

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE SAN BENITO COUNTY PROBATION DEPARTMENT
AND
THE SAN BENITO COUNTY OFFICE OF EDUCATION**

This Memorandum of Understanding ("Agreement") is entered into effect on the date of execution by and between the San Benito County Office of Education, hereinafter referred to as "SBCOE," and San Benito County, hereinafter referred to as "SBC", by and through its Probation Department, hereinafter referred to as "Probation" (SBCOE and SBC referred to collectively as "Parties") for the purpose of providing additional support, to assist in successful transition back to their home school, for students who qualify for an early release from custody who will be enrolled at either Pinnacles Community School, or San Andreas Continuation High School, or Santa Ana Opportunity School (referred to collectively as "School" or "Schools").

RECITALS

WHEREAS, SBCOE seeks additional services and support made available to at-risk youth, juvenile hall detainees, and children under Probation's supervision enrolled at the Schools;

WHEREAS, Probation seeks to assist the successful transition of at-risk youth, juvenile hall detainees, and children under Probation's supervision enrolled at the Schools and to provide additional services and support pursuant to this Agreement;

NOW THEREFORE, SBCOE and SBC agree and understand as follows:

AGREEMENT

1. **Term:** The term of this Agreement shall be from the date of execution and will continue in effect until June 30, 2020, unless terminated in accordance with the provisions of this agreement.
 - (a) The MOU shall renew automatically for successive one (1) year terms, unless either Party provides written notice to the other Party of a request for revision or termination of the MOU.
 - (b) Any such termination notice shall be in writing and delivered in accordance with paragraphs 12 and 17 of this Agreement.
2. **Services:**
 - (a) Probation will provide a Deputy Probation Officer ("DPO") to be located at the San Andreas High School and Pinnacles School campus at 191 Alvarado Street, Hollister, CA ("School Site"), possessing the following basic qualifications:
 - 1) the DPO shall possess sufficient knowledge of the applicable Federal and State laws, City and County Ordinances, and Board of Education policies and regulations;

- 2) the DPO shall possess even temperament and set a good example for students; and
 - 3) the DPO shall possess communication skills which would enable the DPO to function effectively within the school environment.
- (b) Prior to commencement of Duties (defined below), the DPO shall provide SBCOE with all necessary completed paperwork and/or information required, including confirmation of requisite background and security clearances.
- (c) At all times while on campus at any of the Schools, the DPO shall comply with all SBCOE codes of conduct, policies, and regulations, including but not limited to those pertaining to SBCOE employee conduct. However, for the avoidance of doubt, the DPO is not an employee of the SBCOE, despite application of employee conduct requirements to the DPO. As an employee of the San Benito County Probation Department, the DPO shall follow the chain of command as set forth in the Probation Department's Policies and Procedures Manual. In the performance of his/her duties, the DPO shall coordinate and communicate with the School Site's Principal or the Principal's designee. In no event shall the DPO engage in activity inconsistent with the law.
- (d) The DPO will be on the School Site campus Monday through Friday, except on County and School holidays, with reporting instructions and work location as follows:
- 1) the DPO will report to Probation's main office at the beginning of the work day to pick up the assigned vehicle;
 - 2) the DPO shall be provided and required to wear the Probation-issued field attire;
 - 3) as a general routine/guideline, the DPO is to be available at the School Site from 8:00 AM to 4:30 PM, with one hour for lunch;
 - 4) the DPO shall notify the School Site's principal via email or telephone when the DPO or Substitutes will not be on campus;
 - 5) the DPO may leave campus to conduct address verifications and make parent contacts;
 - 6) the DPO will provide a contact telephone number in case an issue arises while the DPO is off campus;
 - 7) the DPO will be on the Schools' campuses during after school activities as needed; and
 - 8) the DPO will return the assigned vehicle to Probation's main office by 5:00 pm.

