

AGREEMENT BETWEEN THE UNIVERSITY OF ROCHESTER
SCHOOL OF MEDICINE AND DENTISTRY AND ELMIRA HEIGHTS
CENTRAL SCHOOL DISTRICT

This Agreement is made and entered into at Rochester, New York, this _____ day of _____, 2017, by and between the University of Rochester School of Medicine and Dentistry, a division of the University of Rochester, an educational institution chartered by the State of New York with offices at 601 Elmwood Avenue, Rochester, New York, 14642, hereinafter referred to as “University”, and Elmira Heights Central School District, a New York State School District with offices at 2083 College Avenue, Elmira, NY 14903, hereinafter referred to as “District”.

WHEREAS, District desires to obtain the services of the Division of Developmental and Behavioral Pediatrics to provide technical assistance to District; and

WHEREAS, University agrees to provide these services upon and subject to the terms and conditions hereinafter set forth; and

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the sufficiency of which is hereby acknowledged, District and University do hereby agree as follows:

1. Duties and Obligations.

a. Services and Support. The Division of Developmental and Behavioral Pediatrics of the University of Rochester School of Medicine and Dentistry agree to provide District with the part-time services of a behavioral consultant who shall provide consulting services to District. The Provider shall have those duties as outlined on Attachment A, attached hereto and incorporated by reference to this Agreement. The University certifies that all personnel provided pursuant to this agreement will have all necessary certifications to perform the contracted services current at the time of performance. Requests for expanding the scope of work or increasing the number of hours per identified activity will be negotiated based on agency request and data. Any modifications or additions to the duties defined in Attachment A must be set forth in an amended Attachment A and signed by both parties. Such duties shall be effective July 1, 2017. In the event the University employee is unavailable due to illness, vacation, or an emergency, University may, subject to the approval of Dawn Hanrahan, Middle School Principal and CSE Chair, substitute the services of another qualified University employee. District shall provide University employees with appropriate support to provide these services, including but not limited to, office space, supplies, equipment, and professional and administrative personnel where necessary.

b. Relationship of the Parties and Their Employees. University shall, in carrying out the responsibilities and obligations of this Agreement, be and perform at all times, and in all respects, as an independent contractor providing services. This Agreement is not intended to create any partnership, joint venture or agency relationship between District and University. Nothing herein shall be construed to create an employer/employee relationship between District and University or between District and University’s employees or professional subcontractors, and University and its employees or professional subcontractors shall not be eligible for any employee benefits programs of District nor shall they have any claim under this Agreement or otherwise against District for vacation pay, sick leave, retirement benefits, Social Security,

Workers' Compensation, disability or unemployment insurance benefits, or any other employee benefits of any kind.

2. Compensation. District shall compensate University for the services it provides as agreed to in Attachment B, attached hereto and incorporated by reference. Services will be billed monthly, based on the number of hours of service provided. Payments shall be made in monthly payments no later than the last day of the succeeding month. Invoices shall be sent to Elmira Heights Central School District, 2083 College Avenue, Elmira NY 14903. Payment shall be sent to Developmental and Behavioral Pediatrics, University of Rochester Medical Center, 601 Elmwood Avenue, Box 671, Rochester, New York 14642. Delinquent payments will bear interest at the prime rate determined by Chase Bank plus two (2) percentage points.
3. Term of Agreement. This Agreement shall become effective on July 1, 2017 and shall continue in effect until June 30th, 2018. This Agreement may be renewed by mutual agreement in writing.
4. Termination.
 - a. This Agreement may be terminated at any time upon the mutual written consent of the parties.
 - b. Either party may terminate this Agreement without cause upon 5 days prior written notice.
 - c. Either party may terminate this Agreement for cause upon 5 days prior written notice. Cause is hereby defined as the failure by a party to fulfill its obligations and responsibilities under this Agreement, thereby resulting in a substantial breach of the Agreement. The termination notice shall include specific details outlining the other's party's failure to fulfill its obligations and responsibilities under this Agreement and shall include the proposed termination date. Failure to cure such breach within the 5-day notice period shall result in an automatic termination of this Agreement. A cure of such breach within the 5 day notice period shall cancel the termination notice and this Agreement shall continue in effect until its expiration date.
 - d. Upon termination, District's liability for payment for University's services shall cease, except that District shall compensate University for all services provided prior to the effective termination of this Agreement. If the University supplies another University employee acceptable to District to perform the services on an interim basis, District's payments to the University shall continue at the rate established herein.

