

**MEMORANDUM OF UNDERSTANDING BETWEEN
OHIO DEAF AND BLIND EDUCATION SERVICES AND
MID OHIO EDUCATIONAL SERVICE CENTER**

This Memorandum of Understanding (hereinafter "MOU") is made and entered by and between the **State of Ohio, Ohio Deaf and Blind Education Services** (hereinafter "ODBES"), located at 500 Morse Road, Columbus, Ohio 43214, and **Mid Ohio Educational Service Center**, located at 890 West Fourth Street, Mansfield, Ohio 44906 (hereinafter "Mid Ohio ESC"). In consideration of the mutual promises and obligations contained herein, the parties agree by and between themselves as follows:

I. PURPOSE

The parties hereby enter into this Memorandum of Understanding ("MOU") for the purpose of ODBES providing one (1) Teacher of the Visually Impaired/Certified Orientation and Mobility Specialist ("TVI/COMS") and associated support to Mid Ohio ESC within the parameters and time frames articulated in this MOU.

II. PARTIES AND THEIR ROLES

A. ODBES agrees to do the following:

1. Provide one (1) Teacher of the Visually Impaired / Certified Orientation and Mobility Specialist ("TVI/COMS") for approximately two (2) days per week for the 2023/2024 school year to provide the following services to Mid Ohio ESC:
 - i. Plan and participate in meetings with ODBES and Mid Ohio ESC's TVI team;
 - ii. Direct services on a weekly basis on-site in Mid Ohio ESC's home school districts;
 - iii. Attendance at related service intervention team meetings;
 - iv. Shared leadership assignments at related service intervention team meetings;
 - v. Professional development as requested by Mid Ohio ESC which shall include specific information around evaluations;
 - vi. Support with Federal Quota Funds;
 - vii. Attendance at team, district and agency meetings, either virtually or in-person;
 - viii. Attendance at monthly meetings with ODBES and Mid Ohio ESC administration regarding programming needs.

B. Mid Ohio ESC agrees to do the following:

1. Communicate regularly with ODBES and the aforementioned TVI/COMS;
2. Plan and participate in meetings with ODBES and the aforementioned TVI/COMS;
3. Assist ODBES and the aforementioned TVI/COMS with scheduling regarding the weekly direct services to be provided by ODBES's TVI/COMS;
4. Attend related service intervention team meetings;
5. Share leadership assignments at related service intervention team meetings;
6. Assist and communicate any needs for professional development for the aforementioned TVI/COMS;
7. Communicate any needs to ODBES regarding support with Federal Quota Funds;
8. Attendance at team, district and agency meetings, either virtually or in person;
9. Attendance at monthly meetings with ODBES administration regarding programming needs.

III. TIME OF PERFORMANCE

- A. This MOU shall be binding upon both parties until **June 30, 2024**, unless this MOU is terminated earlier as provided in Article VI, Suspension or Termination.
- B. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this MOU would be contrary to the terms of Ohio Revised Code ("R.C.") §§ 3517.13, 127.16, or R.C. Chapter 102.

IV. COMPENSATION

- A. There is no compensation to either party associated with this MOU.
- B. Neither party shall be reimbursed for travel, lodging, or any other expenses incurred in the performance of this MOU.

V. APPROPRIATION OF FUNDS

- A. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this MOU shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, R.C. § 126.07, have been met, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that ODBES gives Mid Ohio ESC written notice that such funds have been made available to ODBES by ODBES's funding source.

