

Contract Number: 734-2022-AA-002849
Start Date: Tuesday, January 18, 2022
End Date: Friday, January 17, 2025



**MASTER CLINICAL AFFILIATION AGREEMENT BETWEEN
LAMAR UNIVERSITY
AND
ECTOR COUNTY ISD**

This Affiliation Agreement ("this Agreement") is made and entered into on Tuesday, January 18, 2022 (the "Effective Date"), between Lamar University, an institution of higher education in the State of Texas and a component of The Texas State University System, ("University"), which is located at 4400 MLK Parkway, Beaumont, Texas 77710 and Ector County ISD ("Facility"), which is located at 802 N. Sam Houston, Odessa, TX 79761. University and Facility shall be known collectively as "the Parties" and singularly as "a Party" or "the Party." This Agreement incorporates by reference the attached Program Addendum(s) ("Program Addendum") and expressly includes any additional terms and conditions stated in the Program Addendum(s), as if set out herein. In case of a conflict between this Agreement and any Program Addendum, this Agreement shall control. Each Program Addendum shall constitute a separate and independent contract between the parties and may have a term shorter than this Agreement.

WHEREAS, Facility owns and operates a business and has a commitment to training students.

WHEREAS, University has established and sponsors certain accredited programs for students and seeks to educate students by providing and coordinating educational and clinical practice sites for qualified students ("Students") and,

WHEREAS, the Parties recognize that they have certain objectives in common to educate and train students in particular fields as identified in the Program Addendum(s) and seek to provide clinical and educational experiences for Students enrolled in the University's undergraduate and graduate programs by utilizing the Facility for said purposes.

NOW THEREFORE, the Parties agree as follows:

ARTICLE 1 – TERM AND TERMINATION

- (1) This Agreement shall commence on the Effective Date and shall be in full force and effect for three (3) years, unless sooner terminated by mutual consent of the Parties, or by any Party hereto giving the other Party written notice of termination in accordance with the Terms of this Agreement. This Agreement shall automatically renew for two successive one (1) year periods, unless earlier terminated by either Party.
- (2) Either Party may terminate this Agreement without cause at any time upon sixty (60) days written notice to the other Party.
- (3) Notwithstanding any automatic renewal, this Agreement shall automatically terminate five (5) years from its Effective Date.
- (4) In the event that either Party terminates this Agreement, the Parties agree that no termination shall be effective with regard to Students currently participating or enrolled in an ongoing clinical education experience until such Students are allowed to complete any previously scheduled clinical assignments then in progress at Facility. In such an event, all applicable provisions of this Agreement shall remain in force until the end of the clinical education experience.

Second Party: Ector County ISD
LU Dept: COLLEGE OF EDUCATION AND
HUMAN DEVELOPMENT

- (5) The University may terminate this Agreement effective upon delivery of written notice to the Facility, or at such later date as may be stated in the notice, if any license, permit, certificate or accreditation required of Facility by law, rule or regulation, or by the terms of this Agreement, is for any reason denied, removed, suspended, or not renewed.

ARTICLE 2 – RESPONSIBILITIES OF UNIVERSITY

University shall:

