

RESOLUTION
DISSOLUTION OF THE ESC-20 RDSPD

WHEREAS, the Education Service Center Region 20 (“ESC-20”) is party to and the fiscal agent of the ESC-20 Regional Day School Program for the Deaf (“RDSPD”) by virtue of a Shared Services Agreement (“SSA”) executed on May 27, 2016 and which has been renewed annually to date;

WHEREAS, the RDSPD is a cooperative established by and through a Shared Services Agreement of member school districts to operate certain aspects of their special education program for students with hearing impairments under the authority of Section 20.007, Texas Education Code, and Section 791.002 et seq. of the Texas Government Code;

WHEREAS, the RDSPD is composed of the following school district members – Alamo Heights ISD, East Central ISD, Falls City ISD, Floresville ISD, Fort Sam Houston ISD, Judson ISD, La Vernia ISD, Poth ISD, Randolph Field ISD, San Antonio ISD, Schertz-Cibolo-Universal City ISD, and Stockdale ISD (“Member Districts”);

WHEREAS, Education Service Center for Region 20 (“ESC-20”) has and continues to serve as the fiscal agent for the RDSPD;

WHEREAS, the RDSPD is governed by a Management Board comprised of the Special Education Directors/Coordinators or their designees of each member school district and the fiscal agent;

WHEREAS, San Antonio ISD has decided to establish a new RDSPD via another SSA and to also serve as the fiscal agent beginning the 2019-2020 school year;

WHEREAS, due to San Antonio ISD’s creation of an RDSPD, at a Special Meeting of the Management Board on September 27, 2018, the Management Board passed a motion to dissolve the current RDSPD by a vote of 12-0 of its Member District representatives and 9-0 vote of Proposed Member District representatives;

WHEREAS, the Management Board’s dissolution vote operates as a recommendation to the Member Districts based on paragraph 8.1 in the RDSPD SSA that reads,

“Dissolution of this Agreement shall require the affirmative vote of a majority of the SSA Members. The Fiscal Agent shall notify TEA of the SSA’s intent to dissolve by February 1st prior to the end of the fiscal year it intends to remain in the SSA. Upon dissolution, the ESC-20 RDSPD SSA’s funds and any other remaining assets, after full and final resolution of all charges and liabilities, will be divided among the SSA Members, prorated in the same manner as administrative costs as provided by Section 7.2. Following the vote to dissolve the ESC-20 RDSPD SSA, the dissolution will take effect on July 1 of the fiscal year in which the dissolution is completed. All TEA timelines shall apply. This solution cannot be effectuated solely by the Fiscal Agent or the management board as such requires a majority vote of the SSA Member District and Charter Boards of Trustees or Charter Boards.”

WHEREAS, paragraph 7.2 of the SSA provides in pertinent part that,

“...[a]dministrative costs, including, but not limited to, all costs and salaries related to the ESC-20 RDSPD SSA Coordinator, classroom teachers, itinerant teachers, interpreters, classroom aides, and contracts with outside service providers, including, but not limited to audiologists, interpreters, and consultants, as well as any uncontrollable costs incurred by the ESC-20 RDSPD SSA, over and above the amount of state deaf and/or federal funds, shall be divided among SSA Members based upon the number of each SSA Member’s students receiving services from the ESC-20 RDSPD SSA compared as a ratio to the total of all students served by the ESC-20 RDSPD SSA as recorded on the most recent student census...”

WHEREAS, the Management Board recommends the dissolution of the RDSPD to each Member District’s respective Board of Trustees in accordance with Paragraph 8.1 of the SSA with the exception of the disposition of personal property jointly owned and possessed by the Member Districts and in the care and control of the RDSPD;

WHEREAS, the Management Board recommends that the jointly owned and possessed personal property should be donated to the prospective San Antonio ISD RDSPD, to be owned in accordance with the terms of the new SSA, for the dedicated purpose of serving the needs of hearing impaired students of the new RDSPD member districts that will include some or all of the current RDSPD Member Districts;

WHEREAS, for the dissolution to be effective, the RDSPD and Member Districts must provide the Texas Education Agency with notice by February 1, 2019;