5. Insurance.

District shall maintain, or cause to be maintained, during the term of this Agreement, general liability insurance, and property insurance for its premises with minimum coverage for these insurances in the amounts of not less than \$1,000,000 for each claim and \$2,500,000 for the aggregate of all claims. District shall name the University as an additional insured on its general liability insurance policies.

University shall maintain, or cause to be maintained, during the term of this Agreement, professional liability insurance coverage, if required, and general liability insurance in the amount of not less than \$1,000,000 for each claim and \$2,500,000 for the aggregate of all claims.

6. Notices. All notices, requests, demands and other communication that are required or may be given under this Agreement shall be in writing and delivered by personal delivery, or sent by

certified mail and shall be addressed in the case of University to Jennifer Foley, University of Rochester Medical Center, 601 Elmwood Avenue, Box 671, Rochester, New York 14642 and to Director, Office of Counsel to the Medical Center, 601 Elmwood Ave., Box 308, Rochester, New York 14642 and in the case of District to Dawn Hanrahan, Middle School Principal and CSE Chair, 2083 College Avenue, Elmira NY 14903.

7. Records/Confidentiality.

Maintenance of Records. The parties shall maintain complete and accurate books and records concerning the services provided hereunder.

Access to Records. Until the expiration of four (4) years after the furnishing of the services provided under this Agreement, the parties agree to make available to the Secretary, U.S. Department of Health and Human Services, the U.S. Comptroller General, and their representatives, this Agreement and all books, documents and records necessary to certify the nature and extent of the costs of the services rendered under this Agreement. If the duties of this Agreement are carried out through a subcontract worth \$10,000 or more over a twelve (12) month period with a related organization, the subcontract will also contain an access clause to permit access by the Secretary, Comptroller General and their representatives to the related organization's books and records. This clause applies regardless of whether the party is designated elsewhere in this Agreement as a contractor, subcontractor, vendor, and seller or otherwise.

Confidentiality. The parties agree to maintain the privacy, security and confidentiality of all information, including all patient medical records, charts, and related information, transmitted, received through or maintained in connection with the services provided pursuant to this Agreement, in accordance with (i) all applicable statutes and regulations, including without limitation, the applicable requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, Title II, Subtitle F, and regulations from time to time promulgated thereunder ("HIPAA"), (ii) the statutes, rules, and regulations of the Family Education Rights and Privacy Act of 1974, and (iii) and the protocols, rules, policies and other requirements of District and any accrediting agencies, licensors and authorities that are applicable to the parties. If applicable, all patient records, charts and related information disclosed in connection with this Agreement shall remain the property of District; but University shall have access to such records for reasonable business, financial and legal reasons during business hours.

8. Miscellaneous Provisions.

Assignment. Neither District nor University shall have the right to assign their respective rights and obligations hereunder without the written consent of the other party. Any attempt to assign this Agreement without the appropriate written consent shall be immediately void. Notwithstanding the above, this Agreement shall be binding upon and inure to the benefit of University and District and their respective legal representatives, successors, and assigns.

Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all other Agreements, either oral or in writing, among the parties with respect to the subject matter hereof. No change or modification of the Agreement shall be valid unless the same is in writing and signed by the parties.

Waiver of Provisions. Any waiver of any term or condition hereof must be in writing and signed by the parties hereto. The waiver of any term or condition of this Agreement shall not be construed as a future waiver of such term or condition or as a waiver of any other term or condition hereof.

Governing Law; Venue. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of law principles. Any such action arising hereunder shall be venued in the Supreme Court of the State of New York, County of Chemung.