- (1) Appoint a Program Liaison and timely inform Facility of the name, address, email address and phone number of said Program Liaison who will be available to assist Students and Facility personnel. The Program Liaison will be responsible for maintaining ongoing contact with Facility's designated representative.
- (2) Provide the educational direction of the Program as well as the placement and basic preparation of Students through classroom instruction and identification of educational and clinical objectives. University shall further direct the Program in accordance with all guidelines established by local, state or national associations, as well as develop, organize, and assist Facility in implementing and operating a Program that is suitable to each Student, including Students with disabilities.
- (3) Obtain from Facility the name, address, email address and phone number of Facility's designated representative and acquaint Facility's designated representative with methods, objectives, goals, and specifics of the Program as outlined in the Program Addendum.
- (4) Ensure that each Student assigned to Facility pursuant to this Agreement is enrolled in the Program with the University.
- (5) Recruit, screen, evaluate, select and assign to Facility only Students who have fulfilled all prerequisites for training or clinical educational experience and provide Facility with information requested by Facility about the Student, to the extent not prohibited by the Family Educational Rights and Privacy Act (FERPA), U.S.C. § 1232g; 34 CFR Part 99, or other applicable state or federal law. Facility is not authorized to redisclose any FERPA or other protected information.
- (6) If required by Facility, University shall notify students of Facility's requirements to obtain the necessary criminal background check prior to assignment, but University shall not be required to conduct drug testing or criminal background checks for students. The University shall refer students to either Facility's approved vendor(s) or to a third party vendor at Student's sole cost and expense for the purposes of performing drug testing, health care and criminal background checks. All results will be submitted by the vendor to the Facility without involvement by the University.
- (7) Coordinate with Facility to determine the number of Students to be placed at Facility, the duration of such placement/assignment; the number of hours the Facilities will be available and assign only the number of Students mutually agreed upon by Facility and University. University will notify Facility as soon as possible of the names and arrival dates of Students.
- (8) **Insurance:** The University will require its Students and faculty involved in the performance of the Affiliation Agreement to maintain professional liability insurance or self-insurance covering their activities under this Agreement. Prior to each assignment to Facility, the University will furnish Facility, if applicable, with evidence that each Student and faculty member/representative has in effect professional liability insurance coverage of not less than \$1,000,000 per incident and \$3,000,000 in the aggregate. The University will issue the Facility certificates of insurance as evidence that Students and faculty have current professional liability insurance and will be kept current while such person is assigned to the Facility. University will inform Facility

immediately of each renewal, cancellation or change in the content or amount of such coverage.

- (9) **Immunizations:** The University will inform Students of Facility's immunization and vaccination requirements and notify all Students participating in clinical education experiences involving patient contact or exposure to patient their obligation to comply with immunization requirements.
- (10) Inform Students of their obligation to provide transportation, appropriate supplies, uniforms and health insurance, as applicable.
- (11) Inform Students of their responsibility to adhere to all applicable administrative policies, rules, standards, schedules, and practices of Facility and University, and attend orientation as applicable.
- (12) **Protected Health Information and the Health Insurance Portability and Accountability Act:** The University shall direct its students to comply with the policies and procedures of Facility, including those governing the use and disclosure of individually identifiable health information under federal law, specifically 45 CFR Parts 160 and 164. Solely for the purpose of defining the students' role in relation to the use and disclosure of protected health information, such students are defined as members of Facility's workforce, as that term is defined by 45 CFR 160.103, when engaged in activities pursuant to this Agreement. However, such students are not and shall not be considered to be employees of Facility. Additionally, no services are being provided to Facility by the University pursuant to this Program Addendum and therefore this Agreement does not create a "business associate" relationship as that term is defined in 42 CFR §160.103.
- (13) **Infection Control:** The University shall provide to Facility evidence of current tuberculosis screening prior to any representative or Student providing services to Facility under the terms of the Affiliation Agreement. University shall be responsible for notifying all employees or Students performing under the Affiliation Agreement of any on-going screening requirements for tuberculosis and maintain adequate records of current tuberculosis screens pursuant to guidelines established by law. If Facility suspects that faculty or Students providing services under this Agreement have been exposed to or have a positive screening for a communicable disease, Facility must respond according to the current CDC guidelines and keep documentation of the action taken. Facility will conduct and document a reassessment of the risk classification. Facility will conduct and document subsequent screening based upon the reassessed risk classification.
- (14) Upon notice, inform Facility of any adverse circumstances to which Facility may be exposed because of the activities or health status, including the mental health status, of a Student.
- (15) Upon notice, notify Facility of any complaint, claim, investigation, involving a Student, faculty or Facility representative or employee that is related to the educational or clinical experiences provided under this Agreement, to the extent permitted by law.
- (16) Accept the overall responsibility for the education, evaluation, qualifications, and competency development of each Student and be solely responsible for the determination of a grade representative of the Student's performance in the placement using the evaluation and observation of the Facility Liaison as well as other objectives identified by the University.

