



SUBSTITUTE TEACHER PLACEMENT & EMPLOYEE ABSENCE MANAGEMENT SERVICE

Region One Education Service Center

This Agreement is made by and between South Texas Educational Technologies (dba Horizon Montessori Public Schools), a Texas Local Education Agency (hereinafter “LEA”), and Region One Education Service Center (hereinafter “ESC1”).

WHEREAS, the ESC1 operates “SubHub”, a substitute teacher placement and absence management service designed to provide qualified, trained, substitute teachers to Texas local education agencies on a temporary basis and to track employee absences; and

WHEREAS, the LEA desires to contract the services of the ESC1 under the SubHub Program;

THEREFORE, in consideration of the mutual covenants made herein and for other good and valuable consideration, as stated herein, the parties hereto agree as follows:

1. **TERM.**

The term of this Agreement shall be for a one-year period commencing on the 1st day of August, 2018 and end on the 31st day of July, 2019. At the end of this initial term and of each subsequent renewal term, if any, this Agreement will automatically renew for a one-year term unless written notice is given by either Party to the other not less than 60 days before the end of the term that the party does not intend to renew this Agreement.

2. **LEA RESPONSIBILITIES AND OBLIGATIONS.**

LEA agrees to perform the following:

A. **Start-Up Information.**

In order to appropriately enroll the LEA in its SubHub Program and to begin providing services, the ESC1 requires that the LEA provide it with certain personnel, payroll, and other similar information, such as, but not limited to its current employee deductions (e.g., 457, FICA, SSN, TRS) and whether or not the LEA intends to pay full day or half day rates on early release days. The LEA agrees to promptly provide the ESC1 all the information that may requested by ESC1. The LEA acknowledges and understands that ESC1 will not be obligated to enroll the LEA in its SubHub Program and begin providing services until after the LEA has provided all the requested information to the ESC1.

B. Transition.

The LEA agrees to timely notify all of its teachers, substitute teachers, campus Principals, and all of its personnel in the Human Resources Department, Payroll Department, Business Office, and other personnel with a need to know of the LEA'S intended transition to the SubHub Program and of the timetable for such transition.

C. Initial Training.

The LEA agrees to require all of its Human Resources, Payroll, and Business Office personnel that have responsibility for administering the LEA's substitute teacher program and all campus users (campus administrator, clerical staff, and teachers) to attend ESC1-sponsored training on the SubHub Program. The LEA acknowledges and understands that this initial training is mandatory and essential to transitioning the LEA to the SubHub Program. This training will be held at an agreed-to date, time, and place prior to commencement of services by ESC1.

D. On-Going Training.

The LEA further agrees to require all of its personnel having a responsibility for the SubHub Program activities to attend ESC1-sponsored training sessions on the SubHub program, as ESC1 may deem appropriate during the term of this Agreement. The LEA will notify ESC1 of any resignations and new hires as applicable and will ensure all new personnel will be trained on the SubHub. The LEA acknowledges that this training is mandatory.

E. Absence Reporting.

The LEA agrees that it will notify all of its teachers of its requirement that each teacher who plans to be absent from duty report such prospective absence as soon as practicable to the SubHub system, in accordance with the instructions provided by the ESC1 in training sessions. A general guide for reporting absences to the SubHub system and how the system is designed to operate is available in the "Help" section of the Absence Management website. Enforcement of said procedures enhances the fill rate.

F. Computer Access.

The LEA agrees to provide all the SubHub substitute teachers, at each LEA campus work site, the use of readily available computer equipment which has Internet access (running at least Windows 7 OS) so that the substitute teachers may have an opportunity to report their work time to the SubHub Program system. For this purpose, the LEA agrees to provide ESC1 the range of public IP address space, which will be added to the Absence Management related white list.

G. Supervision of Substitute Teachers.

The substitute teachers shall not be employees of the LEA. But, the LEA agrees to be primarily responsible for providing each substitute teacher with work assignments, guidance and supervision in the performance of duties, and notifying the substitute teacher of applicable workplace rules. The LEA shall promptly notify the SubHub Program Administrator at the ESC1 office of any tardiness, absence, insubordination, violation of

workplace rules, or misconduct by a substitute teacher or of complaints made against a substitute teacher by parents, students, or co-workers. The LEA shall not have the authority to impose any sanctions or discipline a substitute teacher or terminate any substitute teacher's employment. The LEA may request that the ESC1 not permit a substitute teacher to accept any work assignments at any LEA campus work site, for any reason or no reason at all. The ESC will follow up with LEA administration on acquiring documentation to address the situation.

H. Exclusivity of Agreement.

In the event that a substitute teacher who has accepted an assignment fails to appear for such assignment or after reporting to the assignment leaves the work site prior to completing the work assignment without LEA approval, the LEA may utilize the SubHub Program resources or its own resources to procure a substitute teacher. Otherwise, the LEA agrees that it shall not engage any other provider of services similar to SubHub Program services or to continue employing substitute teachers through its own in-house resources during the term of this Agreement.

