

**Warren County Educational Service Center
Master Contract for Services (Aligned District)
Revised 5/18/2020**

Pursuant to the Ohio Revised Code Sections 3313.843 and 3313.845, the **Governing Board of the Warren County Educational Service Center ("ESC")** and the **Board of Education of the _____ School District ("District")**, agree this _____ day of _____, 2020, to the following contractual terms:

Section 1 -- Services

Subject to the terms and conditions of this Agreement, the ESC agrees to provide those services authorized by the Ohio Revised Code, requested by the District, and agreed to by the ESC as set forth herein or in the applicable Service Quote (the "Services"). Available services are described in the ESC's Brochure of Services, a copy of which is provided periodically to the District and which can be viewed at www.warrencountyesc.com. The Catalog of Services can be amended by the ESC at any time. Additional services may be provided as agreed upon between the ESC and the District.

Section 2 -- Summary of Services

Services selected by the District shall be detailed in a Summary of Services provided by the ESC to the District in accordance with the ESC's customary practices or upon request of the District. The Summary of Services describes the Services selected by Customer and includes an estimated cost of such Services. The Services selected and Summary of Services may be amended at any time, by agreement between the designated representatives of the ESC and the District. A copy of the Summary of Services, as amended, shall be signed by designated representatives of the ESC and District and shall supersede and take the place of all prior Summary of Services and Service Quotes for the amended Services.

Section 3 -- Term

The effective date of this agreement is July 1, 2020. The Agreement shall remain effective unless advance written notice of intent to terminate is provided by January 1 of an odd year in accordance with state law.

Section 4 -- Responsibilities of the District

The District will cooperate with ESC staff to identify ESC Services to be delivered. The District will provide for facilities for ESC staff so that Services may be delivered on-site, including meeting and classroom space for the staff and students; mailbox and parking space for the staff; access to all necessary student records; work space for the staff; telephone, Internet, fax and copier access; secured filing space for student records; and access to the school recruitment team, including administrators, counselors, social workers, nurse, psychologist and attendance officer. Furthermore, the appropriate contact person from the District will assist the ESC in determining the location and time for the Services to be delivered. If not otherwise indicated in the Service Quote, the District will provide any necessary transportation for students to participate in selected Services.

In the event that the ESC provides special education services to the District and its students, the District agrees that a representative of the District shall attend all IEP meetings. The District further agrees that the provision of special education services to students under state and federal law, including but not limited to Ohio's Operating Standards for the Education of Students with Disabilities, is ultimately the responsibility of the District and that nothing contained herein shall be construed or interpreted to relieve the District of that responsibility.

The District agrees that it will certify the availability of funds for the obligations under this Agreement in accordance with Ohio Revised Code Sections 5705.41 and 5705.412, and/or any other applicable state law.

During the period in which this Agreement is in effect and ending one year after the termination or expiration of this Agreement, District will not directly or indirectly, on District's own behalf or in the service or on behalf of others, in any capacity induce or attempt to induce any employee to leave the ESC without the written permission of the ESC's Superintendent. In addition, District agrees not to employ any ESC employee who performed services for the District while employed by the ESC for a period beginning with the last day of service provided to the District by the ESC employee and ending one year thereafter. In the event the District violates these provisions, the parties agree that the ESC's damages are uncertain or difficult to ascertain and that the agreed upon liquidated damages of the ESC shall be equal to \$25,000. The parties further agree that such amount bears a reasonable relationship to, and is not plainly or grossly disproportionate to, the probably loss likely to be incurred in connection with any breach of these provisions.

Section 5 -- Responsibilities of the ESC

The ESC will provide the appropriate staff and work collaboratively with the District in order to serve the needs of the students. Services are intended to be provided in-person but the ESC shall provide such Services remotely or virtually when needed if school buildings are closed as a result of a public calamity, epidemic, pandemic, or other reason necessitating closure of the school building where Services are provided to students. Services may be provided by ESC personnel, by such other persons or entities as determined by the ESC, or by any combination thereof. The ESC shall designate an administrator to serve as a liaison with those contact persons designated by the District. The ESC agrees to fully abide by all Ohio laws relative to criminal record checks and the appropriate licensure of said individuals. The ESC retains the right, both initially and going forward, to immediately remove any employee or agent who does not meet the background or licensure standards, or who the ESC, in its sole discretion, determines is not appropriate for the then-current assignment.

In the event that the ESC provides special education services to the District and its students, the ESC agrees to comply with state and federal law in the provision of those services.

If the Services provided by the ESC are provided pursuant to the Medicaid School Program, the ESC represents that none of its principles are suspended or debarred; that it will comply with the requirements of 45 CFR 164.504(e)(1) for safeguarding and limiting access to information concerning beneficiaries; and it shall allow representatives of the U.S. Department of Human Services, ODM, ODE, or their respective designee access to the ESC's books, documents, and records.