ARTICLE 3 – RESPONSIBILITIES OF FACILITY

Facility shall:

- (1) Designate a qualified Facility Liaison and timely inform University of the name, address, email address and phone number of said Facility Liaison who will be available to assist University personnel and Students of the Program. The Facility Liaison will be responsible for maintaining ongoing contact with University's

designated representative and providing instruction and supervision of the Students based in the Facility.

- (2) Provide facilities necessary to support the Program(s) for the training and qualifying of Students in the Program as identified in the Program Addendum; provide a supervised learning experience for Students in accordance with agreed upon learning objectives, skill development areas, learning experiences, and intended learning outcomes.
- (3) Provide University's Program Liaison (or other designee) and Students, as necessary, with periodic performance information and tender an end-of-semester evaluation for Students.
- (4) Immediately report any unsatisfactory conduct or performance of a Student to the University's Program Liaison.
- (5) Permit designated faculty members the right to visit with Students and Facility liaisons/supervisors at Facility regarding the progress of Students participating in the Program at Facility.
- (6) Provide Students with essential conditions and materials for their work (including safety equipment as necessary), including direct supervision, space, privacy, participation in appropriate activities, access to conference rooms for student education, office space for Program Liaisons, locker rooms or other secure space for faculty and students to store materials while on assignment, access to libraries and cafeteria (subject to any applicable fees or charges as are customarily charged to any other person), technological supports and, reimbursements for work-related expenses, where applicable.
- (7) Provide an atmosphere for learning that is supportive and free of discrimination based, on race, color, sex, sexual orientation, gender identity and expression, national origin, disability or age.
- (8) Provide Students with information regarding policies and procedures of Facility, and with orientation experiences to ensure that Students will be able to meet the requirement of Facility.
- (9) To the extent possible, provide Students with initial emergency care in case of accidents.
- (10) Timely notify University in writing of any complaint, claim, investigation, involving a Student, faculty or Facility representative or employee that is related to the educational or clinical experiences provided under this Agreement. Facility shall further have the right to request immediate removal of any student from its premises upon a determination by the administrator in charge that the Student poses a threat to the health, safety or welfare of Facility's patients, clients or personnel or to the orderly business function of the Facility. Facility has no authority to remove a student from a Program.
- (11) Timely notify University if Facility's license, permit or accreditation is revoked or in jeopardy to allow for students to be timely placed in other facilities.

ARTICLE 4 – RESPONSIBILITIES OF THE PARTIES

The Parties mutually agree that:

- (1) University and Facility will work together to select and assign learning experiences for Students, and will further provide for teaching, evaluation, overall supervision, and record keeping of Students.
- (2) University and Facility will consult as necessary to ensure that the Program meets acceptable standards of care and provides Students participating in the Program with the necessary clinical and educational training

to successfully meet the requirements for the degree program for which the Students are enrolled.