VI. SUSPENSION OR TERMINATION OF DUTIES UNDER THIS MOU

- A. ODBES may, at any time prior to completion of the duties under this MOU, suspend or terminate this MOU with or without cause by giving written notice to Mid Ohio ESC.
- B. In the event that the duties under this MOU include divisible services, ODBES may, at any time prior to completion of the duties under this MOU, by giving written notice to Mid Ohio ESC, suspend or terminate any one or more such portions of the duties under this MOU.
- C. Mid Ohio ESC, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this MOU, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by ODBES, furnish a report, as of the date Mid Ohio ESC receives notice of suspension or termination, describing the status of all duties under this MOU, including, without limitation, results, conclusions resulting therefrom, and any other matters ODBES requires.
- D. In the event this MOU is terminated prior to completion of the duties described under this MOU, Mid Ohio ESC shall deliver to ODBES all work products and documents which have been prepared by Mid Ohio ESC in the course of performing the duties under this MOU. All such materials shall become and remain the property of ODBES, to be used in such manner and for such purpose as ODBES may choose.

- E. Mid Ohio ESC agrees to waive any right to, and shall make no claim for, additional compensation against ODBES by reason of any suspension or termination.

VII. RELATIONSHIP OF PARTIES

- A. It is expressly understood that Mid Ohio ESC and ODBES are contractors independent of one another, and that neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other.
- B. It is further understood that neither Mid Ohio ESC nor its employees or agents are “employees” of ODBES as the term is used in division (F) of section 124.01 of the Ohio Revised Code and, therefore, are not eligible for vacation, medical insurance, sick leave, parental leave, leave of absence, tenure, bumping rights, retirement, or any other benefits or rights, which are incidents of public employment subject to the civil service laws of Ohio. Moreover, Mid Ohio ESC is responsible for compliance with any labor laws and contracts as it pertains to any union employees under its employment.
- C. Mid Ohio ESC shall be responsible for all of its own business expenses, including, but not limited to, computers, email and internet access, software, phone service, and office space. Mid Ohio ESC also be responsible for all licenses, permits, employees’ wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers’ Compensation and Unemployment Compensation coverage, if any.

VIII. RECORD MAINTENANCE AND ACCESS

- A. During performance of this MOU and for a period of three (3) years after its completion, the parties shall maintain auditable records of all charges pertaining to this MOU and shall make such records available to ODBES as ODBES may reasonably require.
- B. Mid Ohio ESC shall, for the purpose of compliance with R.C. § 145.036, provide ODBES with a list of all individuals who will provide personal services under this MOU, but only if Mid Ohio ESC has no more than four employees.
- C. **Inspection and Copying.** At any time during normal business hours and upon not less than twenty-four (24) hours prior written notice, Mid Ohio ESC shall make available to ODBES, its agents or other appropriate State agencies or officials all books and records regarding this MOU which are in the possession or control of Mid Ohio ESC, including, but not limited to, financial reports, and all other information pertaining to Mid Ohio ESC’s performance of its obligations under this MOU. ODBES, its agents and other appropriate State agencies and officials may review, audit, and make copies of such books and records. Any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with Mid Ohio ESC’s normal business operations.
- D. **Document Accessibility.** If Mid Ohio ESC creates documents that will be posted to external or internet websites, Mid Ohio ESC must comply with Section 508 of the Rehabilitation Act, 29 USC 794(d) (<http://criterion508.com/WebAccessibility>), which gives disabled employees and members of the public access to information that is comparable to access available to others.

IX. RELATED AGREEMENTS

- A. All duties listed under this MOU are to be performed by Mid Ohio ESC, who may subcontract without ODBES's written approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in the duties of the parties to this MOU, but which are required for satisfactory completion of the duties listed under this MOU.
 - 1. Mid Ohio ESC shall not enter into subcontracts related to the duties listed under this MOU without prior written approval by ODBES. All subcontracted work shall be at Mid Ohio ESC's expense.
 - 2. Upon request, Mid Ohio ESC shall furnish to ODBES a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.
- B. Mid Ohio ESC shall bind its subcontractors to the terms of this MOU, so far as applicable to the work of the subcontractor and shall not agree to any provision which seeks to bind ODBES to terms inconsistent with, or at variance from, this MOU.

X. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

- A. ODBES shall have unrestricted authority to reproduce, distribute, and use (in whole or in part) any reports, data, or materials prepared by the parties pursuant to this MOU. No such documents or other materials produced (in whole or in part) with funds provided to Mid Ohio ESC by ODBES shall be subject to copyright by Mid Ohio ESC in the United States or any other country. If Mid Ohio ESC has reason to believe that use of a specified item is subject to patent or copyright protection, Mid Ohio ESC shall immediately notify ODBES.
- B. Mid Ohio ESC agrees that all original works created under this MOU shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by ODBES. Any requests for distribution received by Mid Ohio ESC shall be promptly referred to ODBES.

XI. CONFIDENTIALITY AND FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

- A. Both parties shall comply with all applicable provisions of Ohio and federal laws including the Family Educational Rights and Privacy Act (hereinafter "FERPA") or its state equivalent. FERPA includes any amendments or other relevant provisions of federal law, as well as all requirements of Chapter 99 of Title 34 of the Code of Federal Regulations. Nothing in this MOU shall be construed to allow either party to maintain, use, disclose, or share student information in a manner not allowed by either state or federal laws or regulations.
- B. As used herein, "confidential information" means any and all information provided in any form from one party to the other which is, by its nature, information that a prudent businessperson would maintain as confidential. "Personal information," as described in 1347.01(E) of the Ohio Revised Code, includes personally identifiable student information or educational records defined by FERPA.

- C. Each party shall use confidential information only in connection with completing the terms of this MOU as set forth herein. Each party agrees to use reasonable efforts to safeguard confidential information. "Reasonable efforts" means efforts not less than those a party employs to protect its own confidential information and, in any event, efforts not less than those a prudent businessperson would take to protect his or her own confidential and proprietary information. No party shall, without the prior written approval of the other party, directly or indirectly, disclose confidential information to any person or business entity except its own employees and representatives, including attorneys, accountants, and financial advisors, on a need-to-know basis.
- D. If either party experiences any breach of data security that exposes confidential information, that party shall bear all costs to notify every individual whose confidential information may have been compromised.
- E. Mid Ohio ESC agrees not to use advertising, news releases, sales promotions, or other publicity matters relating to any product or service furnished by Mid Ohio ESC wherein ODBES's name is mentioned, or language used from which a connection with ODBES may be reasonably inferred, without the prior written consent of ODBES.
- F. Any obligations under this MOU regarding confidentiality are subject to applicable law, including the Ohio Public Records Act set forth in R.C. Chapter 149. The disclosure of records by ODBES pursuant to the Ohio Public Records Act shall not be a breach of this MOU and shall not constitute a waiver of the parties' obligations under this Article XI as to any records disclosed pursuant to a request for public records.

XII. LIABILITY

- A. Mid Ohio ESC agrees to indemnify and hold ODBES and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this MOU which are attributable to Mid Ohio ESC's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third party agents, or joint venturers while acting under this MOU. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime or employment matters, and any claims involving patents, copyrights, and trademarks.
- B. Mid Ohio ESC shall bear all costs associated with defending ODBES and the State of Ohio against any claims.
- C. In no event shall either party be liable to the other party for special damages, which include lost profits.

XIII. ANTITRUST ASSIGNMENT

- A. Mid Ohio ESC assigns to ODBES all state and federal antitrust claims and causes of action that relate to all goods and services provided for in this MOU.