Section 6 -- Cancellation

The ESC reserves the right to cancel any one or all of the Services if an insufficient number of customers elect to participate in a particular Service, if there is a discontinuation or reduction of funds, or for any other reason deemed sufficient by the ESC, in its sole discretion. Written notice of such cancellation will be provided to the District by the ESC not less than 90 days prior to the discontinuation of the Service.

Section 7 -- Unemployment Benefits

In consideration of the Services contracted for in this Agreement, the Service Quotes and Summary of Services, together with such other programs and services requested by the District and provided by the ESC, the District agrees to pay any unemployment compensation benefits which may become payable by reason of the Services contracted for or the termination of such Services. This Section shall only apply when the Services provided are for District-only programs or Services, including, but not limited to, the provision of one-on-one aides, the provision of a director of special education or similar position, the provision of a specific classroom that educates District students only, or specific hires requested by the District.

Section 8 -- School District Withdraw

The District shall provide written notice of withdrawal from participation in any one or more of the Services to the ESC not less than 90 days prior to the withdrawal date. Such withdrawal notice shall operate to eliminate for the succeeding school year, all contractual obligations of the parties with respect to the Services which are included in the notice of withdrawal.

Section 9 -- Compensation and Benefits

As used in this Agreement, and unless otherwise specified in the Service Quote or Summary of Services, "Services" and "programs" include the costs of all services and/or programs provided by the ESC under this Agreement including, without limitation, the cost of all compensation and benefits paid or payable to any person assigned to the District under this Agreement, together with the cost of all textbooks, equipment and supplies provided to the District under this Agreement. The compensation and benefits of personnel provided under this Agreement shall include, without limitation, the cost of salary, fringe benefits, sick leave, personal leave, vacation, retirement contributions, including any applicable surcharge payments, workers' compensation payments, unemployment compensation payments, Medicaid payments and any other sum that the ESC, or its designee, may be required to pay by reason of the employment and assignment of any such individual.

Section 10 -- Payments and Fees

Services shall be billed directly to the District as indicated below. The ESC will, at the end of each fiscal year, reconcile amounts paid by the District directly with the amounts due for programs and Services provided. Adjustments, if any, to such amounts based on agreed changes to the Services and programs provided, or based on the actual cost of the Services and programs provided, shall be made within thirty days of the reconciliation.

All invoices and statements for the Services and programs provided herein by the ESC shall be due and payable not more than 30 days from the date of mailing of the invoice or statement by the ESC.

Related Services, such as Nursing, Psychology, Speech, Occupational Therapy, Social Work, Resource Coordinators, Physical Therapy, Attendance and other similar services are invoiced based on the number of contracted days per week.

Classroom Services, such as, Learning Center, Wellness Center, Transition Living Classroom, Social Communications, and other similar classrooms are invoiced based on the actual number of student enrollment days from enrollment date to the date of withdrawal.

Alternative School seats are invoiced based on the total number of seats purchased for the year.

Customized Services, such as, Preschool Classrooms, Multiple Disabilities Classrooms, Customized Classrooms, Paraprofessionals, Direct Hires for Districts (supervisors, teachers, etc.), Fiscal Services, Human Resource Services, and any other customized services are invoiced based on a quoted cost.

Payment for Related Services, Classroom Services, Alternative School seats, and any Customized Services shall be due even if services cannot be provided due to a public calamity, epidemic, pandemic, or other reason necessitating closure of the school building where the services are provided to students. Notwithstanding the foregoing, payment for the foregoing services described in this paragraph shall not be required if the ESC implements a reduction in force to layoff an employee who was providing such services to the District. The ESC shall consult with the District prior to implementing such a layoff. Payments pursuant to Section 7 of this Agreement may be due to the ESC in the event of a layoff.

The District authorizes the Ohio Department of Education to deduct from District's state funding payments and remit to the ESC, the per pupil amount (currently \$6.50) that is set by the state and paid by the District. The ESC agrees to credit the per pupil amount on the Summary of Services to be used to purchase ESC Services and programming. The per pupil credit must be used in the fiscal year it is deducted from the District's state funding. Unused credits will not be carried forward to the following fiscal year and in no event will it be directly refunded to the District.

Section 11 -- Addenda

The District and ESC agree that the Services specified in this Agreement or applicable Service Quote shall remain in place for the designated school year. However, in recognition of changing pupil needs, the parties agree that modifications to the Services may be made upon mutual agreement of the District's designee and the designated representative of the ESC. Modifications executed by the District's designee must be within the amounts appropriated and certified by the District for any year in which the modifications are effective. All such modifications shall be made in writing in a revised Service Quote. A signed IEP submitted to the ESC by the District's designee shall constitute written notice and a modification to the Services to be provided under this Agreement, provided that such modifications are within the amounts appropriated and certified by the District as indicated above. Modifications that increase services are subject to the availability of qualified staff. Modifications requiring a decrease in staffing levels, services, or materials are subject to the ability of the ESC to reassign staff and redistribute services and

materials to other clients without cost to the ESC. After requesting such a modification, the District will remain responsible for all staff compensation and the cost of such services and materials pending the completion of alternate staffing assignments and the redistribution of services and materials to other clients of the ESC. By approval of this Agreement, the District authorizes the Superintendent/Designee of the District to agree to the provision of and payment for any Service Quote or Summary of Services modifications.