- (e) The DPO will assist with campus safety and security at the Schools ("Duties"), including but not limited to the following:
- 1) assist with safety and security issues, as requested by site administration, along with general discipline for students on probation and in violation of their court ordered conditions or at the discretion of the DPO;
 - 2) meet with parents and students as necessary and directed by SBCOE, or designee;
 - 3) interact with students before, during and after school; and
 - 4) be available to assist with school-sponsored events at any of the Schools as requested by any of the Schools' Principals, such as Graduation, Back to School Night, Open House, Community Knight Day Career Fair, etc., where such events may involve hours other than the DPO's general daily schedule. A work calendar and schedule will be determined, in order to plan regular work hours to include school activities and special events.
- (f) **Search Procedures:** If the School Site Principal has reasonable grounds for suspecting that a search of a student who is under Probation's supervision, or of his/her possessions, will uncover evidence that the student has violated or is violating either the law, the terms and conditions of his/her probation, or the rules of the School Site, the Principal or designee may search the student and the student's pockets, pocketbook, book bag, desk, locker, vehicle or any other similar location within the student's control. When requested by the School Site Principal, the DPO shall assist with the search. If the search uncovers evidence of criminal misconduct, the evidence may be held for, or turned over to, the Hollister Police Department.
- (g) **Reporting of Serious Crimes:** If an investigation involving a student who is under Probation's supervision uncovers evidence of a serious crime or violation of the terms and conditions of probation, the School Site Principal shall notify the DPO, the Hollister Police Department, the student's parents or guardians and the Superintendent or designee.
- 1) **Bomb Threats:** It is a misdemeanor to give false information concerning the placement of a bomb in a school building. School officials, the DPO and fire safety officials shall cooperate in the implementation of procedures in the event of a bomb threat. In all cases, such incidents shall be reported by the School Site Principal or designee to the Superintendent and to the DPO.
 - 2) **Controlled Substances:** School officials shall notify the DPO of cases involving students under Probation's supervision regarding the possession, sale or distribution of

controlled substances at school or school activities. Any controlled substances or suspected controlled substances confiscated by School officials shall be turned over to the Hollister Police Department for proper identification and eventual destruction.

(h) **Arrest Procedures – School Related Crimes:** When a DPO arrests or takes a student under Probation's supervision into custody, he/she shall select the least restrictive of the following courses of action which is appropriate under the circumstances, and meets the immediate needs of the student and the School Site:

- 1) Divert the student from court by:
 - Release: counsel and release the student into the custody of his/her parent, guardian or custodian
 - Referral: referral to community service
- 2) Attempt to bring the student before the juvenile court
 - Seek a juvenile petition
 - Immediately take the student into custody as required by law
- 3) Attempt to bring the student before the magistrate for the purposes of involuntary commitment.

When a DPO arrests or takes a student under Probation's supervision into custody, if circumstances permit, the DPO and School Site Principal shall mutually agree upon a time during the school day for the removal of the student from the School Site. The student shall be called to the office by the Principal at that time. If the DPO initiates the arrest, the DPO or Juvenile Hall will contact the student's parents or guardians as soon as practicable after the arrest of the student and shall notify the parents or guardians of the reason(s) for the arrest.

(i) **Riots and Civil Disorders:** In the event a riot or civil disorder occurs on campus, the School Site Principal and the DPO shall discuss and agree upon a response to the situation. If, in the opinion of the School Site Principal and DPO, law enforcement personnel are needed to restore and/or maintain order, the DPO will contact the Hollister Police Department and/or other appropriate law enforcement agency and request that assistance. The School Site Principal or designee also shall notify the Superintendent or designee. If deemed necessary by school and law enforcement officials, the media and the public may be restricted to an area off campus away from the disturbance until order is restored. The DPO shall consult with the School Site Principal about the need or decision to arrest and/or remove students and other persons from the campus. However, law enforcement officials shall have the authority to arrest and remove any person who commits a crime in

their presence. To the extent possible, all communications should be made by telephone to avoid alarming the public and news media. The School Site Principal or designee shall be prepared to respond to questions from the news media, parents and guardians, and other members of the public as soon as order is restored. The name(s) of any student(s) arrested and removed from campus shall not be released to the news media until their parents or guardians have been notified and, in no event shall the name(s) of the student(s) under age 18 who have been removed from campus be released to the news media. Students engaged in misconduct may be suspended immediately without a pre-suspension hearing, but arrangements shall be made by the School Site Principal to provide an opportunity for the student(s) to be heard within 24 hours of suspension.

