

Cluster Five Special Education Cooperative Shared Services Arrangement Agreement

Section I. Overview of Cluster Five Shared Services Arrangement Agreement

- I. **Structure:** The Cluster Five Shared Service Arrangement (known as Cluster Five Special Education Cooperative, Cooperative, or Co-op) is a voluntary shared services cooperative for special education that includes the following school districts: Brackett ISD, D'Hanis ISD, Knippa ISD, Leakey ISD, Nueces Canyon CISD, Sabinal ISD, and Utopia ISD. Sabinal ISD serves as the fiscal agent district for the Cooperative. Although the Texas Legislature repealed Texas Education Code §29.007, which required Texas Education Agency (TEA) approval of shared services arrangement agreements or contract, the member districts listed have desired to continue with the shared service arrangement, as governed by this Agreement.

- II. **Purpose**
 - A. Every public school district is obligated under federal and state laws to provide special education services to all students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA) in accordance with applicable federal laws, federal regulations, state statutes, and TEA rules and regulations.
 - B. Students served by of any of our member districts will be provided a comprehensive educational program. This comprehensive program shall include a special education program composed of a continuum of services and placements for students with disabilities in accordance with applicable laws, regulations, and rules.
 - C. Goal of Cluster Five: It shall be the goal of Cluster Five to assist each district member in ensuring that every eligible student beginning on their 3rd birthday and those who have not reached their 22nd birthday by September 1st of the current scholastic year who reside in the Co-op school districts be provided a Free Appropriate Public Education (FAPE) in the least restrictive environment (LRE), as determined by their respective Admission Review and Dismissal (ARD) Committees. This goal shall be accomplished by the Cluster's provision of evaluations, speech therapy services, ARDC meeting assistance, related services, and specialists, as appropriate.

Section II. Administrative Structure

1. Management Board

- A. The Management Board (Board) shall be composed of the Superintendents of each member school district.
- B. The Director of the Special Education Cooperative is an ex-officio member.
- C. The Management Board is responsible for the management of the Cooperative.
- D. Annual responsibilities:
 - a. Determine a Fiscal Agent District for the Cooperative.
 - b. Elect a Chairperson of the Board
 - c. Elect a Vice-Chairperson of the Board to preside in the absence of the Chairperson.
 - d. Designate a Secretary, who may or may not be a member of the Board.
 - e. Establish a schedule of Board meeting dates
 - f. Approve the Cluster Five Cooperative local and federal budgets

- g. Approve any amendments to either Cooperative local or federal budgets,
 - h. Review and approve the report of the annual financial audit, or any other financial audits of the Cooperative that may take place
 - i. Conduct the annual evaluation of the Cluster Five Cooperative Director
 - j. Each superintendent or the superintendent's designee shall attend the regularly scheduled Co-op Board meetings.
- E. Management Board actions shall require a majority vote of a quorum of the Board members.
- F. Additional powers and duties of the Co-op Board shall be determined by action of the Board and included in Co-op policy. If not clear under this Agreement, the Cluster Five Director must operate under the assumption that an action of the Cooperative, or a decision affecting its operations, must be approved by the Board. In addition, the Cluster Five Director must follow all applicable Board policies and administrative procedures, unless expressly authorized by the Board in a duly convened meeting.
- G. On-going Board responsibilities:
- a. Ensure attendance of Board members at scheduled Board meetings
 - b. Oversee the basic workings and functions of the Cooperative
 - c. Provide guidance and direction, as it deems necessary, to the Director for accomplishing the goals of this Agreement
 - d. Measure and communicate whether goals are being accomplished
 - e. Review Cooperative financial reports throughout the year.
 - f. Advise and take action on employment and duties of Cluster Five professional and clerical staff
 - g. Advise on contracts with professionals providing services to Cluster Five Districts, and take action as necessary
- H. Meeting Procedures
- a. Board will conduct all meetings in accordance with Roberts Rules of Order.
- I. SLD/Dyslexia evaluations under the latest version TEA Dyslexia Handbook
- a. The Board will direct the Cluster Five Director to ensure that the Cooperative has available at least one evaluation staff person trained in, and capable of, conducting special education evaluations of student suspected of having dyslexia per the provisions of the latest version of the TEA Dyslexia Handbook. If such an evaluator is not available to be on staff with the Cooperative, the Director shall contract with appropriate qualified evaluators until an evaluator can be hired by the Cooperative for this purpose. Provision of dyslexia services under the Dyslexia Handbook to eligible students shall be the responsibility of the Districts where such students reside and/or are enrolled.

