

BOARD OF TRUSTEES
AGENDA☐

Workshop

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Regular

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Special

(A)

☐

Report Only

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Recognition

Presenter(s):

Briefly describe the subject of the report or recognition presentation.

(B)

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Action Item

Presenter(s): JOHN COX, DEPUTY SUPT. FOR CURRICULUM & INSTRUCTION
ELIZABETH TORRES, SPECIAL EDUCATION DIRECTOR

Briefly describe the subject of the report or recognition presentation.

CONSIDER AND TAKE APPROPRIATE ACTION ON THE REQUEST TO APPROVE
RESOLUTION 2019/2020-08 REGARDING SPECIAL EDUCATION SHARED SERVICE
AGREEMENT WITH UVALDE REGIONAL DAY SCHOOL PROGRAM FOR THE DEAF
(RDSPD).

(C) Funding Source: Identify the course of funds if any are required

168

(D) Clarification: Explain any question or issues that might be raised regarding this item.

RESOLUTION TO APPROVE THE DEVELOPMENT OF AN INTERLOCAL AGREEMENT
BETWEEN EAGLE PASS ISD AND RDSPD MEMBER DISTRICTS.

**EAGLE PASS INDEPENDENT SCHOOL DISTRICT RESOLUTION
REGARDING SPECIAL EDUCATION SHARED SERVICES AGREEMENT WITH
THE UVALDE REGIONAL DAY SCHOOL PROGRAM FOR THE DEAF SPECIAL
EDUCATION SHARED SERVICES ARRANGEMENT**

WHEREAS, the Board of Trustees of the Eagle Pass Independent School District has previously authorized and executed the Shared Services Arrangement Agreement for Uvalde Regional Day School Program for the Deaf Special Education Shared Services Arrangement;

WHEREAS, Uvalde Regional Day School Program for the Deaf Special Education SSA is a cooperative established by and through a Shared Services Agreement of school districts to operate certain aspects of their special education program for students with disabilities under the authority of Section 29.007, Texas Education Code, and Section 791.002 *et seq.* of the Texas Government Code;

WHEREAS, the Uvalde Regional Day School Program for the Deaf Special Education Shared Services Arrangement is composed of the following school district members: Brackett Independent School District, D'Hanis Independent School District, Knippa Independent School District, Leakey Independent School District, Nueces Canyon Independent School District, Sabinal Independent School District, Utopia Independent School District, Crystal City Independent School District, Carrizo Springs Consolidated Independent School District, Eagle Pass Independent School District, Hondo Independent School District, Cotulla Independent School District, Dilley Independent School District, Pearsall Independent School District, and Uvalde Consolidated Independent School District ("Member Districts");

WHEREAS, the Uvalde Consolidated Independent School District has and continues to serve as the fiscal agent for the Uvalde Regional Day School Program for the Deaf Special Education Shared Services Arrangement;

WHEREAS, the Uvalde Regional Day School Program for the Deaf Special Education Shared Services Arrangement is governed by a Management Board comprised of the Superintendent of Schools for each Member District;

WHEREAS, Senate Bill 1376 was passed by the 89th Legislature and repealed Texas Education Code Section 29.007 which read as follows,

School district may enter into a written contract to jointly operate their special education programs. The contract must be approved by the commissioner. Funds to which the cooperating districts are entitled may be allocated to the districts jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement districts' agreement.

WHEREAS, the Texas Education Agency has yet to issue guidance on the implications of the repeal of Section 29.007 but, upon information and belief, will continue to issue funding with the existing Shared Services Agreement for the 2019-2020 school year;

WHEREAS, the repeal of Section 29.007 effectively removes Commissioner authority over Shared Services Agreements but the need for special education services for Member Districts still remains and must be planned, executed and ready for students beginning next school year, 2019-2020 and in future years;

WHEREAS, school districts still maintain the authority to enter into interlocal agreements under the authority of Texas Education Code Sections 11.157 and 11.1511(c)(4) as well as Texas Government Code Annotated Section 791.001 *et seq*;

