

**SCHOOL DISTRICT OF CLAY COUNTY
TITLE 10 SUPPLEMENTAL EDUCATIONAL SERVICES CONTRACT**

THIS SUPPLEMENTAL EDUCATIONAL SERVICE PROVIDER AGREEMENT ("Contract") is made and entered into this 18th day of December 2008 ending June 30, 2009, between the School Board of Clay County, Florida (hereinafter referred to as "the BOARD") duly operating under the Laws of the State of Florida, 900 Walnut Street, Green Cove Springs, Florida 32043 and Sylvan Learn Center, 1414 Kingsley Avenue, Orange Park, Florida 32073, Supplemental Educational Service Provider (hereinafter referred to as "the PROVIDER") for the purpose of providing Supplemental Educational Services (SES) to eligible students as agreed upon in the *Student Learning Plan (SLP)*. Eligible students are those students that have been identified by employees of the BOARD who meet specific requirements under Title 10, Part C of the No Child Left Behind Act of 2001.

BOARD is authorized by NCLB and the State of Florida to enter into an agreement with the State-Approved Supplemental Educational Service PROVIDERS for the aforementioned purpose.

WHEREAS, PROVIDER is specially trained and experienced and competent to perform the SES required by District, and such services are needed on a limited basis;

WHEREAS, No Child Left Behind Act, Title 10, Part C Section 116 (e) and Title I Final Regulations 34 CFR parts 200.46-200.48 outlines the requirements for supplemental educational services.

WHEREAS, No Child Left Behind Act, Title 10, Part C Section 116 (e) and Title I Final Regulations 34 CFR parts 200.46-200.48 contains the following requirements:

- a. Provider's implemented SES program in the School District of Clay County must adhere to the specification and assurances made in the approved application made to the State of Florida and requires PROVIDER to develop, in consultation with parents (PROVIDER chosen by parents), a statement of specific achievement goals for the student described in the SES Student Learning Plan (SLP), how the student's progress will be measured, and a timetable for improving achievement, and in the case of a student with disabilities, is consistent with student's Individual Education Plan or 504 Plan;
- b. PROVIDER must continue to provide supplemental educational services to eligible students who are receiving such services until the end of tutoring as deemed appropriate by the employees of the BOARD or until their student allocation is depleted.
- c. Requires a description of how the student's parents and teacher or teachers will be regularly informed of the student's progress. Such progress will be reported, at a minimum, after every six hours of tutoring.
- d. Requires a provision for the termination of the Contract if PROVIDER is unable to meet the goals and timetables required;
- e. Requires provisions with respect to making payments to PROVIDER by BOARD;
- f. Prohibits PROVIDER from disclosing to the public the identity of any student eligible for, or receiving Supplemental Educational Services without the written permission of the parent of such student;

WHEREAS, PROVIDER has been approved by the State of Florida Department of Education and has met the qualifications to be certified as a Supplemental Educational Services PROVIDER;

WHEREAS, PROVIDER is willing to provide such services to School District's eligible students if selected by the parent/guardians of eligible students;

THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, it is agreed between the parties as follows:

1. Enrollment Form

PROVIDER shall not reproduce or complete the Enrollment Form. It is the PARENTS sole responsibility to complete the Enrollment Form. Only Enrollment Forms with original signatures will be accepted by the BOARD. PROVIDER is prohibited from editing or altering the content of any BOARD form or document without the explicit permission of the School District Title I Office, including but not limited to, the SES Enrollment Form.

2. Student Learning Plan (SLP)

A Student Learning Plan (SLP) shall be developed by PROVIDER in consultation with parents/guardians and BOARD employees. After each eligible student is assessed, a SLP is developed for each student whose parent/guardian elects to receive SES from PROVIDER. Changes in any student's SLP may only be made with the consent of BOARD employees in consultation with parents/guardians. PROVIDER, BOARD employees or the parent/guardian may request a review of a student's SLP.

PROVIDER shall not unilaterally terminate any SLP. PROVIDER shall obtain written authorization from BOARD before terminating any SLP.