2. Cluster Five Special Education Director

- A. The Director shall be directly responsible to the Management Board for carrying out the function of providing appropriate services under this Agreement to Cluster Five member districts and their IDEA-eligible students.
- B. Responsibilities:
 - a. Direct all Cluster Five operations and functions
 - b. Make recommendations for hiring of necessary Cluster Five professional and clerical staff, including evaluation staff capable of conducting special education evaluations of students suspected of having dyslexia, per the latest version of the TEA Dyslexia Handbook.
 - c. Provide consultation to member districts as requested
 - d. Assist member districts with training/staff development activities upon request

- e. Monitor, at least annually, that special education files located in each member district and the Cluster Five office are properly maintained
- f. Keep informed on all legal requirements and developments pertaining to special education in Texas
- g. Establish or maintain proper procedures for evaluation, reevaluation, IEP development, and placement of students in the service programs provided under this Agreement
- h. Assume responsibility for compiling, maintaining, and filing all reports, records, or other documents that may be legally required or administratively useful
- i. Maintain an inventory of equipment or materials purchased by the Cooperative
- j. Maintain effective communication with the Education Service Center and other outside agencies and programs that may help serve students with disabilities
- k. Complete all special education grants approved by the Board
- l. Complete all require special education performance reports
- m. Supervise and annually evaluate all Cluster Five personnel, which may include, but are not limited to evaluation personnel, therapists, clerical personnel, vocational/transition staff, contracted service providers
- n. Supervise the preparation of the Cluster Five budgets, as well as of any budget amendments to be proposed to the Board for approval
- o. Ensure Cooperative compliance with the Education Department General Administrative Regulations (EDGAR)
- p. Ensure compliance with Title 2 Grants Agreements, Uniform Administrative Requirements, Cost Principles, and Agreement (2 CFR Part 200)
- q. Ensure compliance with the Fiscal Agent District's Administrative Procedure System/Controls (excluding sections 8 and 9)
- r. Ensure compliance with all federal and state laws and regulations of ancillary applicability to special education students, including Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act Title II (ADA)
- s. Assure compliance with Cluster Five Cooperative Operational Guidelines and policies
- t. Develop the calendar for Cluster Five professional and clerical staff
- u. Ensure that the Fiscal Agent District is provided all pupil audit records, applications, and other reports that may be necessary for the Fiscal Agent to perform its duties under this Agreement
- v. Gather all necessary supporting data to substantiate any additional personnel needs and the allocation of personnel resources

Section III. Fiscal Structure

1. Financial

- A. Assets
 - a. Ownership: materials and equipment purchased by Cluster Five belong to the Cooperative. Any operating funds, savings and fund balances belong to the Cluster Five Special Education Cooperative.
 - b. Disposition of all Assets Subsequent to the Shared Service Arrangement Dissolution: In the event the Management Board, by majority vote, decides to dissolve the Cooperative, all surplus funds remaining after liabilities have been paid, will be distributed among its member districts. All materials, equipment, and other instructional supplies shall be distributed among the members. A percentage of the district's Average Daily Attendance (ADA) will be used to determine the distribution of funds and assets.
 - c. Reallocation of Assets Subsequent to the Shared Service Arrangement reconfiguration by addition of member district: In the event the Management Board, by mutual agreement and majority vote, agrees to reconfigure the

Cooperative (i.e., add a member district), the new member district must do so according to the following timelines and procedures:

- i. Notice of such increase must be provided at least one calendar year prior to the planned entry date
- ii. The membership of the new district becomes effective July 1 of the next fiscal year.

All contributions to the Cooperative will be recalculated according to the proportional allocation method agreed upon by the Management Board. Any actions or costs incurred in examining, investigating, studying, or pre-planning for the potential addition of a new member district must be first approved by the Management Board. Any contract with a district that seeks to become a member district of the Cooperative with respect to such planning efforts must be first approved by the Management Board.