Severability. The provisions of this Agreement shall be deemed severable, and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties, unless to do so would clearly violate the present legal and valid intention of the parties hereto.

Contract Modifications for Prospective Legal Events. In the event any state or federal laws or regulations, now existing or enacted or promulgated after the effective date of this Agreement, are interpreted by judicial decision, a regulatory agency or legal counsel of District and University in such a manner as to indicate that the structure of this Agreement may be in violation of such laws or regulations, District and University shall amend this Agreement as necessary so as to fully comply with such state or federal laws or regulations as so interpreted.

Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, and such counterparts will together constitute the same instrument.

Authority to act as Agent. Neither District nor University are authorized to act as agent for the other or incur any liability or dispose of any assets in the name of or on behalf of the other unless provided in this Agreement or specifically authorized by the party which would be responsible for the obligation.

Execution of Agreement. The undersigned represent that they have executed this Agreement with the full authority of their respective governing bodies, and nothing contained herein shall cause any of the parties to be in violation of other pre-existing agreements, federal or state laws or regulations.

Force Majeure. University shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is caused by any reason beyond University's control, or by reason of any of the following occurrences: labor disturbances or labor disputes of any kind, accidents, failure of any governmental approval required for full performance, civil disorders or commotion's, acts of aggression, floods, earthquakes, acts of God, energy or other conservation measures, explosion, failure of utilities, mechanical breakdowns, material shortages, disease, or other such occurrences.

No Third Party Rights. The provisions set forth in this Agreement are for the sole benefit of the parties hereto and their successors and permitted assigns, and they shall not be construed as conferring any rights on any other persons or entities.

Use of University's Name, Trademarks, etc. District shall not use, in advertising or otherwise, University's name, trademarks, service marks, logos, or property, or the names, images, or

photographs of any of University's employees, without the prior written consent of University which may be withheld in its sole discretion.

Headings. The paragraph headings herein are for convenience only and shall not affect the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year noted above.

University of Rochester School of Medicine and Dentistry

By: _____

Name: William Passalacqua
Title: Senior Associate Dean

_____ Date

Elmira Heights Central School District

By: _____

Name: Dawn Hanrahan
Title: Middle School Principal and CSE Chair

_____ Date

ATTACHMENT A

Scope of Work – Technical Assistance (student-based)

Purpose: To assist the teaching team in building capacity to provide educational and behavioral intervention to one or more students with challenging learning needs.

Objectives:

- a) To improve individual student outcomes, behaviorally and educationally.
- b) An increase in student independence.
- c) An increase in the school team’s understanding of educational and behavioral principles so that they can become more independent in assessing the needs of the children in their class.

Model Format: Once the District has obtained the parents’ written consent, a copy of which shall be given to University, student-based technical assistance will be provided to the teaching team and will focus on developing systems to:

- 1) identify, develop, implement and/or evaluate appropriate educational and behavioral interventions for the student(s) with challenging learning needs that support district teaching and learning standards.
- 2) assist team in conducting functional behavioral assessments (FBA’s); develop, implement, and evaluate behavioral support and intervention plans; provide staff training; and assist in adapting educational curriculum, as needed.
- 3) assess the effectiveness of general and special education teacher classroom management strategies and make adjustments based on individual child needs.

Once the District has obtained the parents’ written consent, a copy of which shall be given to University, student-based technical assistance will be provided with purposes and outcomes as detailed above.

Attachment B

<u>Type of Service</u>	<u>Rate</u>	<u># hours</u>	<u>#units</u>	<u>Cost</u>	<u>Total</u>
	\$				
TA Individual	155.00	45		\$ 6975.00	
	\$				
Travel: 1.75 hrs one-way trip (42 hours)	145.00	42		\$ 6090.00	
Mileage: .535/mile 100 miles/one-way 24 trips	\$ 0.535		24	\$1284.00	
Total Hours:				\$14,349.00	
The not to exceed amount of this agreement is:				\$14,349.00	\$ -