



SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

Agenda Item Summary

Meeting Date: December 20, 2023

Agenda Section: Consent

Agenda Item Title: Approve the memorandum of understanding between Bexar County Juvenile Probation Department and South San Antonio ISD.

From/Presenters: Millicent Marcha, Chief Academic Officer
Charlie Gallardo, Director of Guidance and Counseling

Description: Bexar County Juvenile Probation Department counselors will provide evidenced-based counseling services at South San Antonio ISD schools to youth under the supervision of Juvenile Probation.

Historical Data: This will be our first year partnering with the Bexar County Juvenile Probation Department.

Recommendation: Approve the memorandum of understanding between Bexar County Juvenile Probation Department and South San Antonio ISD.

Purchasing Director and Approval Date:

Funding Budget Code and Amount: N/A

Goal: 4. SSAISD will ensure all students are provided a learning environment centered on their well-being that impacts their learning and success.



MEMORANDUM OF UNDERSTANDING

SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT
and
THE BEXAR COUNTY JUVENILE PROBATION DEPARTMENT

This Memorandum of Understanding ("Agreement") is entered into by and South San Antonio Independent School District located at 1450 Gillette Blvd., San Antonio, Texas 78224 ("Service Provider") and the Bexar County Juvenile Probation Department located at 301 E. Mitchell Street, San Antonio, Texas, 78210 ("Juvenile Probation").

- I. **PURPOSE.** The purpose of this Agreement is to provide evidenced-based counseling services at South San Antonio ISD schools to youth under the supervision of Juvenile Probation.
- II. **TERM OF THE AGREEMENT.** The term of this Agreement will commence on December 1, 2023 and continue until September 30, 2024. Thereafter, it shall be automatically renewed for one-year terms, commencing October 1st and ending September 30th each subsequent year, unless one party notifies the other in writing at least 30 days prior to the expiration of said term of its intention to not renew this Agreement.
- III. **DEFINITIONS.** The following definitions apply:
 - A. DCPO: The Deputy Chief Probation Officer who oversees this Agreement.
 - B. Juvenile Justice Facility: A facility that serves Children under juvenile court jurisdiction, including: The Bexar County Juvenile Detention Center, 600 Mission Road, San Antonio, Texas 78210; The Mission Road Center, 600 Mission Road, San Antonio, Texas 78210; and The Cyndi Taylor Krier Juvenile Correctional Treatment Center, 3621 Farm Road, San Antonio, Texas 78223.
 - C. Child(ren): A person who is under the jurisdiction of the juvenile court, confined in a Juvenile Justice Facility, or participating in a Juvenile Justice Program.
 - D. Juvenile Justice Program: A program that serves Children and is operated by Juvenile Probation or by a service provider under an agreement with Juvenile Probation, including services provided under this Agreement.
 - E. PREA: The Federal Prison Rape Elimination Act (28 C.F.R. 115).
 - F. TJJD: The Texas Juvenile Justice Department.
- IV. **ATTACHMENTS.** Service Provider will adhere to all federal, state, county, and city laws, ordinances, and regulations, Juvenile Probation policies and practices, and TJJD standards as they currently exist or as amended or renumbered and enacted and effective during the term of the Agreement, including the terms set forth in the Attachments attached hereto and incorporated herein. Juvenile Probation may update the provisions set forth in the Attachments to comply with the law and Juvenile Probation policies and practices, and will provide Service Provider with copies of all updated Attachments. The terms and conditions of an updated

Attachment will supersede the provisions of the previous Attachment with the same letter designation.

- A. ATTACHMENT A: “Background Checks & PREA Training Instructions”. This document sets forth the background check and PREA training process that must be completed before an individual will be allowed to provide services under an Agreement with Juvenile Probation.
- B. ATTACHMENT B: “Disqualifying History”. This document sets forth the criminal history and other conduct that will preclude an individual from providing services under this Agreement. Service Provider individuals who may provide services under this Agreement should review this document before proceeding with the background check and PREA training process.
- C. ATTACHMENT C: “Duty to Report”. This document sets forth the current abuse, neglect and exploitation reporting requirements. Service Provider shall provide a copy of this attachment to each individual providing services under this Agreement.