I. Hyperlinked Resources.

The LEA agrees to make available to all its personnel having a responsibility for the SubHub program activities an ESC1-provided hyperlink that will allow internet access to SubHub resources that are placed on the ESC1's website.

J. Fee for Services.

The LEA agrees to pay the ESC1 all amounts due within 30 days after receiving an invoice for services from the ESC1 for substitute teachers placed at the LEA. The LEA agrees that failure to timely pay an invoice from ESC1 can be grounds for termination or suspension of SubHub services. The LEA agrees to pay the ESC1 for substitute teachers at the following daily rates:

- Non-Degreed - \$87.75
- Degreed (Bachelors+) - \$108
- Degreed/valid Texas Teacher certificate - \$135
- Long term assignment (degreed/valid Texas Teacher certificate in a 10 day or more continuous assignment for the same teacher) – \$162

The LEA agrees that the ESC1 may increase these daily rates at each renewal of this Agreement. The LEA agrees that any changes in daily rates shall be made part of any renewal of this Agreement by written addendum signed by both parties. If the ESC1 increases any of these daily rates by more than 15%, the LEA may elect not to renew this Agreement, notwithstanding the 60-day notice provision, unless the ESC1 has provided notice to the LEA of its intent to increase the daily rates at least 75 days prior to the end of a term of this Agreement.

K. Account Contacts.

The LEA hereby designates the following person to the ESC1 as being the "Point of Contact" within its organization to manage the daily operations of the substitute teacher program:

Name: _____
Title: _____
Address: _____
Phone: _____
Fax: _____
Email: _____

The LEA hereby designates the following person to the ESC1 as being the "Technology point of contact" within its organization to provide technical support as necessary:

Name: _____
Title: _____
Address: _____
Phone: _____
Fax: _____
Email: _____

The LEA hereby designates the following person to the ESC1 as being the "Account Manager" to manage the relationship established by this Agreement on behalf of the LEA and to make decisions binding on the LEA with respect to any matter under this Agreement:

Name: _____
Title: _____
Address: _____
Phone: _____
Fax: _____
Email: _____

L. Termination Without Cause

The LEA agrees that if it terminates this Agreement without cause, the ESC1 shall be entitled to recover from the LEA, as liquidated damages, the cost for providing the initial training to LEA personnel plus an amount that is equal to three times the monthly average paid by the LEA for SubHub services under this Agreement prior to termination.

3. ESC1 RESPONSIBILITIES AND OBLIGATIONS.

A. Substitute Teachers

All substitute teachers placed through the SubHub Program at LEA campus work sites shall, at all times, be employees of the ESC1. The ESC1 shall be solely responsible for payment of the substitute teacher's wages and fringe benefits.

B. Absence Management and Substitute Placement System

The ESC1 agrees that it will host the SubHub Program utilizing a state-of-the art computer software program and its own hardware and infrastructure at a location of its choosing, and may employ the services of third-party contractors or consultants, if needed to assist it in hosting this program. The ESC1 will make available to the LEA the services and resources to the SubHub Program via the internet and the telephone.

C. Qualifications of Substitute Teachers

The ESC1 agrees that it shall provide a reasonably adequate pool of individuals that remain trained and qualified, at all times, to work as substitute teachers for the LEA, as needed. All employees of the ESC1 working as substitute teachers in the SubHub program shall have undergone the following screening and training:

- Completion of ONE*APP and application for position
- Successful completion of Region One ESC Substitute Teacher Certification Academy (or Region One ESC Substitute Teacher training if direct hire from LEA)
- Acceptable criminal history background check
- Committee recommendation for employment (unless direct hire from LEA at time of onboarding)

D. SubHub Training and Technical Assistance

The ESC1 shall be responsible to provide any and all SubHub Program-related training, during the term of this Agreement to the LEA's designated personnel at a time, date, and place designated by the ESC1. The ESC1 shall, also, be responsible for providing technical assistance by phone or on-line to LEA personnel, as needed, during the term of this Agreement. The SubHub Program-related training shall be at no charge to the LEA, except as may otherwise be provided in this Agreement.

E. Background Checks.

The ESC1 complies with the requirements of Texas Education Code § 22.0834 by working with the Texas Department of Public Safety to conduct fingerprint checks on employees prior to being assigned to or placed at an LEA campus through the SubHub Program. No employee, agent, representative, volunteer, applicant for employment, or other person associated with ESC1 who has been convicted of an offense as delineated in Texas Education Code § 22.085 shall be permitted to perform services for the LEA under the SubHub Program. The ESC1 shall certify that it will ensure that this requirement is met. Records of compliance with Texas Education Code § 22.0834 will be made available to the

LEA upon request. Fingerprinting records are available to the LEA through the FACT Clearinghouse.