- d. Disposition of Assets Subsequent to the Shared Service Arrangement Reconfiguration by decrease in member districts: If a member district of Cluster Five decides to withdraw from the cooperative, the district must do so according to the following timelines and procedures:

- i. Notice of such withdrawal must be provided at least one calendar year prior to the planned withdrawal date
- ii. The withdrawal becomes effective July 1 of the next fiscal year.

Withdrawing districts are not entitled to any part of then-existing fund balances, any future fund balances, or any part of the Cluster Five buildings, property, fixed assets, or materials, other than those that may be assigned to the district at the time of withdrawal notice. Any interest in any assets of the Cluster Five Special Education Cooperative shall be forfeited upon withdrawal from the Shared Service Arrangement.

B. Cost Allocation

- a. Cluster Five costs, including unanticipated expenses, will be allocated proportionately among member districts as determined by the Board with a formula based on a combination (in equal 50% parts) of the average of the last three years of total student enrollment of each district, and the average of the last three years of special education and dyslexia enrollment counts of each district. Both of the enrollment averages shall be of three-year rolling averages, which shall include the most recent year, and shall be based on PEIMS October snapshot enrollment figures.
- b. This amount is referred to as the district's contribution.

C. Method of Allocating Residential Placement Costs

- a. In the event of a residential placement, the TEA will calculate a Shared Service Arrangement's 25 percent federal fund residential set-aside obligation and hold the Shared Service Arrangement responsible for the total calculated amount (i.e., total of all member districts' set asides).
- b. The Cluster Five 25 percent of its tentative IDEA-B Formula base entitlement for residential placement cost is set aside in the Cluster Five local operating fund balance.

D. Sharing Costs for Liabilities Incurred Against the Fiscal Agent

- a. Expenses of the Cooperative which may occur outside the approved budget, which may incur liabilities against the Fiscal Agent:
 - i. In the event of a legal complaint against an individual school district in which the Special Education Director and the Fiscal Agent are named in the suit, only the individual school district of the student's

residence, or school district which has accepted the student on a transfer basis, must pay all expenses of the suit, including attorneys' fees.

- ii. In the event that an unexpected cost is assessed against Cluster Five as the result of an action by the TEA, the Fiscal Agent will not be held solely accountable for these costs.

2. Accountability

- A. Cluster Five accounts will be audited annually by an independent auditor at the expense of Cluster Five.
- B. Cluster Five and Fiscal Agent shall maintain a complete record of all Cluster funds and expenses. All accounting procedures will be in accordance with EDGAR, 2 CFR Part 200 (uniform guidance), Financial Accountability System Resource Guide (FASRG), Time and Effort Reporting, and Guidance for Conferences and Meetings.
- C. The Fiscal Agent is responsible for accurate and true payroll records and is responsible for all corrections of errors in these records.
- D. Special Condition:
 - a. It is each member districts responsibility to establish compliance with Maintenance of Effort (MOE) in Special Education requirements with the Texas Education Agency. Each member district is solely liable for repayment of funds if MOE requirements are not maintained.
- E. Insurance:
 - a. The Fiscal Agent shall be responsible for providing workmen's compensation insurance for itinerant Cluster Five employees. The cost of such insurance will be an administrative cost of Cluster Five. Should any former employee of Cluster Five receive a workers' compensation award after the end of their employment with the Cluster Five, such costs shall be borne by Cluster Five.
- F. Approval
 - a. The Cluster Five Board shall approve the budget prior to the beginning of the first day of the fiscal year. Any subsequent budget amendments must be proposed to the Board and approved at a scheduled Board meeting.

Section IV. Responsibilities

1. Fiscal Agent

- A. Employment of Personnel
 - a. The Special Education Director will submit recommendations for hiring of all professional and clerical staff to the Management Board for approval. The Superintendent of the Fiscal Agent in turn will present the recommendations to the Fiscal Agent's board of trustee for action to issue an employment contract on behalf of the Cooperative.
 - b. The Fiscal Agent will promptly issue an employment contract. The issuance of employment contracts and letter of assurance to Cluster Five professional and clerical personnel is a purely an administrative function on behalf of the Shared Services Arrangement. Cluster Five personnel are not actually recommended, selected, or hired by the Fiscal Agent board of trustees.
 - c. Salaries and benefits, including sick leave, for Cluster Five personnel shall be initially proposed by the Cluster Five Director, but will ultimately be based upon a salary and benefit scale approved by the Board.
 - d. For Cooperative personnel, any proposed pay increases, stipends, and/or changes in employment benefits must be approved by the Management

Board. In making these decisions, the Board will consider, by reference, the policies of the Fiscal Agent District as a discretionary guideline.

