

**FIRST AMENDED  
JOINT POWERS AGREEMENT  
ORANGE COUNTY  
SPECIAL EDUCATION ALLIANCE**

THIS AGREEMENT is made and entered into by, between, and among the public educational agencies which have elected to unite in the joint powers entity hereby created, and those public educational agencies which may hereafter elect to join.

**WITNESSETH**

WHEREAS, it has been determined by the parties which are signatories hereto that there exists a need for a countywide system for the review and appeal of special education cases, of countywide and statewide legal significance;

WHEREAS, the assistance to be provided jointly hereunder will result in benefits to each of the parties hereto, at a lower cost than if such review and appeals were separately provided in another manner;

WHEREAS, 20 U.S.C. Section 1415 and Education Code Section 56505 authorize school districts to appeal hearing officer decisions to a court of competent jurisdiction; and

WHEREAS, federal and state law authorize judicial review of administrative decisions and processes.

NOW, THEREFORE, for and in consideration of the mutual advantages to be derived herefrom, and in consideration of the execution of this Agreement by other public educational agencies, each of the parties hereto does agree as follows:

1. CREATION OF THE JOINT POWERS ENTITY

A public entity, separate and apart from the parties to this Agreement, is hereby created and shall be designated as the Orange County Special Education Alliance (hereinafter "Alliance") upon approval by districts representing two-thirds of the student average daily attendance (A.D.A) in Orange County.

2. FUNCTIONS OF THE ALLIANCE

The Alliance is established as an Orange County collaborative to support systemic legal change in special education by jointly supporting selected special education cases through judicial and administrative processes. Examples of these functions would include, but not be limited to:

- a. Providing leadership in providing staff development and training to county office and district employees in alternate dispute resolution mediation, communication skills, special education issues, and other issues that will assist districts in resolving special education disputes and improve the delivery of special education services to children in the public schools.

- b. Providing leadership for advocating legislative and administrative change by working with legislators and state agencies.
- c. Provide training and counsel on critical special education issues of countywide significance that would decrease the amount of litigation in special education.
- d. Reviewing special education decisions and rulings rendered by administrative agencies and the courts, including, but not limited to decisions by the California Department of Education, the Special Education Hearing Office and the United States Department of Education, Office for Civil Rights brought to the Alliance by member districts.
- e. Analysis of special education decisions and rulings brought to the Alliance by member districts to determine if the decisions or rulings are of countywide or statewide significance, have precedential value affecting districts throughout Orange County or by the nature of the decision or ruling could lead to needed systemic change if appealed and overturned.
- f. Assisting districts in the funding of litigation and appeals of administrative and judicial decisions and rulings where the outcome of the decision has countywide significance or is precedent setting on a statewide or countywide basis.
- g. The filing of amicus briefs in appropriate cases.
- h. Assisting districts in resolving attorney fee and advocacy fee disputes.
- i. Establishing criteria for determining the key issues involving special education including the principal areas in need of systemic change.
- j. Identifying representatives to attend Special Education Hearing Office (SEHO) Advisory Committee meetings and other similar administrative and regulatory meetings on behalf of Orange County districts.

3. TERM OF AGREEMENT

This Agreement shall be effective upon execution hereof, and shall continue in effect until terminated as provided herein. In the event of a reorganization of one or more of the public educational agencies participating in this Agreement, the successor in interest to the obligations of any such reorganized agency shall be substituted as a party or parties to this Agreement.

4. MEMBERSHIP

In addition to the public educational agencies which are parties to this Agreement, other public educational agencies may become parties hereto pursuant to the Bylaws of the Alliance.

5. EXECUTIVE COMMITTEE

The Executive Committee shall include each of the Superintendents of participating school districts in Orange County and the Orange County Superintendent of Schools.

The Executive Committee shall develop and publish Bylaws governing the establishment and maintenance of the delivery system. A copy of said Bylaws will be provided to each of the parties hereto. Each party to this Agreement agrees to comply with and be bound by the provisions of said Bylaws and further agrees that the Alliance will be operated pursuant to this Agreement and the Bylaws.

6. REVIEW COMMITTEE

There shall be a twelve (12) member Review Committee. The Review Committee shall be constituted as follows:

- Five Superintendents of school districts in Orange County
- Three special education administrators from SELPA or school districts in Orange County
- Two attorneys in private practice representing school districts in special education matters
- One attorney from the Orange County Department of Education
- One business official from a school district in Orange County

There shall be no more than one representative from any individual district.

7. ADMINISTRATION OF ALLIANCE

The Executive Committee shall administer this Agreement. The Executive Committee shall exercise the functions of the Alliance, and shall possess powers which include but are not limited to the following:

- a. To make and enter contracts.
- b. To employ agents and employees.
- c. To incur debts, liabilities or obligations related to the purpose of this Agreement.
- d. To take legal action on behalf of the Alliance, address legal issues collaboratively, support district legal actions, and file amicus briefs consistent with this Agreement.

