

# INTERAGENCY AGREEMENT

OSPI Agreement No. C23-0375  
DSHS Agreement No. 1161-33096

between

## DEPARTMENT OF SOCIAL AND HEALTH SERVICES

P.O. Box 45010  
Olympia, Washington 98504-5010

and

## OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION

Old Capitol Building, P.O. Box 47200  
Olympia, Washington 98504-7200

**THIS AGREEMENT** is made by and entered into between the Department of Social and Health Services (DSHS) and the Office of Superintendent of Public Instruction (OSPI) under the authority of chapter 39.34 RCW.

**PARTIES:** OSPI, through its Special Education Operations Office, is the state educational agency (SEA) responsible for Part B services to children with disabilities, aged 3-21, who qualify for special education services pursuant to the Individuals with Disabilities Education Act (IDEA), and the state regulations, Chapter 392-172A WAC, which implements the federal provisions. As the SEA, it exercises general supervisory authority over local education agencies (LEAs) and other public agencies providing special education and related services to eligible students.

DSHS, through its program administrations, provides services to children who meet eligibility criteria of its various programs. These DSHS services may include, but are not limited to, children and family services, juvenile rehabilitation services, economic services, mental health services, vocational rehabilitation services, services to persons with developmental disabilities, and alcohol and substance abuse services. Children participating in DSHS public programs may also be eligible for special education.

**PURPOSE:** Under IDEA, OSPI is to develop methods to identify interagency coordination responsibilities with other non-educational public agencies that provide or are required to provide services to eligible students because of those students' concurrent eligibility for Medicaid or other public benefits or programs. The purpose of this Agreement is to ensure the continued coordination between DSHS, through its program administrations, and OSPI, through the LEAs, to ensure eligible children receive services available through DSHS and LEAs. This Agreement supplements any existing resolutions between DSHS and OSPI that address coordination of services to the extent those resolutions are applicable to children eligible for special education and DSHS programs. Program administrations at the regional or local level and LEAs are encouraged to facilitate effective coordination and continuity of services to eligible children by developing working agreements.

**SCOPE:** This Agreement sets forth the General Terms and Conditions which shall govern this Agreement and any Program Agreements signed between OSPI and DSHS. This Agreement acknowledges the parties' general responsibilities to children eligible for both special education, which is provided by LEAs, and related services, which may be provided by LEAs or various program administrations within DSHS pursuant to Part B of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et. Seq. The terms of this Agreement are binding on and incorporated by reference in any Program Agreements developed between OSPI, Special Education Operations Office, and DSHS Program Administrations.

**THEREFORE, IT IS MUTUALLY AGREED THAT:**

**1. DEFINITIONS**

The words and phrases listed below, as used in this Agreement and any Program Agreement shall each have the following definitions:

- “Agreement” means this Interagency Agreement and any other documents including Program Agreements incorporated by reference.
- “DSHS Contracting Officer” means the Contracts Administrator, or successor, of DSHS Central Contract Services or successor section or office.
- “DSHS” or “the department” or “the Department” means the Department of Social and Health Services of the State of Washington and its Secretary, officers, employees, and authorized agents.
- “OSPI” means the Office of Superintendent of Public Instruction of the State of Washington and its officers, employees, and authorized agents.
- “OSPI-DSHS Program Agreement” or “Program Agreement” means an agreement between OSPI and DSHS specifying services provided to children by a particular administrative program within DSHS, coordinating duties of that program and OSPI and/or LEAs.
- “IDEA” means the Individuals with Disabilities Education Act and its implementing federal regulations, 34 CFR Part 300. State regulations implementing IDEA are located at Chapter 392-172A WAC.
- “LEA” means local educational agencies, also known as school districts or other public agencies who are providers of education.
- Program administration means the administrations established under DSHS for the provision of services to DSHS clients, including but not limited to Children’s Administration, Juvenile Rehabilitation Administration, and Aging and Disability Services Administration, or its successor administrations and divisions.
- “Related services” means developmental, corrective, and other supportive services as are required to assist a special education student to benefit from special education, which can include services provided by program administrations of DSHS.
- “Special Education Director” means: the state Director of Special Education, or successor of OSPI Special Education, or its successor section or office.

## **2. COORDINATION**

OSPI and DSHS will:

- Share leadership responsibility at the state level and maintain communication at the state and local levels so that available resources are used for the provision of special education and related services.
- Coordinate services to students who are eligible for special education and related services through this Agreement, and through any supplemental Program Agreements between DSHS administrations and OSPI.
- Establish a framework for collaboration and dispute resolution between OSPI, the LEAs, and DSHS and its program administrations in the provision of services to children with disabilities. Coordination and provision of services shall continue during the pendency of any dispute regarding this Agreement.
- Assume separate financial responsibility for providing services to eligible special education students who are also eligible for services of the program administrations.
- Assure that the delivery of special education and related services are provided to eligible children in compliance with federal and state laws and regulations.

## **3. PERIOD OF PERFORMANCE**

Subject to its other provisions, the period of performance of this Agreement shall commence on October 1, 2011, and be completed on September 30, 2016, unless terminated sooner, or extended as provided in Section 4 of this Agreement.

