

**Memorandum of Understanding  
Between  
Modesto City Schools  
and Sylvan Union School District**

This Memorandum of Understanding (MOU) is an agreement between Modesto City Schools (MCS) and Sylvan Union School District (SUSD) in regard to the attendance of SUSD Students in the **Deaf and Hard of Hearing (DHH) program operated by MCS for the 2020-2021 school year.**

The purpose of this MOU is to memorialize the agreement between MCS and SUSD in regard to the attendance of Students in MCS's Deaf and Hard of Hearing program.

To those ends, MCS and SUSD agree to the following terms:

- A. MCS agrees to allow Students to attend the DHH program operated by MCS located at La Loma Junior High School, 1800 Encina Ave, Modesto, CA 95354 and Lakewood Elementary, 2920 Middleboro Place, Modesto CA 95355, and Thomas Downey High School, 1000 Coffee Rd., Modesto, CA 95355. In exchange, SUSD agrees it remains the local educational agency (LEA) responsible for the provision of a free appropriate public education (FAPE) to Students and will defend any request for hearing or complaint brought against MCS before the Special Education Division of the California Office of Administrative hearings ("OAH" action) related to the attendance of Students in the DHH program and any court action related to such OAH action.
- B. MCS shall indemnify and hold SUSD and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors ("SUSD Indemnitees") harmless against any and all liability, loss, claim, suit, damages and expense (including reasonable attorney's fees and costs) of any sort arising directly or indirectly from any services or activities of SUSD in any way relating to this MOU or its performance, including but not limited to, any claims for personal or bodily injury, property damage, wrongful death or economic loss of any sort to the extent that such injury, death, loss, expense, damage or liability was proximately caused by the negligent or willful act or omission of MCS, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding SUSD and/or SUSD Indemnitees).

SUSD shall indemnify and hold MCS and its Board Members, administrators, employees, agents, attorneys, and subcontractors ("MCS Indemnitees") harmless against any and all liability, loss, claim, suit, damages and expense (including reasonable attorney's fees and costs) of any sort arising directly or indirectly from any services or activities of SUSD in any

way relating to this MOU or its performance, including but not limited to, any claims for personal or bodily injury, property damage, wrongful death or economic loss of any sort to the extent that such injury, death, loss, expense, damage or liability was proximately caused by the negligent or willful act or omission of SUSD, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding MCS and/or any MCS Indemnitees).

- C. MCS shall maintain and abide by a written policy for students discipline that is consistent with state and federal laws and regulations. If MCS seeks to remove Students from the DHH program operated by MCS at Lakewood, La Loma, and/or Downey for disciplinary reasons, MCS shall schedule and hold a manifestation determination Individualized Education Program (IEP) meeting with Student's IEP team within the statutory timeline. MCS and SUSD agree to participate in any such manifestation determination IEP meeting within the statutory timeline. SUSD and MCS shall notify and invite appropriate IEP team members to the manifestation determination IEP team meeting.
- D. An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of Students, including all state assessment results pursuant to the requirements of California Education Code section 52052; (2) whether or not the needs of the students continue to be best met in the DHH program; and (3) whether changes to Student's IEP are necessary. Except as otherwise provided in the MOU, MCS and SUSD shall participate in all IEP team meetings regarding Students. At any time during the term of this MOU, Student's parent, MCS or SUSD may request a review of Student's IEP subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, SUSD in the meeting. In preparation for IEPs or upon request with 30 days prior written notice (PWN), MCS shall provide to SUSD academic assessments and written progress reports by service providers upon request and/or pursuant to SUSD policy and procedures. It is understood that the attendance of Student's service provider(s) and teacher(s) at IEP team meetings held for Students are part of MCS's professional responsibility and is not a billable service under this MOU.

Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to Student's parent or guardian, MCS and SUSD. If no parent or guardian can attend the meeting, the MCS shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls. If MCS is unable to convince Student's parent or guardian to attend an IEP meeting, MCS shall document and maintain a record of its attempts to arrange a mutually agreed-upon date, time and place for the IEP meeting. The MCS shall also take any action necessary to ensure that the

parent or guardian understands the proceedings at the IEP meetings, including arranging for an interpreter as required by law.

Changes in Student's education program, including instruction, services, or instructional setting, provided under this MOU may only be made on the basis of revisions to the student's IEP. In the event that MCS believes Students requires a change of placement, MCS may request a review of Student's IEP for the purposes of consideration of a change in Student's placement. Students are entitled to remain at the DHH program operated by MCS located at Lakewood, La Loma, and Downey as set forth in the last agreed upon and implemented placement unless Student's parent or guardian provides written consent or an interim alternative educational placement is deemed lawful and appropriate by SUSD or the Office of Administrative Hearings, Special Education Division.

- E. MCS shall maintain all records as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, MCS shall maintain all records for at least five (5) years after the termination of this MOU. For purposes of this MOU, "records" shall include, but not be limited to: pupil records as defined by California Education Code section 4906 (b) including electronically stored information; cost data and fiscal records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes used to record the provision of related services including supervision; daily service logs and notes or other documents used to record the provision of services provided through adult assistance (herein after referred to as "aide"), behavior intervention aides, and bus aides; absence verification records; bus roster; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; and bell/class schedules when applicable.