- B. Personnel Records:
 - a. The Fiscal Agent will maintain personnel records for professional and clerical staff.
 - b. Copies of service records, certification and transcripts will be kept on file in the Fiscal Agents office and will be available for audit.
- C. PEIMS
 - a. The Fiscal Agent must annually submit the PEIMS record (033 record) that reports expenditures by the Fiscal Agent that were made on behalf of the member districts.
- D. Competitive Bids
 - a. The Fiscal Agent will bear the responsibility of preparation of competitive bid notices and will arrange for the award of bids to vendors after approval by the Board of Directors. The Fiscal Agent superintendent, with the approval of the Board of Governors of Cluster Five, may delegate this responsibility to the to the Cluster Five director for a given project.

2. Member Districts

- A. Program and Services
 - a. Each school district shall provide comprehensive special education services to all students with disabilities.
 - i. Maintain an eligibility folder on each special education student
 - ii. Provide a copy of students' IEP to all teachers responsible for providing services to students
 - iii. Provide an instructional day comparable to that of general education students, unless the ARD committee determines otherwise, with appropriate supporting data.
 - b. Each school district shall conduct child-find and refer all children and students suspected of having a disability and needing special education services for evaluation.
 - c. Each school district will provide the needed professional teaching staff and paraprofessional staff to implement the terms of IEPs for each student receiving special education services.
- B. Discipline
 - a. Each school district shall enforce its own discipline policies in accordance with the Student Code of Conduct, Chapter 37 of the Texas Education Code, and the discipline provisions of IDEA (34 CFR 300.530-536)
 - b. Each school district will conduct Manifestation Determination ARD meetings as needed, in accordance with the requirements of IDEA.

Section V: Legal

1. Legal Services

- B. Legal Services Agreement:
 - a. The Cluster Five Special Education Cooperative will maintain an agreement with a legal firm that specializes in Special Education legal issues.
- C. Legal Assistance Fund

- a. Cluster Five will provide a Legal Assistance Fund in the amount of five thousand dollars will be available in the Cluster Five budget each year.
- b. This fund is to be used solely to assist member districts in responding to local special education legal issues.
- c. A request for legal assistance funds is made by the district Superintendent to the Cluster Five Special Education Director for an amount not to exceed five hundred dollars (\$500.00).
 - i. Board approval is required for member district requests for amounts exceeding five hundred dollars (\$500.00)

Section VI: SSA Agreement

1. Terms of Contract

- A. The SSA agreement is in effect until a majority of the member districts (agree to end it or modify it.
- B. Changes in Membership in Shared-Service Arrangement (SSA):
 - a. When any changes to a SSA configuration occurs (addition or withdrawal of a member district), the Texas Education Agency must be notified, as soon as possible, and within at least 90 calendar days of the change becoming effective by Board action.

Addendum: Definitions

- A. Special Education is the provision of a continuum of child-centered education and support services in combination with services provided in the general education school program to meet the assessed disabilities and identified needs of students with disabilities. Categories of disabilities, as defined by state and federal law:
 - a. Autism
 - b. Deaf-Blindness
 - c. Auditory Impairment*
 - d. Emotional Disturbance
 - e. Intellectual Disability
 - f. Multiple Disabilities
 - g. Orthopedic Impairment
 - h. Other Health Impairment
 - i. Learning Disability
 - j. Speech Impairment
 - k. Traumatic Brain Injury
 - l. Visual Impairment*
 - m. Non-categorical Early Childhood (ages 3-5)
(*student defined as AI or VI are eligible for services beginning at birth
- B. Free Appropriate Pubic Education (FAPE): All qualified students with disabilities within the jurisdiction of a public school districts are entitled to a free appropriate public education. These students will be educated at no cost to the parents/legal guardians. The education must be planned and stated in an individual education

program (IEP) that addresses current needs and plans for future education, employment, and independent living.

