or Anxiety
- Coping with Death and Dying

Enhancing Life Balance

- Work/Family Balance
- Career Management and Life Planning
- Creating a Mission Statement for Your Life
- Caring for the Caregiver
- Successful Retirements

Enhancing Family Relations

Couples:

- Tips for Relationship Success
- When a relationship ends

Children:

- Enhancing your Relationship With Your Children
- Establishing Positive Relationships With Modern Teens

Parents:

- Sustaining Relationships With Aging Parents

PAYMENT

The Services included in the capitated rate are payable quarterly, unless otherwise requested. An official count of eligible individuals will be requested each calendar quarter. One quarter of the annual fee multiplied by this quarterly count will be billed to Orange County Schools by Duke. Capitated program costs do not include psychological testing or fitness-for-duty evaluation. Services that are beyond those included in the capitated rate will be billed in a quarterly invoice submitted to Orange County Schools on or about the first day of each calendar quarter detailing the Services beyond those included in the capitated rate that were rendered during the preceding calendar quarter. All invoices will be paid by Orange County Schools within thirty (30) days of receipt.