XIV. STATUTORY OBLIGATIONS

- A. **COMPLIANCE WITH LAWS.** Mid Ohio ESC, in the execution of its duties and obligations under this MOU, agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.
- B. **DRUG-FREE WORKPLACE.** Mid Ohio ESC agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all Mid Ohio ESC employees, while working on State property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- C. **NONDISCRIMINATION OF EMPLOYMENT.** Pursuant to R.C. § 125.111, Mid Ohio ESC agrees that Mid Ohio ESC, any subcontractor, and any person acting on behalf of Mid Ohio ESC or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status as defined in R.C. § 4112.01, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the duties under this MOU. Mid Ohio ESC further agrees that Mid Ohio ESC, any subcontractor, and any person acting on behalf of Mid Ohio ESC or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the duties under this MOU on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- D. **USE OF MBE AND EDGE VENDORS.** Revised Code § 125.081 requires state agencies to set aside purchases for Minority Business Enterprises (“MBE”) and Executive Order 2008-13S encourages use of Encouraging Diversity, Growth and Equity (“EDGE”) businesses. ODBES encourages Mid Ohio ESC to purchase goods and services from Ohio-certified MBE and EDGE vendors.
- E. **INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT.** Mid Ohio ESC acknowledges and agrees neither Mid Ohio ESC nor any of its individual employees providing the aforementioned duties under this MOU are public employees for the purposes of R.C. Chapter 145. ODBES will not make contributions to the public employees’ retirement system on behalf of any individuals employed by Mid Ohio ESC, or its subcontractors or other agents. Mid Ohio ESC certifies that it is an employer with five or more employees as defined as a “business entity” in R.C. § 145.037(A) for the purposes of the application of R.C. Chapter 145, or that it has completed the necessary forms provided by ODBES if Mid Ohio ESC is an employer with no more than four (4) employees.

XV. REPRESENTATIONS AND WARRANTIES

- A. **EQUAL EMPLOYMENT OPPORTUNITY.** Both parties will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Section 125.111 of the Ohio Revised Code and all related Executive Orders.
- B. **CONFLICTS OF INTEREST/ETHICS.** Mid Ohio ESC represents, warrants and certifies that it and its employees engaged in the administration or performance of this MOU are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws including but not limited to Chapter 102 and Sections 2921.42 and 2921.43 of the Ohio Revised Code. Mid Ohio ESC further represents, warrants, and certifies that neither Mid Ohio ESC nor any of its employees will do any act that is inconsistent with such laws or otherwise presents a conflict of interest.
- C. **QUALIFICATIONS TO DO BUSINESS.** Mid Ohio ESC affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and that all are current. If Mid Ohio ESC becomes disqualified from conducting business in the state of Ohio for any reason at

any time during the term of this MOU, Mid Ohio ESC will immediately notify ODBES in writing and will immediately cease performance of the aforementioned duties under this MOU.

- D. CAMPAIGN CONTRIBUTIONS. Mid Ohio ESC hereby certifies that neither it, nor any person described in R.C. § 3517.13 (I) or (J), nor the spouse of any such person, has made, as an individual, within the two previous calendar years, one or more contributions to the governor or the governor's campaign committees totaling in excess of the limitations specified in R.C. § 3517.13.
- E. FINDINGS FOR RECOVERY. Mid Ohio ESC warrants that it is not subject to an "unresolved" finding for recovery under R.C. § 9.24. If the warranty is false on the date the parties signed this MOU, the MOU is void *ab initio*, and the Mid Ohio ESC shall immediately repay any funds paid under this MOU.
- F. DEBARMENT. Mid Ohio ESC represents and warrants that neither it, nor any of its subcontractors, are debarred from consideration for contract awards by any governmental agency. If this representation and warranty is found to be false, this MOU is void *ab initio*, and the Mid Ohio ESC shall immediately repay any funds paid under this MOU.
- G. EXPENDITURES OF PUBLIC FUNDS ON OFFSHORE SERVICES. Mid Ohio ESC affirms to have read and understands Executive Order 2019-12D issued by Ohio Governor Mike DeWine. Mid Ohio ESC shall perform no services required under this MOU or locate State data in any way outside of the United States.

Mid Ohio ESC also affirms to have read and understands Executive Order 2022-02D issued by Ohio Governor Mike DeWine. Mid Ohio ESC has signed and completed the Standard Affirmation and Disclosure Form and shall perform no services in Russia, locate State data in Russia in any way, or purchase from or invest in Russian institutions or companies.