- (j) **Court Appearances:** It is understood and agreed that time spent by the DPO attending juvenile court and/or criminal cases arising from and/or out of providing services under this Agreement shall be considered as hours worked under this Agreement.
 - (k) Probation will have the DPO perform other duties as assigned by the Supervising Probation Officer to meet probation's needs.
 - (l) If, in the event of an emergency, the DPO is ordered by Probation to leave his or her school duty station during normal duty hours as described above to perform other services for Probation, the Chief Probation Officer or designee will notify the School Principal.
3. **Office Space, Equipment and Supplies:** SBCOE will provide an office space for the DPO at the School Site with a landline phone, campus two-way radio, and computer that will allow access to Probation's systems. SBC shall be responsible for any damage to the equipment while in the DPO's custody and control, including the cost of repair or replacement thereof. SBC shall provide the usual and customary office supplies and forms required in the performance of the DPO's duties.
4. **Student Transportation:** Probation may provide transportation in the assigned vehicle, as needed for students under Probation's supervision, between the student's residence and the School Site. The DPO shall not transport students in his/her personal vehicle. Students shall not be transported to any location unless it is determined that the student's parent, guardian or custodian is at the destination to which the student is being transported.
5. **Access to Education Records:** School officials shall allow the DPO to inspect and copy any public records maintained by the Schools regarding students under Probation's supervision, including student directory information such as yearbooks. However, the DPO may not inspect

and/or copy confidential student education records, except as authorized by the student's parents or guardians, by Court order, under the terms and conditions of probation, or in emergency situations. If some information in the cumulative record of a student under Probation's supervision is needed in an emergency to protect the health or safety of the student or other individual(s), School officials may disclose to the DPO that information which is needed to respond to the emergency situation, based on the seriousness of the threat to health or safety, the need of the information to meet the emergency situation, and the extent to which time is of the essence.

6. **Assignment and Reassignment:**

- (a) Probation, in its discretion, will determine which DPO will be assigned to provide services under this Agreement, taking into careful consideration the candidates' experience and background in working with adolescents. During the selection process, Probation will consider input from representatives of SBCOE.
- (b) It is mutually agreed that SBCOE will evaluate annually the DPO program and the DPO's performance, using forms developed jointly by the parties. It is further understood that SBCOE's evaluation of the DPO is advisory only and that Probation retains the final authority to evaluate the DPO's performance.
- (c) SBCOE, in its discretion, may request that Probation remove the assigned DPO and assign a different DPO. Such reassignment request shall be made in writing and shall not be unreasonably made. SBCOE has the absolute right to remove an assigned DPO. However, Probation, in its discretion, will determine whether another DPO will be assigned and, if so, which DPO will be assigned.
- (d) SBCOE reserves the right to remove the DPO or prohibit the DPO access to SBCOE property if, in SBCOE or its designee's discretion, an emergency, security, or safety issue arises.

7. **Compensation:** Neither party shall provide compensation for the services and/or Duties provided under this Agreement.

8. **Employment / Benefits:** The DPO is an employee of SBC and is not an employee of SBCOE.

- (a) Probation, in its sole discretion, shall have the power and authority to hire, discharge and discipline the DPO. The DPO shall be subject to Probation's administration, supervision and control, except as such administration, supervision and control is subject to the terms and conditions of paragraph 2 of this Agreement. The DPO shall remain fully responsive to Probation's chain of command in all matters outside of the

School Site, outside of the Schools' campuses, or in emergency situations.

- (b) SBC shall provide all compensation and benefits to the DPO, in accordance with Probation's applicable salary schedules and employment practices, including but not necessarily limited to: sick leave, annual leave, retirement compensation, disability salary continuation, workers compensation, unemployment compensation, life insurance, dental insurance, medical/hospitalization insurance, and any other applicable statutory benefits. The DPO shall be subject to all of Probation's other personnel policies and practices, except as such policies or practices may have to be modified to comply with the terms and conditions of this Agreement. SBCOE does not have any responsibility for the compensation of or provision of benefits to the DPO. This Agreement does not confer a right for the DPO or Probation staff to be hired by SBCOE.
- 9. **Assignment:** Neither Party shall assign or otherwise transfer its interests or obligations in this MOU without the prior, written consent of the other Party.
- 10. **Modification:** This MOU may be reviewed and revised at any time by mutual written consent. No alteration, modification, or change in the terms of this MOU shall be valid unless made in writing and signed by the Parties hereto.
- 11. **Dispute Resolution:** If a dispute arises between SBC and SBCOE under this Agreement, SBCOE's Alternative Education Principal and the Juvenile Facility Manager shall meet and confer within five (5) business days to resolve the dispute. If the dispute cannot be resolved, the matter may be submitted to the Chief Probation Officer and to the County Superintendent of Schools for resolution. If the parties are unable to resolve the dispute, either party may terminate the Agreement.
- 12. **Termination:** Either party may, upon thirty (30) days' written notice, with or without cause, terminate this Agreement. Written notice shall be sufficient to stop further performances of services by Probation. Duties and services provided pursuant to this Agreement shall not terminate until the notice period has expired.
 - (a) In the event of a material breach, the non-breaching party may terminate the Agreement by written notice to the breaching party, effective immediately upon issuance of the written notice