- C. **Least Restrictive Environment (LRE):** An appropriate education may comprise education in regular classes, education in regular classes with the use of related aids and services, or special education and related services in separate classrooms for all or portions of the school day. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions, and may be accompanied by related services such as speech therapy, occupational and physical therapy, psychological counseling, and medical diagnostic services necessary to the child's education. The LRE for each student is determined by the ARD Committee and reflects the needs of the student. Inclusion in general education must be a consideration for each student with disability as part of determining the LRE.
- D. **Admission, Review, Dismissal Committee (ARD Committee):** A group that makes decisions about the student's education and develops the IEP. It is composed of the parent, school administrator, general education teacher, and special education teacher. An assessment/evaluation person, related service personnel and any other person who has knowledge of the student may attend the meeting. The parent and the school administrator are the only participants who have a vote concerning the student's instructional program.

Addendum: Texas Administrative Code

Texas Administrative Code

<u>TITLE 19</u>	EDUCATION
<u>PART 2</u>	TEXAS EDUCATION AGENCY
<u>CHAPTER 89</u>	ADAPTATIONS FOR SPECIAL POPULATIONS
<u>SUBCHAPTER AA</u>	COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES
<u>DIVISION 2</u>	CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS AND STATE LAW
RULE §89.1075	General Program Requirements and Local District Procedures

-
- (a) Each school district must maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record. The eligibility folder must include but need not be limited to: copies of referral data; documentation of notices and consents; evaluation reports and supporting data; admission, review, and dismissal (ARD) committee reports; and the student's individualized education programs (IEPs).
 - (b) For school districts providing special education services to students with visual impairments, there must be written procedures as required in the Texas Education Code (TEC), §30.002(c)(10).
 - (c) Each school district must ensure that each teacher who provides instruction to a student with disabilities:
 - (1) has access to relevant sections of the student's current IEP;

(2) is informed of the teacher's specific responsibilities related to implementation of the IEP, such as goals and objectives, and of needed accommodations, modifications, and supports for the student; and

(3) has an opportunity to request assistance regarding implementation of the student's IEP.

(d) Each school district must develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

(1) to request a review of the student's IEP;

(2) to provide input in the development of the student's IEP;

(3) that provides for a timely district response to the teacher's request; and

(4) that provides for notification to the student's parent or legal guardian of that response.

(e) Students with disabilities must have available an instructional day commensurate with that of students without disabilities. The ARD committee must determine the appropriate instructional setting and length of day for each student, and these must be specified in the student's IEP.

(f) School districts that jointly operate their special education programs as a shared services arrangement, in accordance with TEC, §29.007, must do so in accordance with procedures developed by the Texas Education Agency (TEA).

(g) School districts that contract for services from non-public day schools must do so in accordance with 34 Code of Federal Regulations, §300.147, and procedures developed by the TEA.

Source Note: The provisions of this §89.1075 adopted to be effective September 1, 1996, 21 TexReg 7240; amended to be effective March 6, 2001, 26 TexReg 1837; amended to be effective November 11, 2007, 32 TexReg 8129; amended to be effective January 1, 2015, 39 TexReg 10446; amended to be effective February 15, 2018, 43 TexReg 763

Superintendent
Brackett Independent School District

Date: _____

Board President
Brackett Independent School District

Date: _____

Superintendent
D'Hanis Independent School District

Date: _____

Board President
D'Hanis Independent School District

Date: _____

Superintendent
Knippa Independent School District

Date: _____

Board President
Knippa Independent School District

Date: _____

Superintendent
Leahey Independent School District

Date: _____

Board President
Leahey Independent School District

Date: _____

Superintendent
Nueces Canyon Consolidated Independent
School District

Date: _____

Board President
Nueces Canyon Consolidated Independent
School District

Date: _____

Superintendent
Sabinal Independent School District

Date: _____

Board President
Sabinal Independent School District

Date: _____

Superintendent
Utopia Independent School District

Date: _____

Board President
Utopia Independent School District

Date: _____