The SLP is a binding agreement between the Parent, BOARD employees, and PROVIDER and must be strictly adhered to, including the tutoring times listed. Any changes in the SLP must be agreed upon by all parties prior to any changes taking place.

Parents/guardians shall not be charged for any services rendered under the SLP unless such services and charges are clearly identified in writing *as a separate contract (independent of this contract)*, agreed upon in advance and signed by the parents/guardian. *In no event shall the agreed upon charges obligate BOARD financially, nor shall BOARD incur any obligations or expense in excess of the state/federal reimbursement amount.*

3. Parents/Guardianship

For the purpose of this Contract, a parent is the natural or adoptive parent, legal guardian, or a surrogate parent as indicated in the legal system.

4. Student Records

All student records shall be kept in a secure location preventing access by unauthorized individuals. PROVIDER will maintain *an access log delineating, date, time, agency, and identity of any individual accessing student records* who is not in the direct employ of PROVIDER. PROVIDER agrees to provide access to and copies of student records to BOARD employees and/or the parents/guardians of district's students. PROVIDER shall not forward to any person

other than parents/guardians, any student record without the written consent of the parent/guardian or BOARD employees. Upon completion of the SLP or termination of this Contract, the PROVIDER shall turn over to BOARD employees all student records for the District's eligible students to whom PROVIDER has rendered services under this Contract.

After 3 absences a student may be removed from the PROVIDER roster. PROVIDER shall provide the BOARD employees with documentation that verifies that three attempts were made to contact parents to develop the required SLP before the student will be removed from the PROVIDER'S roster. The form to record student absences and attempts to make contact with the parent in order to develop the required SLP will be provided by the BOARD employees.

5. District Access

PROVIDER shall notify BOARD employees of the location and/or any change in location at which it is providing services to eligible students. It shall allow access to its facilities for periodic monitoring of each student's instructional program by BOARD employees and shall be invited to participate in the review of each student's progress by BOARD employees. BOARD representatives shall have access to observe each student at work, observe the instructional setting, interview PROVIDER, and review students' progress including the behavior intervention plan, if any.

6. Fingerprint/Background Check

In accordance with Florida Statute, 1012.32 all employees of PROVIDER that work with students in the school district shall, for a fee, be fingerprinted, and undergo a sexual predator and a level II criminal background check conducted annually through a contractor approved by the Clay County School Board prior to working with students. Employees of PROVIDER, who instruct students as distant learners shall be fingerprinted, and undergo a sexual predator and level II criminal background check. PROVIDER will certify to BOARD that no employee of PROVIDER working with students of the school district has been convicted of any offense set forth in 1012.467 Fla. Stat. or as a sexual predator as defined by statutes. Under no circumstance shall employees of PROVIDER work with students prior to the completion of a fingerprint and background check. Notwithstanding the results of any criminal background check, the BOARD reserves the right to prohibit any employee of PROVIDER from having contact with students on BOARD property if the BOARD has reason to believe that the safety or health of the students might be in jeopardy.

Per the Florida Department of Education, tutors must meet the minimum education requirements of an Associates Degree, 60 hours of college credit, or have received ParaPro Certification. Therefore PROVIDERS shall submit college transcripts or ParaPro assessment results of tutors who are not certified teachers to the BOARD employees for verification of eligibility to provide tutoring to students.

7. Independent Contractor Status

This Contract is by and between two independent agents and is not intended to and shall not be construed to create the relationship agent, servant, employee, partnership, joint venture, or association. PROVIDER understands and agrees that it shall be responsible for providing its own salaries, payroll, taxes, withholding, insurance, workers compensation coverage and all other benefits of any kind, as required by law for its own employees, and assumes the full responsibility for the acts, and/or omissions of his/her employees or agents as they relate to the services to be provided under this Contract.