V. COLLABORATIVE COMPONENTS:

A. Service Provider will:

- 1. Designate a representative to act as a liaison between Service Provider and Juvenile Probation to coordinate services under this Agreement.
- 2. Coordinate with Juvenile Probation to develop service hour schedules that take into consideration school hours in order for Juvenile Probation to provide services.
- 3. Provide sufficient space at any South San Antonio ISD campus as necessary to support provision of services by Juvenile Probation, at the mutually agreed upon scheduled date and time.
- 4. Ensure availability by phone to answer questions and concerns of the Child(ren) and Juvenile Probation.
- 5. Ensure that individuals providing services under this Agreement have the necessary qualifications to perform the services to which they are assigned.

B. Juvenile Probation will:

- 1. Designate a representative to act as a liaison between Juvenile Probation and Service Provider to coordinate services under this Agreement.
- 2. Coordinate with Service Provider to develop service hour schedules that take into consideration school hours in order for Juvenile Probation to provide services.
- 3. Provide Service Provider with the following:
 - a. The name(s) of the Child(ren) receiving services;
 - b. The duration of services;
 - c. The location of the school services is rendered at.
- 4. Provide in-kind staff consultation time.

VI. CONFIDENTIALITY & SAFETY OF CHILDREN.

- A. Confidentiality. Service Provider acknowledges that the identity of Children is confidential by law. Service Provider and individuals working under the auspices of Service Provider will maintain strict confidentiality of all information and records relating to Children, and will not re-disclose the information except as required to perform the services pursuant to this Agreement, or as may be required by law.

- B. Civil Penalty. Pursuant to the Texas Business & Commerce Code, Chapter 109, business entities are prohibited from publishing confidential juvenile record information. "Juvenile record information" includes a description or notation of any referral to Juvenile Probation or the juvenile court, a photograph of the Child, or any other personal identifying information of the Child. Upon notice of the violation, Service Provider is liable to the Child who is the subject of the juvenile record information, and a monetary civil penalty may be imposed.
- C. Health & Safety of Children. Service Provider will ensure that all of its programs, services, and facilities provide adequate health and safety protections, procedures, and policies for all Children being served. Juvenile Probation may terminate this Agreement for failure to protect the health and safety of Children.
- D. Violation of a Child's Civil Rights. Pursuant to the Texas Penal Code § 39.04, it is a felony offense for an individual who provides services in a Juvenile Justice Program to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with a Child who the individual knows is under the supervision of Juvenile Probation regardless of where the conduct occurs.

VII. ADDITIONAL TERMS.

- A. Records Retention. Service Provider shall retain and make available to Juvenile Probation all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement as required or allowed by law, but in any event not less than **seven (7) years**, or until any pending litigation, claim, audit or review and all questions arising therefrom have been resolved, and shall make available for Juvenile Probation's inspection, all contractual agreements with Service Provider's subcontractors for services related to this Agreement.
- B. Assignment. Service Provider will not assign or subcontract any of its rights, duties and/or obligations arising out of this Agreement without the prior written consent of Juvenile Probation.
- C. Notice of Suit. Service Provider will notify Juvenile Probation within five (5) days of receiving notice if any of Service Provider's employees, volunteers, and other individuals acting under the auspices of Service Provider pursuant to this Agreement is named as a party in a civil lawsuit or criminal proceeding if the lawsuit relates to services provided under this Agreement.
- D. Judicial Proceedings and Investigations. Service Provider shall cooperate with and testify in any administrative or judicial proceeding or hearing regarding any matter Juvenile Probation considers necessary for the investigation of abuse, neglect, or exploitation allegations or any other matter under Juvenile Probation's authority. Compliance with this provision does not constitute a contractual waiver of the privilege against self-incrimination or any other right or privilege guaranteed under law.
- E. Equal Opportunity. Service Provider will respect and protect the civil and legal rights of all individuals and will not unlawfully discriminate against any employee, prospective employee, child, parent or guardian on the basis of age, race, color, sex, religion, disability, national origin, or other legally protected categories, classes, or characteristics.