13. **Insurance: General Provisions.**

(a) **Insurance.** With respect to performance of work under this Agreement, each party shall maintain insurance as described below:

- 1) Workers' Compensation Insurance. Workers' compensation insurance for each party's employees with statutory limits as required by the Labor Code of the State of California with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
- 2) General Liability Insurance. Commercial general liability insurance covering bodily injury and property damage using an occurrence policy form, in an amount no less than Two Million Dollars (\$2,000,000) combined single limit for each occurrence and Four Million Dollars (\$4,000,000) general aggregate. Said commercial general liability insurance policy shall either be endorsed with the following specific language or contain equivalent language in the policy:
 - i. SBCOE, its officers, agents, and employees, are named as additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.
 - ii. The insurance provided herein is primary with respect to any insurance or self-insurance programs maintained by SBCOE.
- 3) Automobile Insurance. SBC shall purchase and maintain comprehensive automobile liability insurance for the vehicle assigned to the DPO, covering bodily injury and property damage in an amount no less than One Million Dollars (\$1,000,000) combined single limit for each occurrence shall be maintained. Said insurance shall include coverage for owned, hired, and non-owned vehicles.
- 4) Mental, Physical, Emotional, Sexual Abuse and Molestation Insurance. Mental, Physical, Emotional, Sexual Abuse and Molestation insurance with coverage of no less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollar (\$2,000,000) aggregate shall be maintained.

(b) The following documentation shall be submitted to the other party:

- 1) Properly executed Certificates of Insurance clearly evidencing all coverage's limits, and endorsements required above. Said Certificates shall be submitted prior to the execution of this Agreement. The parties agree to maintain current Certificates of Insurance evidencing the above-required coverage, limits, and endorsements on file with the other party for the duration of this Agreement.

- 2) Signed copies of the specified endorsements for each policy. Said endorsement copies shall be submitted within thirty (30) days of execution of this Agreement.
 - 3) After the Agreement has been signed, signed Certificates of Insurance and required endorsements shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
 - 4) In lieu of providing proof of insurance, the parties may provide proof of self-insurance meeting requirements equivalent to those imposed herein. The parties warrant that such self-insurance provides substantially the same protection to the other party as the insurance required herein. The parties further agree to notify the other party in the event any change in self-insurance occurs that would alter the obligations undertaken in this Agreement within thirty (30) days of such change.
14. **Indemnification:** SBCOE agrees to defend, indemnify, and hold harmless SBC, its officers, employees, agents and assigns from and against all claims, damages, losses, expenses, costs, attorneys' fees and liability arising out of or resulting from either (i) SBCOE's breach of its obligations under this Agreement or (ii) the negligence or willful misconduct of the SBCOE or its directors, officers, employees or agents.
- SBC agrees to defend, indemnify, and hold harmless the San Benito County Board of Education and the SBCOE, and their respective directors, officers, employees, agents and assigns from and against all claims, damages, losses, expenses, costs, attorney's fees and liability arising out of or resulting from either (i) Probation's breach of its obligations under this Agreement or (ii) the negligence or willful misconduct of Probation or its officers, employees or agents.
15. **No Third Party Beneficiaries:** This Agreement does not and shall not be intended or construed to confer any rights or remedies upon any person other than the Parties hereto.
16. **Severability:** If any provision or any part of this Agreement is for any reason held to be invalid or unenforceable or contrary to public policy, law, or statute and/or ordinance, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.

17. **Communication:** All notices, requests, and other communications under this Agreement shall be in writing and mailed to the proper addresses as follows:

To the **SBCOE** at:
Attn: Superintendent
460 5th Street
Hollister, CA 95023

To PROBATION at:
Attn.: Chief Probation Officer
400 Monterey Street
Hollister, CA 95023

IN WITNESS WHEREOF, the parties to this Agreement have duly executed it on the day and year set forth below.

San Benito County Probation Department


Joseph A. Frontella, Jr.
Chief Probation Officer

7/16/19
Date

San Benito County Office of Education


Krystal Lomanto
San Benito County Superintendent

7/16/19
Date

APPROVED AS TO LEGAL FORM
San Benito County Counsel's Office


Shirley L. Murphy, Deputy County Counsel

July 16, 2019
Date