F. Program Contacts.

The ESC1 hereby designates the following person to the LEA as being the “Point of Contact” within its organization to manage the daily operations of the substitute teacher program:

Name: Dolores N. Hernandez

Title: SubHub Director

Address: 1900 W. Schunior, Edinburg, TX

Phone: 956-984-6024

Fax: 956-984-7653

Email: dohernandez@esc1.net

The ESC1 hereby designates the following person to the LEA as being the “Account Manager” to manage the relationship established by this Agreement on behalf of the ESC1 and to make decisions binding on the ESC1 with respect to any matter under this Agreement:

Name: Dolores N. Hernandez

Title: SubHub Director

Address: 1900 W. Schunior, Edinburg, TX

Phone: 956-984-6024

Fax: 956-984-7653

Email: dohernandez@esc1.net

G. Hyperlinked Resources

The ESC1 agrees to provide the LEA with a hyperlink that will allow internet access to SubHub resources that are placed on the ESC1’s website. This hyperlink is to be made available to all LEA personnel having a responsibility for the SubHub program activities.

H. Student Information.

The parties acknowledge and agree that certain federal and state laws protect the privacy interests of students and parents with regard to educational and health records maintained by LEA, including, without limitation, the Family Educational Rights and Privacy Act (“FERPA”), 20 USC § 1232g, and the Health Insurance Portability Accountability Act of 1996 (“HIPAA”) Pub. L. No. 104-191, 110 Stat. 1936. The LEA has determined that the ESC1 has a legitimate educational interest in the educational records, as that term is defined under FERPA, of LEA’s students, and that ESC1 is the agent of LEA solely for the purpose of providing services under this Agreement. ESC1 and ESC1’s employees shall maintain the confidentiality of student and medical records and comply with the requirements of FERPA,

HIPAA, and all other applicable law with respect to the privacy of student records. This provision shall survive the termination of this Agreement. Upon termination of this Agreement, ESC1 will return to LEA all student records, documentation, and other items that were used, created, or controlled by ESC1 during the term hereof.

4. GENERAL CONDITIONS TO THE AGREEMENT.

A. No Warranty

The ESC1 shall endeavor to maintain, manage, and operate the SubHub Program with due diligence and care so as to provide the LEA with continuous and uninterrupted service. But, the ESC1 does not warrant that its SubHub Program will operate error-free. In the unlikely event of interruption in service to the LEA, the ESC1 will exercise reasonable diligence to assist the LEA in procuring a substitute teacher.

B. Independent Contractors. This Agreement is not intended to create a joint venture, partnership, or joint employment. The relationship of the ESC1 to the LEA is that of Independent Contractor. Nothing contained in this Agreement should be construed to give either party the power to act as an agent or direct or control the day-to-day activities of the other.

C. Notices. Any notice required or permitted to be given under this Agreement will be effective if it is in writing and sent by U.S. Mail, telephonic document transfer, or electronic mail to the Account Manager or the Point of Contact, as the case may be.

D. Force Majeure. Nonperformance of either party will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts, orders or restrictions, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.

E. Governing Law. The laws of the State of Texas govern this Agreement without giving effect to provisions related to choice of laws or conflict of laws.

F. Mediation. The resolution of all disputes and controversies between the parties that arise, either in whole or in part, from this Agreement shall, as a condition precedent to litigation, first be attempted by engaging in non-binding mediation. Mediation shall be commenced at the written demand of any party and shall be held in Hidalgo County, Texas at a location designated by the party demanding the mediation, unless the parties agree to another location. The parties shall make good faith effort to commence the mediation not later than the 45th day after the demand for mediation is received. The mediator shall be selected by the party not demanding the mediation. The mediator's fee and all costs for conducting the mediation shall be borne equally by the parties.

G. Attorneys' Fees and Cost. The prevailing party in any lawsuit arising from or relating to this Agreement is entitled to recover its costs of suit, including reasonable attorney fees, from the non-prevailing party.

H. Waiver and Severability. The waiver by either party of any breach of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any

covenant or obligation under this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement. If any part of this Agreement is unenforceable, the remaining portions of this Agreement will remain in full force and effect.

- I. Execution in Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute but one and the same instrument. The Agreement may be executed and delivered electronically and the parties agree that each party may use such electronic signatures as evidence of the execution and delivery of this Agreement.

SOUTH TEXAS EDUCATIONAL TECHNOLOGIES (LEA)

REGION ONE EDUCATION SERVICE CENTER

By: _____

By: _____

Typed/
Printed Name: _____

Typed/
Printed Name: Dr. Cornelio Gonzalez

Title: _____

Title: Executive Director

Date: _____

Date: _____