8. Conflict of Interest

PROVIDER agrees to furnish to BOARD (upon request) a valid copy of the most recent adopted partnership Agreements or bylaws of the corporation and also a complete and accurate list of the Governing Board of Directors (or Trustees or Partners) and to timely update said information as changes in such governance occur. PROVIDER shall avoid any actual or potential conflict of interest on behalf of itself or its employees providing services hereunder, including but not limited to, employment with BOARD.

All mass distributed correspondence including email, U.S. Mail, or backpack distribution to BOARD employees, SES parents/guardians or students must be approved through the Title I Office prior to distribution. BOARD employees must approve any written material distributed to schools or parents, and must also approve any student recruitment activities that PROVIDERS conduct outside of recruitment activities coordinated by the BOARD employees.

9. Accident/Incident Report

PROVIDER agrees to submit a written accident report to BOARD within five (5) days of an accident or incident when a pupil has suffered an injury, or injured another individual, or has been involved in an activity requiring notification of law enforcement or emergency personnel.

10. Discrimination

PROVIDER shall not discriminate on the basis of race, religion, sex, age, or handicap in employment or operation of its programs.

11. Child Abuse Reporting

PROVIDER assures BOARD that all staff members, including volunteers, are familiar with and agree to adhere to child abuse and/or missing children reporting obligations and procedures under Florida law, including but not limited to, Florida Statute 1006.061. PROVIDER agrees to provide annual training to all its employees regarding mandated reporting of child abuse and missing children. PROVIDER agrees that all staff members will abide by such laws in a timely manner.

PROVIDER shall submit immediately by facsimile and mail, within twenty-four (24) hours, an accident or incident report to BOARD when it becomes aware of circumstances including, but not limited to: allegations of molestation, child abuse, missing children under PROVIDER's supervision.

12. Supplies, Equipment and Facilities

PROVIDER shall be solely responsible for the provision of all appropriate supplies, equipment, and facilities for a pupil as required in his/her SLP. PROVIDER shall submit to BOARD employees sample of materials to be used by the tutors prior to tutoring. Materials shall be returned, by request, to PROVIDER after tutoring obligations have been met for all students. No student is to be tutored in a one to one situation. If tutoring is to be delivered in a one-to-one situation, it must be provided in the school library or other location that prohibits the tutor and student from being alone. A PROVIDER who desires to use BOARD facilities must make a separate application for use of facilities through the Agreement of Use of Facilities and Grounds form. PROVIDER'S shall rent classroom space for \$25 per day. BOARD employees may deny an applicant's request.

PROVIDERS who are permitted to use DISTRICT'S facilities shall submit payment to the school along with a copy of the school's original invoice and a check for the total amount due. Such invoices shall be submitted within fifteen (15) days of utilizing the building for the preceding month. PROVIDER shall process payments, made payable to the school, within forty-five (45) days of receipt of such invoices. **Computer Use: Computer use shall be governed as outlined in Exhibit A which is attached hereto and incorporated herein.**

13. Control of Students

PROVIDER, while providing services, shall be responsible for the control of all students from the time the student arrives for services until the student is placed under the control of the parent/guardian, at the end of the service. PROVIDER is responsible for their instructors to attend tutoring sessions at their scheduled times, being on time to tutoring sessions, and remaining with the students until the end of the scheduled tutoring session.

14. Inspection and Audit

PROVIDER shall provide access to records or reports, or other matter relating to the Contract, upon request by BOARD employees. Fiscal records shall be maintained by PROVIDER for five (5) years and shall be available for audit. BOARD reserves the right to make monitoring visits to PROVIDERS during SES tutoring without previous notification.

15. Indemnification

PROVIDER shall defend, hold harmless, and indemnify BOARD and its governing board, officers, agents, and employees from and against all liabilities and claims for damage for death, sickness, or injury to any person(s) or damage to any property, including, without limitation, all consequential damages and expenses (including attorney fees), from any cause whatsoever arising from or connected with its service hereunder, resulting from the negligence or intentional acts of PROVIDER, its agents or employees. It is understood and agreed that such indemnity shall survive the termination of this Contract.