- F. Texas Tort Claims Act. Juvenile Probation and Service Provider acknowledge that they are political subdivisions of the State of Texas and that they are subject to and shall comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, Section 101.001 et. seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.
- G. Subrogation. Service Provider shall expressly waive any and all rights it may have of subrogation to any claims or rights of its employees, volunteers, or any other individual acting under the auspices of Service Provider against Juvenile Probation, the Juvenile Board or Bexar County, and any rights it may have to indemnification from Juvenile Probation, the Juvenile Board or Bexar County.
- H. Indemnification. Service Provider will indemnify and hold harmless Bexar County and Juvenile Probation against any and all negligence, liability, loss, costs, claims, or expenses arising out of wrongful and negligent act(s) of commission or omission of Service Provider, its agents, servants, or employees arising from activities under this Agreement. Service Provider shall have no obligation to indemnify and hold harmless Bexar County and Juvenile Probation for any act(s) of commission or omission of Bexar County's or Juvenile Probation's agents, servants, or employees arising from or related to this Agreement for which a claim or other action is made.
- I. Insurance. Service Provider agrees to carry sufficient insurance to provide protection to Bexar County and Juvenile Probation under the indemnity provisions, as well as for any potential liabilities that arise from or related to this Agreement. Upon request, Service Provider will cause its insurance carrier to identify the Bexar County Juvenile Probation Department as a certificate holder on its policy, and will add Bexar County, the Bexar County Juvenile Board and the Bexar County Juvenile Probation Department as additional insureds on its policy.
- J. No Employer/Employee Relationship. Service Provider individuals providing services under this Agreement have no employer-employee relationship with Juvenile Probation. Juvenile Probation will have no liability or responsibility with respect to payment of Federal Insurance Contribution Act (FICA), federal or state unemployment taxes, income tax withholding, Worker's Compensation Insurance payments, or any other insurance payments, nor will Juvenile Probation furnish or be liable for the provision of any medical or retirement benefits or any paid vacation or sick leave to Service Provider or any of its employees, volunteers, or other individuals acting under the auspices of Service Provider.
- K. Funding. Funding for services under this Agreement shall be provided from any appropriate funding agency. Juvenile Probation has no obligation to pay for these services and will not be presented with any bill for payment.

VIII. LEGAL CONSTRUCTION.

- A. Prior Agreements Superseded. This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understandings or written or oral Agreement between the parties with respect to the subject matter contained herein.

- B. Amendments. No amendment, modification, or alteration of the terms hereof will be binding unless the same be in writing, be dated subsequent to the date hereof, and be duly executed by the parties hereof.
- C. Partial Invalidity. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceable provision shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.
- D. Law & Venue. This Agreement shall be construed under and in accordance with the laws of the State of Texas. Exclusive venue for any litigation arising from this Agreement shall be in Bexar County, Texas.

IX. TERMINATION.

Either party may terminate this Agreement at any time, with or without cause, upon 30 days' prior written notice to the other party. Juvenile Probation may terminate this Agreement at any time if Juvenile Probation, in its sole discretion, determines that the health or safety of Children may be in jeopardy.

X. EXECUTION.

Each person signing this Agreement below warrants that he or she has power and authority to bind the party for which he or she signs to all of the terms and conditions of this Agreement.

**BEXAR COUNTY JUVENILE
PROBATION DEPARTMENT**

**SOUTH SAN ANTONIO INDEPENDENT
SCHOOL DISTRICT**

JILL MATA
Chief Juvenile Probation Officer

HENRY YZAGUIRRE
Superintendent

ATTACHMENT A

BACKGROUND CHECKS & PREA TRAINING INSTRUCTIONS

Certain individuals must undergo background checks and PREA training *prior* to providing services under this Agreement. Following is the procedure for identifying and clearing these individuals.

IDENTIFY. Service Provider will identify the individuals who require background checks and PREA training. These individuals include:

1. Individuals who provide goods or services directly to Children inside a Juvenile Justice Facility, and
2. Individuals who may have direct, unsupervised access to Children outside a Juvenile Justice Facility, *unless*:
 - The individual is an employee of a public school district who has successfully completed all criminal history checks required by the Texas Education Agency, or
 - The individual is continuously supervised by Juvenile Probation staff while providing the goods or services (i.e., staff sees and hears everything occurring between individual and Child). Service Provider must receive DCPO approval for each individual claiming this exception.

COMMUNICATE. Service Provider will promptly communicate to Juvenile Probation:

1. The names and email addresses of the individuals identified above;
2. The names and email addresses of *new* individuals who are assigned to provide services throughout the term this Agreement; and
3. The names of individuals who are *removed* from providing services throughout the term of this Agreement.

COMMUNICATION. All communication must:

1. Be sent via email;
2. Addressed to the **Deputy Chief Probation Officer**, copying **Juvenile Services**; and
3. Include the MOU number for this Agreement.