- H. BOYCOTTING. Pursuant to R.C. § 9.76, Mid Ohio ESC hereby declares that it is not boycotting any jurisdiction with whom the State of Ohio can participate in open trade, including the nation of Israel, and will not do so during the term of this MOU.
- I. MATERIALS AND EQUIPMENT. Mid Ohio ESC warrants to ODBES that all materials and equipment furnished under this MOU shall be new and of good quality unless otherwise required or permitted by the MOU, that the aforementioned duties set forth under this MOU shall be free from defects not inherent in the quality required or permitted, and that the aforementioned duties shall conform to the requirements of the MOU.

XVI. MISCELLANEOUS

- A. CONTROLLING LAW. This MOU and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the state of Ohio. Mid Ohio ESC consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
- B. WAIVER. The failure of either party at any time to demand strict performance by the other party of any of the terms of this MOU will not be a waiver of those terms or to any other terms of this MOU. Waivers must be in writing to be effective, and either party may at any later time demand strict performance.

- C. **SURVIVAL.** All sections herein relating to payment, confidentiality, license and ownership, indemnification, maintenance, publicity, warranties and limitations on damages shall survive the termination of this MOU. In addition, to the extent necessary to carry out the purpose of this MOU, all other terms, conditions, representations or warranties contained in this MOU will survive the expiration or termination of this MOU.
- D. **SUCCESSORS AND ASSIGNS.** Neither this MOU nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by Mid Ohio ESC, without the prior written consent of ODBES.
- E. **NOTICES.** For any notice under this MOU to be effective, the notice must be in writing and: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by email.

Notices must be made to the contact persons listed below:

ODBES:

Kristen Starr
Ohio Deaf and Blind Education Services
500 Morse Road
Columbus, Ohio 43214
(614)-728-1557
jfriesland@osdb.oh.gov

Mid Ohio ESC:

Jennifer Crum
890 West Fourth Street
Mansfield, Ohio 44906
(419)-774-2507
Crum.jennifer@moesc.net

- F. **CONFLICT.** In the event of any conflict between the terms and provisions of the body of this MOU and any exhibit hereto, the terms and provisions of the body of this MOU shall control.
- G. **HEADINGS.** The headings in this MOU have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this MOU.
- H. **SEVERABILITY.** If any provision of the MOU or the application of any provision is held by a court to be contrary to law, the remaining provisions of the MOU will remain in full force and effect.
- I. **ENTIRE AGREEMENT.** This MOU contains the entire agreement between the parties hereto and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This MOU supersedes any and all previous agreements, whether written or oral, between the parties.
- J. **AMENDMENTS OR MODIFICATIONS.**
1. ODBES reserves the right to right to reduce the duties set forth in "Section II: Parties and their Roles" by providing written notice to Mid Ohio ESC.
 2. ODBES may document non-material changes in writing and provide notice to Mid Ohio ESC.

3. Any other change to this MOU will not be effective unless it is in writing and signed by both parties to the MOU.
- D. EXECUTION. This MOU is not binding upon ODBES unless executed in full and is effective as of the last date of signature by ODBES.
- E. COUNTERPARTS. This MOU may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- F. ELECTRONIC SIGNATURES. Any party hereto may deliver a copy of its counterpart signature page to this MOU electronically pursuant to R.C. Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.
- G. ASSIGNMENT. Neither this MOU nor any rights, duties, or obligations described herein shall be assigned or subcontracted by Mid Ohio ESC without the prior express written consent of ODBES.

[SIGNATURE PAGE FOLLOWS]

Each party is signing this MOU on the date stated below that party's signature.

MID OHIO EDUCATIONAL SERVICE CENTER

OHIO DEAF AND BLIND EDUCATION
SERVICES

By: 

By: _____

Kevin Kimmel

Dr. Lou Maynus

Superintendent

Superintendent

Date: 7/28/2023

Date: _____