

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (hereafter “Agreement”) is entered into this 12th day of December, 2019, between the Board of Education of Gadsden Independent School District (hereafter “GISD”) and Peak Behavioral Health Services (hereafter “The Peak”), collectively referred to as the “Parties.” The Parties agree and acknowledge as follows:

A. Purpose of Agreement

1. This Agreement specifies the duties and responsibilities of the Parties in providing facilities and services to students enrolled in GISD and receiving behavioral and mental health services at The Peak Residential Treatment Center (RTC).
2. This Agreement is entered into to provide classroom facilities and services for school-age students admitted to The Peak, in a setting within the geographical boundaries of GISD, in order to facilitate the delivery of educational services and to meet the students’ needs for in-patient medical or therapeutic treatment from The Peak.
3. The Agreement shall be effective during the period commencing with execution hereof through December 12, 2020. Thereafter, the Agreement shall terminate, unless fully re-approved by the Parties.
4. An annual review will occur each year during the term of the Agreement.

B. Consideration

In consideration for GISD’s agreement to provide classroom facilities and educational services for school-age residents of The Peak, The Peak shall make the residents/students available for delivery of educational services within the facilities to be furnished under this Agreement in an appropriate setting, consistent with the interests of GISD and The

Peak. The Peak further agrees to pay to the GISD the cost of tuition for those students from out of state who are parentally-placed at The Peak.

C. Duties of GISD

1. Facilities

GISD's provision of facilities to provide instruction for students served by The Peak shall be limited to the three portable buildings (one double and two singles) already located on The Peak site. Any additional classroom(s) or facilities that are necessary to deliver additional educational services to school-age students or are needed due to increased enrollment at The Peak will be provided by The Peak.

2. Student-related Services

- a. GISD will provide educational services to any school-age person (defined by New Mexico law as a student between the ages of 6 and 18) who resides within the geographical boundaries of the district who has not been awarded a GED (unless he or she is identified as disabled under the IDEA or Section 504) or regular high school diploma.
- b. GISD will provide educational services to all school-age persons with disabilities in accordance with all governing federal and state statutes.
- c. The student to teacher ratio in GISD classes shall not be greater than 10 students in one instructional period unless specifically agreed to by GISD and The Peak.
- d. GISD will provide The Peak with information regarding a student's academic levels within 30-school days of student admission.

- e. GISD ensures that all IEP teams will be properly constituted in accordance with the IDEA implementing regulations.
- f. GISD ensures that all parent involvement and prior written notice requirements in the IDEA regulations are strictly adhered to.
- g. GISD ensures that identified students with disabilities at The Peak are afforded Extended School Year Services in accordance with the IDEA regulations when found eligible by a properly constituted IEP team.
- h. GISD shall comply with the Child Find requirements in Part B of the IDEA that requires states to ensure that all children with disabilities who are in need of special education and related services are identified, located and evaluated. Should a resident of The Peak be transferred or released prior to the completion of the evaluation, GISD will ensure that the completed information is either forwarded to the new educational setting or a copy provided to the parents.
- i. GISD will provide administrative support, licensed teachers, instructional assistants, and related service personnel required to provide educational services in accordance with all governing federal and state statutes and implementing regulations.
- j. GISD will provide instructional supplies and materials, including textbooks and classroom consumables, as well as any media and photocopying equipment needed to implement the students' Individualized Education Plans (IEPs) and/or to meet the instructional requirements of the New Mexico Public Education Department.

- k. GISD will provide instructional services in accordance with the approved GISD School Calendar.
- l. GISD shall be entitled to count school-age students at The Peak for purposes of allocation of State and IDEA-B funds (except for those students from out of state who have been parentally-placed at The Peak shall not be counted for purposes of allocation of State and IDEA-B funds).
- m. GISD will maintain student records in accordance with the Family Educational Rights and Privacy Act (FERPA) and the Code of Federal Regulations Part 34 (§300.610-627).
- n. GISD agrees to ensure the confidentiality of all Peak resident clinical records used by GISD in carrying out its duties and responsibilities.
- o. GISD will provide, for use in GISD portables, computers and internet access for instructional and administrative staff at The Peak.
- p. GISD will provide copier machines, fax machines, and phone lines for GISD staff at The Peak.

D. Duties of the Peak

1. Facilities

- a. The Peak shall provide age appropriate classroom facilities in the Residential Treatment Center (RTC) units to deliver the educational services needed. Any additional space that may be needed due to increased enrollment at The Peak RTC will be provided by The Peak.
- b. Classroom facilities provided at The Peak shall adhere to NMPED minimum square-foot/student guidelines on classroom space.

c. Regular custodial services for RTC classrooms/office will be rendered or paid for by The Peak. Such services will be performed after the school day is over to ensure that instruction is not disrupted and to ensure that the facilities are clean and in a reasonable state of upkeep. Trash collection will be done on a daily basis.