16. Insurance

During the entire term of this Contract any extension or modification thereof, PROVIDER shall maintain in effect a policy or policies of liability insurance, including general liability coverage and coverage of owned and non-owned vehicles used in relation to the performance of service(s) by PROVIDER, with bodily injury liability limits of at least one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) combined coverage per accident or occurrence, and one million dollars (\$1,000,000) property damage liability for each accident or occurrence. Said liability insurance shall be effective until June 30th of the current school year. Not later than the effective date of this Contract, PROVIDER shall provide BOARD with satisfactory proof of insurance, naming BOARD as additional certificate holder, and including a provision for a twenty (20) calendar day written notice to BOARD before cancellation or material change in coverage. PROVIDER shall at its own cost and expenses procure and maintain insurance under the Worker's Compensation Law of Florida, if applicable. BOARD reserves the right to revise the requirements of this provision at any time. If BOARD determines that additional insurance coverage is necessary, BOARD will reopen negotiations with PROVIDER to modify the terms of this Contract.

17. Monthly Invoices

PROVIDER shall submit to BOARD monthly invoices itemized by student name, actual number of hours for which services were provided, and an amount due. The invoice shall be accompanied by a record of attendance with appropriate signatures. PROVIDER shall limit tutoring to four (4) hours per week and no more than two (2) hours per day. Tutoring that extends beyond this four (4) hour limit will not be paid by BOARD. PROVIDER shall receive compensation in the amount not to exceed \$48.05 per hour. The PROVIDERS hourly rate must be divided into the student allocation to ascertain the total hours provided to students under this contract. No additional hours are permitted to be offered to students in excess of the hours stated previously. Original invoices, with attached attendance sheets, are due the 1st of each month for the preceding month. Such invoices shall be submitted not later than fifteen (15) days after rendering services in the preceding month. **PROVIDER is paid only for students who have an active SLP on file in the Title 10 Office with said PROVIDER.** BOARD shall process payments to PROVIDER within forty-five (45) days of receipt of such invoices. All invoices shall be created and maintained on BOARD SES Forms.

18. Records of Attendance

PROVIDER shall maintain a daily student **attendance sheet** of student services. The student attendance sheets are submitted to the Project Coordinator monthly. PROVIDER is paid only for sessions students attend. PROVIDER shall permit access to and/or a copy of such records to BOARD employees upon request. All records of attendance shall be maintained on BOARD SES FORMS.

Students must be engaged in tutoring for the entire tutoring session. Parties and social events of any kind are prohibited during tutoring times and must take place outside the regular tutoring session.

19. SES Forms

PROVIDER agrees to utilize BOARD SES forms to invoice, record attendance, develop the SLP maintain an employee roster, and other miscellaneous records.

20. Right to Withhold

BOARD may withhold payment to PROVIDER, by notifying Provider of its intent to do so no later than ten (10) days after receipt of and invoice, when in the opinion of BOARD employees:

- a. PROVIDER's performance, in whole or in part, either has not been carried out or is insufficiently documented.
- b. PROVIDER has neglected, failed, or refused to furnish information or to cooperate with the inspection, review, or audit of its program, work, or records.
- c. PROVIDER has failed to submit the invoice in a timely manner.

If BOARD gives notice of intent to withhold, PROVIDER shall have fourteen (14) days from the day of receipt of said notice to correct such deficiency and/or may invoke the dispute resolution provision herein.

21. Modification and Amendments

This Contract may be modified or amended only by a written document signed by authorized representatives of PROVIDER and BOARD. *No change in this Contract or in the SLP shall result in BOARD financial obligation to PROVIDER in excess of the State/Federal reimbursement rate per student per year to BOARD.*

22. Disputes

Dispute between BOARD and PROVIDER concerning the meaning, requirements or performance of this Contract shall be submitted in writing by certified mail to Suzanne Church, Title 10 Project Coordinator Clay County Public Schools 800 Walnut Street, Green Cove Springs, Florida 32043. The determination of BOARD shall be made by the Superintendent's designee, and shall be made in writing and shall be binding for both parties.