MCS shall maintain SUSD students records in a secure location to ensure confidentiality and prevent unauthorized access. MCS shall maintain a current list of the names and positions of MCS's employees who have access to confidential records. MCS shall maintain an access log for each SUSD student's record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from Student's record. Such log shall record access to Student's records by: (a) Student's parent or guardian; (b) parties to whom directory information is released pursuant to California Education Code section 49073; (c) and individual to whom written consent has been executed by Student's parent or guardian; or (d) employees of

SUSD or MCS having a legitimate educational interest in requesting or receiving information from the record pursuant to California Education Code Section 49076. For purposes of this paragraph, "employees of SUSD or MCS" do not include subcontractors. MCS shall grant Student's parent or guardian access to students records and comply with parent's or guardian's request for copies of Student's records, as required by state and federal laws and regulations. MCS agrees, in the event of school or agency closure, to forward Students records within ten (10) business days to SUSD. These shall include, but are not limited to, current transcripts, state test score reports, IEP, and reports.

- F. Term/Termination: The term of this MOU shall be from August 1, 2020 – June 30, 2021. Either party may terminate this MOU at any time for any reason, except as otherwise provided by this MOU. To terminate this MOU, either party shall give thirty (30) days written notice to the other party prior to the date of termination.
- G. If, upon notice of termination, there should be any obligations to continue Student's attendance in the DHH program, imposed on either party as a result of the stay put provisions of the Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. § 1415(j)), commonly referred to as "stay put", the parties agree that they will abide by the terms of this MOU until the termination of stay put.
- H. This MOU may be executed in counterparts such that the signatures may appear on a separate signature page. A copy of the original, with all signatures appended together shall be deemed a fully executed agreement. A facsimile version of any party's signature shall be deemed an original signature. Each counterpart shall be deemed an original and the same document for all purposes.
- I. SUSD will be billed whether or not Students attends the DHH program operated by MCS located at Lakewood, La Loma, and/or Downey because the spot in the class is being held for these Students.
- J. MCS and SUSD voluntarily agree to this MOU and agree fully to each of the terms as written above. The parties to this MOU agree that they were given the opportunity to review the MOU and consult with legal counsel.
- K. In as much as the SELPA operates on a fee for service basis, it is understood that all funds earned by the District while students are enrolled in the District's programs, including but not limited to the following funding amounts, will be returned to the respective districts of residence:

- a. ADA earned by the district at the LCFF rate published by the County Office of Education at each apportionment certification.
  - b. AB602 dollars earned at the rate awarded on the AB602 exhibit. If AB602 is funded on Prior Year dollars, then no funds are due if the child was not enrolled in the prior year. If the child is not enrolled in a subsequent year but district is funded on a prior year when child was enrolled, then funds shall be returned to district as earned. If funded on current year ADA, then earning shall be returned in current year.
  - c. Property Tax dollars earned at the rate awarded on the AB602 Exhibit. If AB602 is funded on Prior Year dollars, then no funds are due if the child was not enrolled in the prior year. If the child is not enrolled in a subsequent year but district is funded on a prior year when child was enrolled, then funds shall be returned to district as earned. If funded on current year ADA, then earning shall be returned in current year.
  - d. The providing District shall not be harmed by returning said funds to the District of Residence and shall be entitled to charge the full cost of the Program through its fee schedule to the District of Residence.
- L. Costs for Service: SUSD will receive quarterly invoices by MCS (November, February, May and July for 2020-2021 school year). Costs will fluctuate quarterly. Costs to be paid by SUSD to MCS will not exceed \$195,000.00 for current school year. Costs include services for Deaf and Hard of Hearing SDC and Speech and Language. If student's IEP specifies services other than the ones stated above, the costs will be added to the quarterly invoices paid by SUSD. The cost for services provided to student(s) can be found on the **2020-2021 Summary of Fee for Service Schedule** included in the B & P information packet distributed by the Stanislaus County SELPA on March 10, 2020 and are based on the Form 1's provided by MCS.

As of July 1, 2020, the following SUSD students are to attend the MCS DHH Program in the 2020-2021 school year. Additional students, or removal of students will be handled through the quarterly billing and "true-up" process:

<b><u>Student Name:</u></b>	<b><u>Site:</u></b>
	Lakewood Elementary
	Lakewood Elementary
	La Loma Junior High School

This MOU consisting of five (6) typewritten pages supersedes all prior agreements and understanding between MCS and SUSD with respect to the subject matter.

**APPROVED AND ACCEPTED:**

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Dawn Mori, Director of Special Ed  
Sylvan Union School District  
605 Sylvan Ave  
Modesto, CA 95350

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Date

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Tim Zearley  
Business Services, Chief Business Official  
Modesto City Schools  
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Date

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Christina Romero  
Senior Director, SELPA  
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Date