

EDUCATIONAL EXPERIENCE AFFILIATION AGREEMENT

No. A-1453

THIS AGREEMENT, effective the January 1, 2010, is between The University of Texas at El Paso, ("University"), a component institution of The University of Texas System, ("System"), and Gadsden Independent School District ("Facility"), a non-profit organization having its principal office at 1325 West Washington, Anthony, New Mexico 88021.

WHEREAS, Facility operates facilities located in the City of Anthony, State of New Mexico, and therein provides academic program services;

WHEREAS, University provides academic courses with respect to and periodically desires to provide students in such courses with educational experience by utilizing appropriate facilities and personnel of third parties ("Program"); and

WHEREAS, Facility desires to cooperate with University to establish and implement from time to time one or more Programs involving the students and personnel of University and the facilities and personnel of Facility.

NOW, THEREFORE, in consideration of the mutual promises herein, University and Facility agree that any Program established and implemented by Facility and University during the term of this Agreement shall be covered by and subject to the following terms and conditions:

- 1. Program Agreement:** To become effective, all agreements with respect to a Program ("Program Agreement") shall be reduced to writing, executed by authorized representatives of Facility and University.
- 2. Conflict:** In the event of conflict between the text of Program Agreement and the text of this Agreement, this Agreement shall govern.
- 3. Amendment of Program Agreement:** No amendment to a Program Agreement shall be effective unless reduced to writing, executed by the authorized representatives of Facility and University.
- 4. Responsibility of Facility:** Except for acts to be performed by University pursuant to the provisions of this Agreement, Facility will furnish the premises, personnel, services, and all other items necessary for the educational experience specified in the Program Agreement. In connection with such Program, Facility will:

(a) comply with all applicable federal, state, and municipal laws, ordinances, rules, and regulations; comply with all applicable requirements of any accreditation authority; and certify such compliance upon request by University;

(b) permit the authority responsible for accreditation of University's curriculum to inspect the facilities, services, and other items provided by Facility for purposes of the educational experience; and

(c) appoint a person to serve for Facility as liaison ("Facility Liaison") by the following procedure:

1. Facility shall submit to University the name and professional and academic credentials of the person proposed as Facility Liaison in writing at least thirty (30) days prior to the date the appointment is to become effective;
2. University shall notify Facility of University's approval or disapproval of such person within ten (10) days after receipt of such notice;
3. No person shall act as Facility Liaison without the prior written approval of University;
4. In the event the Facility Liaison approved by University later becomes unacceptable and university so notifies Facility in writing, Facility will appoint another person in accordance with the procedure outlined in paragraph 4 (c).

5. Responsibilities of University: University will:

(a) furnish Facility with the names of the students assigned by University to participate in the Program;

(b) assign only those students who have satisfactorily completed those portions of University curriculum that are prerequisite to Program participation; and

(c) designate a member of the University faculty ("University Representative") to coordinate the educational experience of students participating in the Program with the Facility Liaison. University shall give Facility written notice of the name of the University Representative.

6. Notices: All notices under this Agreement or a Program Agreement shall be in writing and delivered either by personal delivery or by United States certified mail, return receipt requested. Such notices shall be deemed given when received by such party's designated representative.

7. Oral Representations: No oral representations of any officer, agent, or employee of Facility, University, or System shall affect or modify any obligations of either party under this Agreement or any Program Agreement.

8. Amendment to Agreement: No amendment to this Agreement shall be valid unless reduced to writing, signed by an authorized representative of each party.

9. Assignment: Neither this Agreement nor a Program Agreement may be assigned by either party without prior written approval of the other party.

10. Performance: A delay in or failure of performance of either party that is caused by occurrences beyond the control of either party shall not constitute default hereunder, or give rise to any claim for damages.

11. Term and Effective Date: This Agreement shall continue in effect for an initial period ending one (1) year after the date and year stated in the first paragraph ("Term"). After such initial Term, this Agreement shall continue from year to year unless one party shall give the other thirty (30) days prior written notice of intention to terminate. If such notice is given, this Agreement shall terminate: (a) at the end of such thirty (30) days; or (b) when all students enrolled in the Program at the time such notice is given have completed their respective courses of study under the Program, whichever event occurs last. Notwithstanding the above, this agreement will terminate on December 31, 2015.

12. Applicable Law: The validity, interpretation, performance, and enforcement of this Agreement and any Program Agreement shall be governed by the laws of the State of Texas.

13. FERPA. For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA) and the Program, the University hereby designates the Facility as a school official with a legitimate educational interest in the educational records of the Students who participate in the Program to the extent that access to the records are required by the Facility to carry out the Program;

14. HIPAA. The parties agree that:

(a) the Facility is a covered entity for purposes of the Health Insurance Portability and Accountability Act (HIPAA) and subject to 45 CFR Parts 160 and 164 ("the HIPAA Privacy Regulation");

(b) to the extent that University students are participating in the Program and University faculty members are providing supervision at the Facility as part of the Program, such students and faculty members shall:

1. be considered part of the Facility's workforce for HIPAA compliance purposes in accordance with 45 CFR §164.103, but shall not be construed to be employees of the Facility;


2. receive training by the Facility on, and subject to compliance with, all of Facility's privacy policies adopted pursuant to the Regulations; and
3. not disclose any Protected Health Information, as that term is defined by 45 CFR §160.103, to which a student has access through Program participation or a faculty member has access through the provision of supervision at the Facility that has not first been de-identified as provided in 45 CFR §164.514(a);

(c) University will never access or request to access any Protected Health Information held or collected by or on behalf of the Facility that has not first been de-identified as provided in 45 CFR §164.514(a); and.

(d) no services are being provided to the Facility by the University pursuant to this agreement and therefore this agreement does not create a "business associate" relationship as that term is defined in 45 CFR §160.103.

THE UNIVERSITY OF TEXAS AT EL PASO

GADSDEN INDEPENDENT SCHOOL DISTRICT

By  _____
Roberto Osegueda, Vice President
Office of Research

By _____

For

Diana S. Natalicio, President

Printed Name and Title

September 23, 2009

Date

Date