8. TREASURER/AUDITOR

An employee of the County Superintendent shall be designated as the Treasurer/Auditor of the Alliance. The Treasurer/Auditor shall be the depository and have custody of all the money of the Alliance, from whatever source. The Treasurer/Auditor shall:

- a. Receive and receipt for all money of the Alliance and deposit it in the County School Service Fund to the credit of the Alliance.
- b. Be responsible for the safekeeping and disbursement of all money of the Alliance so held by the Treasurer/Auditor.
- c. Pay, when due, out of money of the Alliance so held by the Treasurer/Auditor, all sums payable by the Alliance only upon warrants authorized by the Treasurer/Auditor and drawn by the Treasurer of Orange County or the Treasurer's authorized representative.
- d. Verify and report in writing on the first day of July, October, January, and April of each year to the parties to this Agreement the amount of money held for the Alliance, the amount of receipts since the last report, and the amount paid out since the last report.

9. ACCOUNTS AND RECORDS

a. Accountability:

The Treasurer/Auditor shall have the duty to maintain at all times strict accountability of all funds received and disbursed. The Treasurer/Auditor shall cause to be kept proper accounts and records in which complete and detailed entries shall be made of all transactions including all receipts and disbursements. Such accounts and records shall be kept in accordance with applicable law and generally accepted accounting principles. Said accounts and records shall be subject to inspection at any reasonable time by representatives of each of the parties to this Agreement.

b. Audit:

The County Superintendent shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Alliance. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code and shall conform to generally accepted auditing standards. Reports of such audits shall be filed as public records with each of the parties to this Agreement and also with the Auditor for Orange County. Such reports shall be filed within twelve (12) months of the end of the fiscal year or years under examination. Any costs of the audit, including contracts with, or employment of certified public accountants, shall be borne by the Superintendent and shall be a charge against any unencumbered funds of the Superintendent available for the purpose.

10. PAYMENTS

- a. Each participant agrees to pay annually to the County Superintendent the sum of \$.50 per ADA. The Superintendent shall prepare an invoice for the services performed and submit the invoice to each participant prior to July 1 of each year.

Payment shall be made annually, on or before August 15 of that fiscal year. Payment shall be mailed to Orange County Superintendent of Schools, 200 Kalmus Drive, Costa Mesa, California 92628-9050, or to such other place as the County Superintendent may designate in writing.

- b. Each fiscal year, the Executive Committee shall reevaluate the cost of the service. On or before April 15 of the second and each succeeding year of this Agreement, the Executive Committee shall report to each participant the amount that has been determined to be paid for the ensuing year. Said amount shall be paid by the participant on or before August 15, unless the participant has given notice of its intention to withdraw from the County-wide delivery service pursuant to Section 10 of this Agreement.

11. WITHDRAWAL

Any participant may withdraw from this Agreement and from the Alliance hereby formed by giving written notice of its intention to do so on or before May 15 of the then current fiscal year. The withdrawal of the participant will be effective on July 1 of the next fiscal year.

12. TERMINATION OF AGREEMENT

This Agreement may be terminated, except for the purposes of winding up the affairs of the Alliance, effective at the end of any fiscal year by the affirmative action by a simple majority of all the public educational agencies then parties to the Agreement. The inclusion of additional parties to this Agreement or the withdrawal of some but not all of the parties to this Agreement shall not be deemed a dissolution of the Alliance or a termination of this Agreement. Should district participation in the Alliance drop to the point where the remaining participating districts represent less than 50 percent of student A.D.A. this Agreement shall terminate.

13. DISPOSITION OF FUNDS

In the event of the dissolution of the Alliance, or the complete rescission or other final termination of this Agreement, any property interest remaining in the Alliance following a discharge of all obligations shall be returned in proportion to the contributions made by the then parties to the Agreement.

14. SEVERABILITY

Should any portion, term, condition or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with the laws of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions shall not be affected thereby.

15. LIABILITY

Pursuant to the provisions of Section 895.4 of the Government Code, each party hereto agrees to indemnify and hold the other parties harmless from all liability for damage, actual or alleged, to persons or property arising out of or resulting from negligent acts or omissions of the indemnifying party.

The Alliance may insure itself, to the extent deemed necessary by the Executive Committee, against loss, liability and claims arising out of or connected with this Agreement.

16. AMENDMENTS

This Agreement may be amended by a simple majority vote of all parties to the Agreement. Any such amendment shall be effective upon the date of execution thereof, unless otherwise provided in the amendment.

17. EXECUTION

This Agreement may be executed by each participant on a separate copy thereof with the same force and effect as though all participating agencies had executed a single original copy.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized officers hereunto duly authorized as set forth herein below.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PARTICIPANT DISTRICT

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

Date Approved by Governing Board: \_\_\_\_\_