Juvenile Probation Contact	Contact Information
Deputy Chief Probation Officer	Jeannine Von Stultz jvonstultz@bexar.org
Juvenile Services	jvservices@bexar.org

PROCESS. The individuals identified and communicated to Juvenile Probation (as instructed above) will be contacted with instructions on how to proceed with the background checks and PREA training. Service Provider will be responsible for the cost of conducting each background check (currently \$10.00). Juvenile Probation will notify Service Provider as to whether or not each individual successfully clears the background check process and completes the PREA training.

ATTACHMENT B

DISQUALIFYING HISTORY

Regardless of an individual's criminal history, Juvenile Probation reserves the right in its sole discretion to prohibit any individual from providing services under this Agreement for any reason. In any event, the following provisions will apply:

1. **Automatic Disqualifying History.** Individuals with the following disqualifying criminal history will be **automatically prohibited** from providing services under this Agreement. Additionally, if Juvenile Probation receives future notification of an arrest for potentially disqualifying criminal conduct, Juvenile Probation will notify Service Provider, and the individual who is the subject of the criminal conduct may be removed from providing services under this Agreement. For persons with a criminal history, the date of conviction or order of deferred adjudication is used to determine when the applicable time periods listed below expire. In any event, at least one year must have elapsed since the completion of any period of incarceration, community supervision, or parole. A disqualifying criminal history includes:
 - Deferred adjudication or conviction for a felony listed in Texas Code of Criminal Procedure Article 42A.054 (formerly known as "3(g) offenses" under Article 42.12) or a substantially equivalent violation against the laws of another state or the United States, regardless of the date of disposition;
 - Deferred adjudication or conviction for a felony other than those referenced above or a substantially equivalent violation against the laws of another state or the United States within the past 10 years;
 - Deferred adjudication or conviction for any Class A or B misdemeanor in Texas or a substantially equivalent violation against the laws of another state or the United States within the past five years; and
 - Current requirement to register as a sex offender under Texas Code of Criminal Procedure Chapter 62.
2. **Additional Automatic Disqualifying History.** Service Provider must disclose to Juvenile Probation the identity of any individual working under the auspices of Service Provider pursuant to this Agreement who Service Provider knows has engaged in the conduct listed below. Juvenile Probation **will not allow** an individual to provide services under this Agreement who has:
 - Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; and
 - Been convicted of, or civilly or administratively adjudicated of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
3. **Possible Disqualifying History.** Service Provider must also disclose to Juvenile Probation the identity of any individual working under the auspices of service Provider who Service Provider knows has committed an act of sexual harassment. Juvenile Probation **will consider this conduct** in determining whether or not to allow the individual to provide services under this Agreement.

ATTACHMENT C

DUTY TO REPORT

Applicability. All individuals providing services under this Agreement are subject to the reporting requirements contained herein. **Service Provider shall ensure that each individual working under this Agreement is provided a copy of this Attachment.**

Reporting Allegations Occurring inside a Juvenile Justice Facility or Juvenile Justice Program.

Individuals working under the auspices of Service Provider in a Juvenile Justice Facility or Juvenile Justice Program must report the death of a Child or an allegation of abuse, neglect, or exploitation to TJJD and local law enforcement if he/she: witnesses, learns of, or receives an oral or written statement from an alleged victim or other person with knowledge of the death of a Child or an allegation of abuse, neglect, or exploitation; or has a reasonable belief that the death of a Child or abuse, neglect, or exploitation has occurred. In accordance with Texas Family Code § 261.101, the duty to report cannot be delegated to another person. Incidents shall be reported as follows:

1. **Serious Incident.** A report of a serious incident must be made within 24 hours from the time a person gains knowledge of or has a reasonable belief that the serious incident occurred to TJJD by phone or by faxing or e-mailing a completed Incident Report Form to TJJD. If the report is made by phone, a completed Incident Report Form must be submitted to TJJD within 24 hours after the phone report.
2. **Abuse, Neglect, or Exploitation.** A report of alleged abuse, neglect, or exploitation *other than* allegations involving sexual abuse or serious physical abuse of a Child must be made within 24 hours from the time an individual gains knowledge of or has a reasonable belief that alleged abuse, neglect, or exploitation has occurred, to:
 - TJJD by phone or by faxing or e-mailing a completed Incident Report Form. If the report to TJJD is made by phone, a completed Incident Report Form must be submitted within 24 hours after the phone report; and
 - Law enforcement by phone only.
3. **Sexual Abuse or Serious Physical Abuse.** A report of alleged sexual abuse or serious physical abuse of a Child must be made to:
 - Local law enforcement immediately by phone, but no later than one (1) hour after the time a person gains knowledge of or has a reasonable belief that alleged sexual abuse or serious physical abuse has occurred; and
 - TJJD immediately, but no later than four (4) hours after the time a person gains knowledge of or has a reasonable belief that alleged sexual abuse or serious physical abuse has occurred. Within 24 hours after the initial phone report to TJJD, a completed Incident Report Form must also be submitted to TJJD by fax or e-mail.
4. **Death of a Juvenile.** A report of a death of a Child must be made to:
 - Local law enforcement immediately by phone, and no later than one (1) hour after the discovery or notification of the death; and
 - TJJD immediately by phone and no later than four (4) hours after the discovery or notification of the death. Within 24 hours after the phone report to TJJD, a completed Incident Report Form must also be submitted to TJJD by fax or e-mail.

Reporting Contact Information.

1. Bexar County Sheriff's Office: 1-210-335-6000
2. TJJD: phone: 1-877-786-7263; fax: 1-512-424-6716; e-mail: abuseneglect@tjtd.texas.gov
3. Juvenile Probation: phone: 1-210-335-7612; fax: 1-210-335-7770

Reporting Allegations occurring **outside** a Juvenile Justice Facility or Juvenile Justice Program. Any individual who witnesses, learns of, receives an oral or written statement from an alleged victim or other person with knowledge, or has a reasonable belief as to the occurrence of alleged abuse, neglect, or exploitation involving any child that is not alleged to involve an employee, volunteer, or other individual working under the auspices of a Juvenile Justice Facility or Juvenile Justice Program must report the incident to law enforcement or to the appropriate governmental unit as required in Texas Family Code Chapter 261.

Definitions. For purposes of this Attachment, the following definitions apply:

1. "Abuse, Neglect, or Exploitation": The meanings given in Texas Family Code §261.001 and §261.401. "Abuse" includes sexual abuse and serious physical abuse as defined in this section.
2. "Serious Incident": Attempted escape, attempted suicide, escape, reportable injury, youth-on-youth physical assault, or youth sexual conduct.
3. "Serious Physical Abuse": Bodily harm or a condition that:
 - Resulted directly or indirectly from the conduct that formed the basis of an allegation of abuse, neglect, or exploitation; and
 - Requires medical treatment.
4. "Sexual Abuse": Conduct committed by an employee, volunteer, or other individual working under the auspices of a facility or program against a Child that includes sexual abuse by contact or sexual abuse by non-contact. A Child, regardless of age, may not consent to these acts under any circumstances.
5. "Sexual Abuse by Contact": Any physical contact with a Child that includes:
 - Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - Contact between the mouth and the penis, vulva, or anus;
 - Contact between the mouth and any body part with the intent to abuse, arouse, or gratify sexual desire;
 - Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the actor has the intent to abuse, arouse, or gratify sexual desire;
 - Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the actor has the intent to abuse, arouse, or gratify sexual desire; and
 - Any attempt to engage in the activities described above in this definition #5.
6. "Sexual Abuse by Non-Contact": Any sexual behavior, conduct, harassment, or actions other than those defined as sexual abuse by contact, which are exhibited, performed, or simulated in the presence of a Child or with reckless disregard for the presence of a Child, including but not limited to:
 - Any threat or request for a Child to engage in the activities described in definition #5 above;
 - Any display of uncovered genitalia, buttocks, or breasts in the presence of a Child;
 - Voyeurism, which means an invasion of privacy of a Child for reasons unrelated to official duties, such as peering at a Child who is using a toilet to perform bodily functions; requiring a Child to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a Child naked body or of a Child performing bodily functions; and

- Sexual harassment, which includes repeated verbal comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
7. "Youth-on-Youth Physical Assault": A physical altercation between two or more Children that results in any of the involved parties sustaining an injury that requires medical treatment.
 8. "Youth Sexual Conduct": Conduct between two or more Children, regardless of age, that is conduct described in definitions #5 & #6, regardless of whether either of the Children consented to the conduct.