WHEREAS, given the developing impact of Senate Bill 1376, Member Districts will require the ability to modify its existing Shared Services Agreement to a Interlocal Agreement and will likely also have the future need to make immediate decisions on further changes based on guidance from the Texas Education Agency and, most importantly, need to make prompt decisions to best ensure that there is no interruption of special education services to students for the 2019-2020 and future school years, the Board of Trustees may delegate authority to the Superintendent of Schools to take such current and future action to conform the Shared Services Agreement to an Interlocal Agreement given the change in the law and to prevent the disruption of services to students under the authority of Texas Education Code Section 11.1511(c)(4);

WHEREAS, on behalf of the Board of Trustees, the Superintendent of Schools should possess full authority to represent and make all decisions required as part of the Management Board without need for further approval of the Board of Trustees, with the exception of any changes to the District's participation in same or potential or anticipated litigation;

WHEREAS, the current and future changes to the Shared Services Agreement requires the counsel and services of a law firm so that the new Interlocal Agreement removes state requirements that are no longer applicable, preserves the rights and responsibilities of each party to continue to work in a cooperative manner to acquire personnel, equipment, and contracted services so special education services may be provided to students, transitions ongoing services provided by the Uvalde Regional Day School Program for the Deaf Special Education Shared Services Arrangement as the change is made from a Shared Services Agreement to an Interlocal Agreement with required legal compliance;

WHEREAS, the law firm of Walsh Gallegos Treviño Russo & Kyle P.C. ("Walsh Gallegos") is requested by the Member Districts for joint representation given the shared common interest in changing the Shared Services Agreement to an Interlocal Agreement and future changes to the Interlocal Agreement as the Texas Education Agency develops future guidance based on the change in law;

WHEREAS, prior written consent of all Member Districts (except for Member Districts represented by other legal counsel), including current clients of the firm, is required to engage the law firm's representation along with acknowledgments by the 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 adverse interests in the drafting of the Interlocal Agreement, 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,
- 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 strictly related to its representation regarding the drafting of a new Interlocal Agreement to replace the current Shared Services Agreement and future related revisions (the attorney-client waiver does not apply to third parties or other areas of representation);
- d. delegates the authority to provide future consents for multiple party legal representation on this matter to the Superintendent of Schools.

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 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 with regard to reformation of the Shared Services Agreement;

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

- 1. The statements in the Preamble of this Resolution are found to be true and correct;
- 2. Entering into an Interlocal Agreement based on revisions to the current Shared Services Agreement with other Member Districts for the provision of special education services for students in the 2019-2020 school year and into the future is in the best interest of Member Districts;
- 3. Delegates and authorizes the Superintendent of Schools,
 - a. Represent the District on the Uvalde Regional Day School Program for the Deaf Special Education SSA Management Board, with delegated authority to take all necessary program action with the exception of withdrawing the District from membership and anticipated or potential litigation which is reserved for board action;
 - b. Negotiate and approve revisions to the current Shared Services Agreement so that it is changed to an Interlocal Agreement in full conformity with law;
 - c. Negotiate and approve future revisions to the new Interlocal Agreement as needed;

- d. Execute the Interlocal Agreement or future amended Interlocal Agreements without need for action by the Board of Trustees;
and,
 - e. Provide future written consent to the law firm of Walsh Gallegos for continued or future joint representation on revisions to the Interlocal Agreement;
4. Agrees and approves to retain the law firm Walsh Gallegos Treviño Russo & Kyle P.C. for joint representation of all Member Districts, except for Member Districts represented by other counsel, for legal counsel and service in current and future drafting an Interlocal Agreement; and
5. 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.

APPROVED AND ADOPTED this ____ day of _____, 2019.

By: _____
_____, President
Board of Trustees of the Eagle Pass
Independent School District

ATTEST:

_____, Vice President
Board of Trustees of the Eagle Pass
Independent School District

CERTIFICATE FOR RESOLUTION

I hereby certify that the foregoing Resolution was presented to the Board of Trustees of the Eagle Pass Independent School District during a meeting on _____, 2019. A quorum of the Board of Trustees being then present, it was then duly moved and seconded that the Resolution be adopted, and such Resolution was then adopted according to the following vote:

Ayes: _____

Nays: _____

Abstentions: _____

To certify which, witness my hand and the official seal of the District this _____ day of _____, 2019.

_____, Secretary, Board of Trustees
Eagle Pass Independent School District