Section 12 -- Intellectual Property

District agrees that the ESC is the sole owner of all content and materials developed under this Agreement, pursuant to the "work made for hire" section of the Copyright Act. The ESC retains the entire distribution rights to any content or materials to exercise as it deems appropriate, with the exception of State or Federally funded materials that become part of the public domain pursuant to the terms of such funding. The District may not use, reuse, distribute, publish, or base derivative works upon such materials resulting from ESC projects without the express, prior written consent of the ESC.

Section 13 -- Amendment/Assignment

Except as expressly provided herein, this Agreement may only be modified or amended by a written agreement executed by both parties. This Agreement, and/or the obligations represented by this Agreement, cannot be assigned or transferred by the ESC without the express, prior written permission of the District. The ESC may, at its sole discretion, employ or subcontract with other individuals or entities to assist in the rendition of services provided under this Agreement.

Section 14 -- Liability

The District and the ESC shall each assume liability for loss, costs or damages resulting from the negligence of either of them, but shall not be liable for any loss, costs or damages resulting from the negligence of the other party.

Section 15 -- Entire Agreement

This Agreement and the Service Quotes contain the entire agreement of the parties as to their subject matter and there are no other promises or conditions in any other agreement, whether written or oral. This Agreement and the Service Quotes supersede any prior written or oral agreements between the parties with respect to the services to be provided as specified herein or in the Service Quotes.

Section 16 -- Severability

If any provision of this Agreement or Service Quotes shall be held to be invalid or unenforceable by any court or agency having jurisdiction over the parties for any reason, the remaining provisions shall continue to be valid and enforceable provided that either party may terminate this Agreement or Service Quote upon five days written notice following the determination of invalidity.

Section 17 -- Waiver of Contractual Right

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel compliance with every provision of this Agreement.

Section 18 -- Applicable Law

This Agreement shall be governed and construed under the laws of the State of Ohio, and exclusive venue for any dispute arising hereunder shall be in Warren County, Ohio, or in the United States District Court for the Southern District of Ohio.

Section 19 -- Representations of the Parties

Signatories to this Agreement and the Service Quotes represent: (1) that the signor has been duly authorized to execute this Agreement and the Service Quotes and bind their respective party to the terms of this Agreement and the Service Quotes by resolution enacted in a public meeting conducted in compliance with all applicable provisions of law; and (2) the party represented by the signature below is not subject to any unresolved findings for recovery by the Auditor of State. This contract was approved by a resolution of the District at its meeting held on _____, 20__ and has been duly recorded in its minutes and certified by the Treasurer of the District. The District shall file a copy of this Agreement with the Ohio Department of Education in accordance with state law.

_____ School District

Warren County Educational Service Center

President

President

Treasurer

Treasurer

Superintendent

Superintendent

Section 20 -- Contact or Designee

School District Contact:

ESC Contact:

Name: _____

Name: Alleyn Unversaw

Title: _____

Title: Treasurer / CFO

School District Address: _____

ESC Address: 1879 Deerfield Road
Lebanon, OH 45036

Section 21 -- Board Resolution

Moved by _____ and seconded by _____ that:

Whereas the Ohio Revised Code, including sections 3313.843 and 3313.845, permits the Governing Board of the Warren County Educational Service Center (“the ESC”) and the Board of Education of the _____ School District to enter into an agreement under which the ESC provides services to the District; and

Whereas the ESC and the District have agreed that the ESC will perform such duties as established by this Agreement and documented at least annually by the Summary of Services as mutually agreed upon by both parties; and

Whereas the ESC and the District agree that the services that are or will be included in the Summary of Services are appropriately provided by the ESC under R.C. § 3313.843.

Therefore be it resolved:

1. The President of this Board is authorized to enter into this contract. The Treasurer is directed to certify a copy of this resolution to the Governing Board of the Warren County Educational Service Center.
2. The Superintendent is hereby authorized to execute Service Quotes and Addenda to the Summary of Services pursuant to Sections 4, 10, and 11 of the Agreement based on the needs of the District. Any such Service Quotes and Addenda must be within the amounts appropriated and certified by the Board.

CERTIFICATION OF TREASURER

I, _____, Treasurer of the Board of Education of the _____ School District, hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by said Board of Education at its _____ meeting on _____, _____.

Treasurer
Board of Education of the
_____ School District