## **4. AGREEMENT ALTERATIONS AND AMENDMENTS**

The parties may amend this Agreement and any Program Agreement, including an amendment to extend the period of performance. Amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

## **5. CONTRACT MANAGEMENT**

The program managers for each of the parties are responsible for and are the contact persons for all communications regarding performance of the contract:

OSPI: Pam McPartland at [Pamela.mcpartland@k12.wa.us](mailto:Pamela.mcpartland@k12.wa.us); 360-725-6075

DSHS: Judy Hall at [HallJJ@dshs.wa.gov](mailto:HallJJ@dshs.wa.gov); 360-902-8251

OSPI designated authority to amend: Director, OSPI Special Education, or his or her successor or designee. DSHS designated authority to amend: DSHS Contracting Officer, or his or her successor or designee.

**6. DISPUTES BETWEEN OSPI AND DSHS**

Parties are encouraged to resolve disputes at the lowest possible level. Any dispute that cannot be resolved at the lowest possible level should first be directed, in writing, to the OSPI Superintendent of Public Instruction and the Secretary of DSHS. If resolution is not achieved at the agency level, it will be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members appointed will jointly appoint an additional member to the Dispute Board. The Dispute Board will review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Determination of the Dispute Board is final and binding on the parties. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

**7. DISPUTES BETWEEN LEAs AND DSHS**

OSPI and DSHS encourage coordination and problem solving at the lowest possible level. To this end, DSHS, Program administrations, OSPI and the LEAs are encouraged to address issues of coordination, service, and reimbursement at the local level. If an LEA and DSHS program administration cannot resolve an issue at this level, while recognizing LEAs are not parties to this Agreement, OSPI and DSHS agree that the LEA or DSHS Program administration can request intervention from OSPI and DSHS to provide assistance in resolving the dispute. A written request for intervention shall be made to OSPI's special education director of operations or his or her designee and the applicable DSHS program manager or his or her designee. If the matter is not resolved at this level, the dispute will be resolved using the process outlined in Section 6.

**8. GOVERNANCE**

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement and any Program Agreement shall be construed to conform to those laws. In the event of a lawsuit involving this Agreement, venue is proper only in Thurston County, Washington.

In the event of an inconsistency in the terms of this Agreement or any Program Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable federal, state, and local law and regulations;
- b. this Agreement;
- c. applicable Program Agreement, if any; and
- d. any documents incorporated by reference.

**9. SEVERABILITY**

If any provision of this Agreement or any Program Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement or the applicable Program Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement and the applicable Program Agreement, and to this end the provisions of this Agreement and each Program Agreement are declared to be severable.

**10. ALL WRITINGS CONTAINED HEREIN**

This Agreement and the Program Agreements, when signed, contain all the terms and conditions agreed upon by DSHS and OSPI on matters related to Special Education and related services. No other understandings, oral or otherwise, regarding the subject matter of this Agreement or any Program Agreement, once signed, shall bind the parties. Any existing agreements between OSPI and DSHS shall continue in full force and effect until replaced by an executed Program Agreement.

**11. COMPLIANCE WITH APPLICABLE LAW**

All activity pursuant to this Agreement and any Program Agreement shall be in accordance with all applicable federal, state, and local laws and regulations, including all non-discrimination laws and regulations.

**12. CONFIDENTIALITY**

The parties shall comply with all applicable federal and state laws and regulations regarding use or disclosure of information, including, but not limited to information concerning children receiving services addressed in this Agreement. The parties shall not use or disclose any information for any purpose not directly connected with the administration of their responsibilities under this Agreement or Program Agreement, except by prior written consent of the parent or adult student or as permitted by law.

**13. INSURANCE**

Each party is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for tort losses for which it is found liable.

**14. LIMITATION OF LIABILITY**

Each party to the Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of the Agreement. No party to the Agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to the Agreement.

**15. INDEPENDENT CAPACITY**

The employees or agents of each party who are engaged in the performance of this Agreement or any Program Agreement shall continue to be employees or agents of that party and shall not claim nor be considered for any purpose to be employees or agents of the other party.

**16. ASSIGNMENT AND SUBCONTRACTING**

The parties shall not assign all or any portion of this Agreement to a third party. The parties may subcontract without prior approval. The contracting party shall be responsible for the acts and omissions of any subcontractor.

**17. WAIVER**

The waiver of any breach of this Agreement on any occasion shall not be deemed to be a waiver of any subsequent breach of this Agreement. Only authorized personnel of each party may waive any provision or breach of this Agreement.

**18. TERMINATION**

- a. If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement or any Program Agreement, or if either party violates any of the terms and conditions in this Agreement or any Program Agreement, the aggrieved party may give the other party written notice of such failure or violation. The responsible party shall be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not so corrected, the parties to the Agreement shall address violations through the dispute mechanisms addressed in Section 6, before terminating the Agreement described in Section 18.b.
- b. Either party may terminate this Agreement and/or any Program Agreement by providing 90 calendar days' written notice to the other party. Termination of this Agreement does not relieve either of the parties from the existing obligations under other contracts or applicable federal or state law to provide special education and related services under IDEA.
- c. If this Agreement or any Program Agreement is terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement and the applicable Program Agreement prior to the effective date of termination. However, this does not relieve either party of obligations existing under IDEA, or other applicable federal or state laws relating to services to special education students.

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

State of Washington  
Department of Social and Health Services

*Jennifer Hansen*  
Jennifer Hansen, Contracts Manager

9.20.11

Date

State of Washington  
Office of Superintendent of Public Instruction

*Sheryl Turner*  
Sheryl Turner, Contracts Administrator

9/22/11

Date

**Approved as to FORM ONLY  
by the Assistant Attorney General**