2. Student-related Services

- a. The Peak agrees to assure the confidentiality of all educational records generated as a result of its admission, treatment, discharge, or service delivery to GISD students from its facility or programs.
- b. The Peak shall cooperate with GISD in complying with the Child Find requirements in Part B of the IDEA that requires states to ensure that all children with disabilities who are in need of special education and related services are identified, located and evaluated.
- c. The Peak ensures that at least one Mental Health Technician (MHT) will always accompany a group of one to five students to their assigned classrooms, unless specifically agreed by the GISD and The Peak.
- d. The Peak ensures that in no instance, e.g., when a disruptive student is removed and escorted by a MHT from the classroom, shall there be a teacher in a classroom without at least one MHT or Peak administrative staff member present.
- e. The Peak ensures that Peak staff shall always escort students to and from classrooms and maintain order, discipline, and safety within the classrooms.

- f. The Peak agrees that The Peak's Clinical Director or administrative designee will be contacted immediately to correct any deviations from the agreed-upon MHT/student ratio or to address any other MHT-related issues.
- g. The Peak agrees, to the greatest extent possible, to deliver all students to the classroom(s) on time in order to ensure that students receive all scheduled educational services.
- h. The Peak agrees, to greatest extent possible, to provide any required medications to students during non-instructional time.
- i. The Peak shall provide all documentation required to enroll a student in the GISD. This will include a current immunization record, proof of birth or birth date, a copy of a complete Peak Admission Face Sheet, and background information on the circumstances of the referral/placement in order that the agency, individual, or school district responsible for the costs of the placement can be determined.
- j. The Peak shall ensure that the immunization records of students seeking to enroll in GISD comply with the requirements in NMSA 1978 24-5-2. The Peak recognizes that it is unlawful for any student to enroll in school unless he has been immunized, as required by the Department of Health, and can provide satisfactory evidence of such immunization. However, if the student produces satisfactory evidence of having begun the process of immunization, he may enroll and attend school as long as the immunization process is completed within 30-calendar days. Students not

complying with this requirement will be disenrolled by the GISD unless the student is properly exempted from the immunization requirements in accordance with NMSA 1978 24-5-3.

- k. The Clinical Director of The Peak or administrative designee will work with GISD site administrator(s) to address educational procedures, programs, and policies. It is the policy of the Peak RTC that no resident school-age person attend classes until the client has been cleared of elopement precautions and the assigned therapist has conducted a clinical review meeting with the GISD teaching staff regarding the resident's readiness to attend school. GISD classes will commence on the first school day after the school day in which GISD staff are provided with the Face sheet.
- l. Within 24-hours of discharge from the Peak RTC, the Peak agrees to provide a copy of the Aftercare Plan which will include the next school or agency in which the student will enroll.

E. Tuition

The Peak agrees to pay tuition to GISD for each student, on a monthly basis, who:

- a. is from out-of-state, and
- b. has been parentally-placed at The Peak.

The amount of tuition is based upon the amount of State Equalization funds which would have been expended on providing the student with educational services, including special education/related services, for his or her stay at The Peak. If an out-of-state student is at The Peak for less than 5 school days no tuition is due GISD. Any portion of a month

beyond the first 5 school days will be billed in a proportionate amount.

F. Insurance

Each party shall furnish to the other proof of property and liability insurance covering its duties and responsibilities hereunder with limits at least equivalent to those required by the New Mexico Tort Claims Act. See NMSA 1978 41-4-1 through 41-4-27.

G. Liability

Except as otherwise provided above, each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own negligence or violation of any federal or state requirements applicable to the performance of this Agreement.

H. Amendment

This Agreement shall not be altered, changed, or amended except by an instrument in writing and executed by the Parties hereto.

I. Integration of Contract

This Agreement incorporates all of the agreements, covenants, and understandings between the Parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the Parties or their agents shall become valid or enforceable unless embodied in this Agreement.

J. Termination

This Agreement may be terminated by either of the Parties hereto upon written notice delivered to the other party at least ninety (90) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred

for performance or failure to perform prior to the date of termination.

K. Assignment

Neither party shall assign or transfer any interest in this Agreement or assign any claims or money due or to become due under this Agreement.

L. Non-waiver

Nothing in this Agreement shall constitute a waiver of existing legal rights and remedies in the event of a breach of this Agreement.

M. Applicable Law

This Agreement shall be governed by the laws of the State of New Mexico. IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed by their respective officers and said Agreement will become effective as of the date listed above.

BOARD OF EDUCATION OF GADSDEN
INDEPENDENT SCHOOL DISTRICT
By: Jennifer Viramontes

PEAK BEHAVIORAL HEALTH SERVICES
By: Sandra Emanuel

Its President and authorized representative for
and on behalf of the Board of Education.
Date: _____

Its Chief Executive Officer and authorized
representative for and on behalf of its Board of
Directors.
Date: _____