WHEREAS, legal representation is required to wind-down and dissolve the RDSPD and the legal services of the law firm of Walsh Gallegos Treviño Russo & Kyle (“Walsh Gallegos”) is requested by the ESC-20 for joint representation of the Member Districts and ESC-20 given the shared common interest in dissolution;

WHEREAS, prior consent of all Member Districts and ESC-20 (except for Member Districts represented by other legal counsel), including current clients of the firm, is required to engage the law firm’s representation in the dissolution of the RDSPD along with acknowledgments by the ESC-20 and Member Districts that each,

- a. is not aware of any existing conflict of interest that impacts joint representation (such as pending litigation with another District or ESC-20, adverse interests in the dissolution, etc.),
- b. will inform the law firm if a conflict of interest or potential conflict of interest arises during the pendency of the joint representation, and
- c. agrees to a limited waiver of the attorney-client privilege as to information learned by the law firm as part of its joint legal representation but only as between jointly represented Member Districts and ESC-20 and strictly related to its representation on dissolution (the attorney-client waiver does not apply to third parties or other areas of representation beyond dissolution);

WHEREAS, Walsh Gallegos has disclosed that the potential for a conflict of interest may arise in joint representation of clients and that it,

- a. is not aware of a conflict of interest that would prevent the firm from undertaking this representation,
- b. will notify the jointly represented Member Districts and ESC-20 if it becomes aware of a potential or actual conflict of interest, and
- c. will withdraw from this representation upon client request or should an actual conflict of interest arise to include threatened or actual litigation among jointly represented Member Districts and/or ESC-20 with regard to dissolution;

WHEREAS, the Board of Directors delegates and authorizes the ESC-20 RDSPD SSA Coordinator, through ESC-20's Executive Director, to work with the Superintendent or designee of the Member Districts to take all action necessary to accomplish the dissolution of the RDSPD, including without limitation notification and coordination with the Texas Education Agency; and

WHEREAS, the Board of Directors acknowledges that should the RDSPD be dissolved, each Member District must take action to provide services to its students with hearing impairments in accordance with law whether on a District basis or through action to join the SAISD RDSPD SSA or other SSA and provide notice to the Texas Education Agency before February 1, 2019;

BE IT RESOLVED THAT, the Board of Directors approves the following by majority vote,

1. the statements in the Preamble of this Resolution are found to be true and correct;
2. acknowledges the Management Board's recommendation to Member Districts regarding the dissolution of the RDSPD in accordance with Section 8.1 of the Shared Services Agreement with the exception of the disposition of personal property;
3. acknowledges the Management Board's recommendation to Member District's regarding the transfer of Member District's ownership and possessory interests in personal property acquired for and used by the RDSPD SSA to the prospective San Antonio ISD RDSPD SSA (to be held in accordance with the terms of its SSA) for the future use and benefit of hearing impaired students from participating member districts including possible current RDSPD Member Districts;
4. Walsh Gallegos Treviño Russo & Kyle is retained to jointly represent all Member Districts and ESC-20 in the dissolution of the RDSPD, except for Member Districts represented by other counsel;
5. the ESC-20 RDSPD SSA Coordinator, through ESC-20's Executive Director, is authorized to take all necessary action to dissolve the RDSPD in coordination with each Member District Superintendent or designee to include required notice to the Texas Education Agency; and

6. sufficient written notice of the date, time, place and subject of the meeting of the Board of Directors was posted pursuant to Chapter 551, Texas Government Code, and the meeting was open to the public as required by law including the consideration and vote taken related to this Resolution.

SIGNED this _____ day of _____, 2018.

By: _____
Chairman, Board of Directors

ATTEST:

Secretary, Board of Directors

CERTIFICATION

I hereby certify that the foregoing resolution was presented to the Board of Directors of the Education Service Center Region 20 during a regularly scheduled meeting on _____, 2018. A quorum of the Board of Directors being then present, it was then duly moved and seconded that the resolution be adopted according to the following votes,

Ayes: _____

Nays: _____

Abstentions: _____

To certify which, witness my hand this ____ day of _____, 2018.

By: _____
Chairman, Board of Directors