23. Subcontract and Assignment

PROVIDER shall not subcontract or assign any of the work contemplated under this Contract without first obtaining written approval from BOARD. Such approval shall be attached and made part of this Contract. Subcontracts or assignments may be entered into only with PROVIDERS certified by the Florida Department of Education.

Any contract between Provider and a sub-contractor or assignee must contain language by which subcontractor agrees to be bound by all of the terms of this Contract, including the insurance and indemnification provisions.

24. Termination

- a. This Contract may be terminated by BOARD or PROVIDER at any time. PROVIDER's exercise of its right to terminate this Contract shall not alleviate its responsibilities to complete any existing SLP's. To terminate this Contract, either party shall give twenty (20) calendar days written notice as provided herein prior to the date of the termination. Upon termination without default of PROVIDER, BOARD shall pay, without duplication, for all services satisfactorily performed to date of termination. BOARD may terminate immediately, without notice, if fraud or misrepresentation by PROVIDER is suspected or occurs.
- b. In consideration of this payment, PROVIDER waives all rights to any future payments for damages. Upon termination, PROVIDER shall turn over to BOARD employees, all student records in its possession generated as a result of services rendered under this Contract, possessed by PROVIDER or under its control at the time of termination.
- c. An SLP may be terminated by PROVIDER only upon consent of BOARD employees. An SLP shall terminate if the student ceases to be enrolled in DISTRICT. Upon termination under this paragraph, final payment from BOARD will be calculated based upon a pro-rata calculation of total services agreed upon in the SLP for which BOARD is responsible for payment, divided by that portion of services actually rendered.

25. Compliance with Laws

During the term of this Agreement, PROVIDER shall comply with all applicable federal, State Board of Education, and local statutes, laws ordinances, rules and regulations relating to the provision of Supplementary Educational Services, including securing and maintaining in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to the Contract.

26. Entire Contract/Agreement

This School District of Clay County **Title I Supplemental Educational Services Contract** and the School District of Clay County Title I Supplemental **Student Learning Plan** constitute the entire Agreement between BOARD and PROVIDER. These documents supersede any prior or contemporaneous understanding or agreement with respect to the services contemplated. The PROVIDER is compelled to provide services as stated in the contract with the Florida Department of Education. The PROVIDER is also compelled to notify the BOARD within 10 days if said contract is revised, altered, or amended.

27. Governing Law

The terms and conditions of this Agreement shall be governed by the Laws of the State of Florida with venue in Clay County, Florida.

28. Required Documents

The PROVIDER shall provide the BOARD employees with the required documents at the time this executed contract is submitted. Failure to submit said documents will result in PROVIDER being removed from the BOARD SES Provider list.

29. Severability Clause

If any provision of this Contract is held in whole or in part to be unenforceable by BOARD for any reason, the remainder of that provision and of the entire Agreement shall be severable and remain in effect.

30. Notices

Notices required under this Contract shall be valid when hand delivered or delivered by certified mail to Suzanne Church, Title 10 Project Coordinator, 800 Walnut Street, Green Cove Springs, Florida 32043.

31. Certification regarding debarment, suspension or ineligibility for award (34 CFR 85)

The following certification is applicable only to contract for \$25,000 or more that are funded in whole or part with Federal funds.

By signing this document, the CONTRACTOR certifies that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
- b. Have not, within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph b. (above) of this section and
- d. Have not within a three-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

**SCHOOL DISTRICT OF CLAY COUNTY, FLORIDA
TITLE 10 SUPPLEMENTAL EDUCATIONAL SERVICES CONTRACT
Signature Page**

DISTRICT:

Board Chairperson

Ben Wortham, Superintendent
School District of Clay County

Date

School District of Clay County
900 Walnut Street
Green Cove Spring, Florida 3043

SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER:

Name/Title

Name/Title

Address

City/State/Zip Code

Date / Phone Number

Authorized name, contact number and address for sending notice and Information if different from above:

Name/Title

Address

City/ State/Zip Code

Date / Phone Number