- (3) University and Facility will meet as necessary to discuss issues of mutual concern and to make such suggestions and changes as are needed to achieve the objectives of the program.
- (4) Neither Party's Students nor personnel shall be considered employees, agents, borrowed servants, partners, or joint ventures of the other Party. Nothing herein shall be construed to create a joint venture, partnership, association or like relationship between the parties. Neither Party will assume any liability under any law relating to Workers' Compensation for the other Party's employees or students performing under this Agreement. Students and faculty of University shall not be entitled to any monetary or other remuneration for services performed by them at the Facility arising out of their participation under this Agreement, nor will Facility or University have a monetary obligation to one another by virtue of this Agreement. Nothing in this Agreement is to be construed as transferring responsibility from one Party to another. Facility has the option to support the clinical education activities of Student(s) through a financial stipend or other types of subsidies for housing, parking or meal costs. Such support is for the purpose of supporting the clinical education and will not constitute an employer-employee relationship between Facility and the Student or Facility and the University.
- (5) Facility is not responsible for wages, social security taxes, medical insurance, hospitalization insurance, or workers' compensation insurance for Students. In the event a Student should, independent of this Agreement, be employed by Facility, this section and the preceding section shall not apply during the hours in which such Student is performing services as an employee of Facility.
- (6) In the event of any dispute arising under or relating to this Agreement, the Parties shall make a good faith attempt to resolve such dispute by mediation on such terms as the Parties find acceptable. Each Party shall bear the costs of its own legal fees and expenses.
- (7) If any situation arises that may threaten a Student's successful completion of the placement, the parties will discuss and attempt to reach a mutual agreement with the Student regarding options for completing, rescheduling or cancelling the placement.
- (8) **FACILITY AGREES TO INDEMNIFY UNIVERSITY, ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS AGAINST AND HOLD THE SAME HARMLESS FROM ANY CLAIMS, DEMANDS, CAUSES OF ACTION, LIABILITIES, COSTS DAMAGES, EXPENSES, AND ATTORNEYS' FEES ASSERTED OR ADJUDGED AGAINST OR INCURRED BY UNIVERSITY RESULTING FROM BREACH BY THE FACILITY OF ANY PROVISIONS OF THIS AGREEMENT, INCLUDING NEGLIGENCE IN PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT ARISING DIRECTLY OR INDIRECTLY, IN CONTRACT OR TORT, OUT OF THE ACTS OR OMISSIONS OF ITS EMPLOYEES, DIRECTORS, OFFICERS, SUBCONTRACTORS OR AGENTS.**
- (9) To the extent authorized by the Constitution and the laws of the State of Texas, University agrees to indemnify Facility, its affiliates, and their respective officers, directors, employees and agents against and hold the same harmless from any claims, demands, causes of action, liabilities, costs, damages, asserted or adjudged against or incurred by Facility resulting from breach by the University of any provisions of this Agreement arising directly or indirectly, out of the acts or omissions of staff or faculty. Nothing in this Agreement extends the University's liability beyond the liability or authority provided in the Constitution and laws of the State of Texas and nothing herein constitutes or is intended to constitute a waiver of the University's or the state's sovereign immunity to suit. The Parties understand that there are constitutional and statutory limitations on the authority of University to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions related to liens on University's property, disclaimers and limitations on warranties, disclaimers and limitations of liability for damages, waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to

bring legal actions/ granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on University except to the extent authorized by the Constitution and laws of the State of Texas.

- (10) There shall be no unlawful discrimination in either the selection of Students for the Program or as to any aspect of their training or clinical educational experience on the basis of race, color, national origin, religion, gender, age, veteran status, gender identity, sexual orientation, political affiliation or disability. In their execution of this agreement, all contractors, subcontractors, their respective employees, and others acting by or through them shall comply with all Lamar University and Texas State University System Policies and, all federal and state policies and laws prohibiting discrimination, harassment, and sexual misconduct. Any breach of this covenant may result in termination of this agreement.

ARTICLE 5 – GENERAL PROVISIONS

- (1) The Parties agree that this Agreement will be construed by the laws of the State of Texas.
- (2) In the event that legislation is enacted or regulations are promulgated or a decision of a court or administrative tribunal is rendered which affects or may affect the legality of this Agreement or adversely affect the ability of either Party to perform its obligations or receive the benefits intended hereunder, then, within thirty (30) days following notice, each party will negotiate in good faith an amendment to this Agreement which will carry out the original intention of the Parties to the extent possible in light of such legislation, regulation or decision, and each Party will execute such amendment. In the event that the parties cannot reach agreement on the terms and provisions of any such amendment within sixty (60) days following notice provided in this paragraph, this Agreement may be terminated upon not less than thirty (30) days' prior written notice of termination.
- (3) The Parties agree not to use the other Party's name, likeness, images in any advertising, promotional material, press release, publication, public announcement or other media, oral or written, without the written consent of the other Party.
- (4) The terms and conditions of this Agreement may be modified only upon mutual written consent of the Parties at any time.
- (5) Any notice required or permitted under this Agreement shall be considered effective as of the date sent by certified mail, return receipt requested, as follows:

FACILITY:

Ector County ISD
802 N. Sam Houston
Odessa, TX 79761

UNIVERSITY:

Lamar University
Dean, COLLEGE OF EDUCATION AND HUMAN DEVELOPMENT
4400 MLK Parkway
Beaumont, Texas 77710

- (6) Neither Party may assign any rights or obligations under this Agreement without prior written consent of the other Party. However, nothing herein prevents any Party from entering into other agreements and affiliations.
- (7) Each Party represents that the execution of this Agreement has been duly authorized.

- (8) If any part of this Agreement should be determined to be invalid, illegal, inoperative, or contrary to applicable law, statute, regulation, or University or Facility policies, that part of this Agreement shall be reformed, if reasonably possible, to comply with the applicable policies, provisions of law, statute, or regulation, and, in any event, the remaining parts of this Agreement shall be fully effective and operative insofar as reasonable possible.
- (9) No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any other provision, unless in writing. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.
- (10) Neither Party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or other interruption of service deemed resulting, directly or indirectly, from acts of God, acts of public enemy, war, accidents, fires, explosions, hurricanes, floods, failure of transportation, strikes, or other work interruptions by either Party's employees, or any similar cause beyond the reasonable control of either Party.
- (11) This Agreement is entered into by and between the Parties hereto and for their benefit. Unless explicitly provided in this Agreement, there is no intent by either Party to create or establish third Party beneficiary status or rights in any third Party, and no such third Party shall have any right to enforce any right or enjoy any benefit created or established under this Agreement.
- (12) This Agreement shall bind and benefit the respective Parties and their legal successors.
- (13) This Agreement shall constitute the complete understanding of the Parties related to the subject matter contained herein and supersedes all prior agreements, proposals, or understandings, whether written or oral.

IN WITNESS THEREOF, this Agreement, in multiple originals, each of equal force, has been executed on behalf of the Parties hereto as follows:

FACILITY:

LAMAR UNIVERSITY:

Alicia Syverson
ECISD Assistant Superintendent
Student and School Support

Dr. Brenda Nichols
Provost and Vice President for Academic Affairs

Note: Modification of This Form Requires Written Approval of the Texas State University System Office of General Counsel



PROGRAM ADDENDUM
to
MASTER CLINICAL AFFILIATION AGREEMENT BETWEEN
LAMAR UNIVERSITY
AND
ECTOR COUNTY ISD

WHEREAS, this Program Addendum to Master Clinical Affiliation Agreement is made and entered into on Tuesday, January 18, 2022 between Lamar University and Ector County ISD.

WHEREAS, Lamar University, is an institution of higher education in the State of Texas and a component of The Texas State University System, ("University"), which is located at 4400 S. MLK Parkway, Beaumont, Texas 77710 and Ector County ISD ("Facility"), is located at 802 N. Sam Houston, Odessa, TX 79761. University and Facility shall be known collectively as "the Parties" and singularly as "a Party" or "the Party."

WHEREAS, University and Facility desire to implement the provisions of this Program Addendum to Master Clinical Affiliation Agreement by providing students enrolled in University's Counseling and Development, School Counseling program with educational and clinical experience utilizing the personnel, equipment and facilities of Facility.

NOW THEREFORE, subject to the terms, conditions and provisions of such this Program Addendum to Master Clinical Affiliation Agreement, the Parties agree as follows:

PROGRAM

Facility is a school district engaged in public education.

University has established and sponsors a Counseling and Development, School Counseling program for students and seeks to educate students by providing and coordinating educational and clinical practice sites for qualified students for the completion of the training offered by the University, subject to applicable accreditation standards and regulations.

The University's program is a 30-month program designed to prepare students for a career as Professional School Counselors.

Standards for the program include: Students are required to earn field experience hours during their practicum and internship.