

# MERCER COUNTY ESC SERVICE AGREEMENT

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 between the **MERCER COUNTY EDUCATIONAL SERVICE CENTER** and the **Celina City Schools BOARD OF EDUCATION**.

**WHEREAS**, Celina City Schools is in need of a provider of educational services for the 2017-2018 school year; and

**WHEREAS** Celina City Schools has agreed to contract with the Mercer County Educational Service Center to provide said educational services for the 2017-2018 school year.

**NOW, THEREFORE, BE IT AGREED** by the parties as follows:

1. SERVICES

The Mercer County Educational Service Center will provide the following educational services to Celina City Schools during the 2017-2018 school year:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Preschool                          | <input checked="" type="checkbox"/> Gifted Program                      |
| <input checked="" type="checkbox"/> MD Program (Multiple Disabilities) | <input checked="" type="checkbox"/> Gifted Teacher                      |
| <input checked="" type="checkbox"/> Contracted Services                | <input checked="" type="checkbox"/> Occupational Therapy                |
| <input type="checkbox"/> Special Education Supervision                 | <input checked="" type="checkbox"/> Physical Therapy                    |
| <input checked="" type="checkbox"/> Teacher Resource Consultant        | <input checked="" type="checkbox"/> Resident Educator                   |
| <input type="checkbox"/> Curriculum                                    | <input checked="" type="checkbox"/> Licensure                           |
| <input checked="" type="checkbox"/> Speech/Language Pathology Services | <input checked="" type="checkbox"/> Psychology Services                 |
| <input checked="" type="checkbox"/> ED Program (Emotional Disturbed)   | <input checked="" type="checkbox"/> CD Program (Cognitive Disabilities) |
| <input checked="" type="checkbox"/> Alternative School                 | <input checked="" type="checkbox"/> Bus Driver Approval                 |

The Mercer County ESC shall provide said services consistent with policies and procedures governing employees of Mercer County ESC.

2. PERSONNEL AND BENEFITS

All personnel funded through this Agreement are employed by the Mercer County ESC and shall be considered employees of the Mercer County ESC for all purposes including, but not limited to, the application of the Fair Labor Standards Act, Social Security Act, Federal Unemployment Tax Act, Federal Insurance Contribution Act, the provisions of the Internal Revenue Code, Ohio Tax Law, Workers' Compensation Law and Unemployment Insurance Law.

All terms of employment are the responsibility of the Mercer County ESC (e.g. retirement, severance, workers' compensation, unemployment compensation, health insurance, vacation time, personal time, sick leave, etc.). The Mercer County ESC shall pay and be responsible for any and all taxes, social security, unemployment compensation, workers' compensation and all other benefits for its employees who may provide services under this Agreement. Cost of all terms of employment shall be billed to Celina City Schools.

All personnel funded through this Agreement are not entitled to workers' compensation, unemployment compensation, or other benefits offered by Celina City Schools. The Mercer County ESC shall provide unemployment compensation, workers' compensation, health, dental and life insurance coverage and other applicable benefits for personnel funded through this Agreement. The Mercer County ESC shall charge Celina City Schools its increased cost or expense resulting from the provision of such coverage.

The Mercer County ESC shall not include in its costs and expenses charged to Celina City Schools compensation paid to its employees for performing any work that is outside of the scope of this Agreement.

All salary, wages, fringe benefits and all other costs and expenses paid by the Mercer County ESC to personnel funded through this Agreement shall be charged to Celina City Schools pursuant to the compensation provisions of this Agreement.

### 3. INSURANCE

The Mercer County ESC shall provide general liability insurance coverage for the acts and omissions of personnel funded through this Agreement in a similar manner to insurance coverage to other employees of the Mercer County ESC.

### 4. ESC-PROVIDED THERAPY SERVICES UNDER THE MSP

With regard to any therapy services provided by the ESC pursuant to this Agreement, the ESC:

- a) will comply with the requirements of 45 CFR 164.504(e)(1) for safeguarding and limiting access to Information concerning beneficiaries;
- b) will allow the representatives of the U.S. Department of Human Services, ODM, ODE or their respective designee access to the subcontractor's books, documents and records; and
- c) acknowledges that they or their principles are not suspended or debarred.

### 5. COMPENSATION

Celina City Schools agrees to pay the Mercer County ESC for costs incurred in providing said services under this Agreement. The Mercer County ESC shall provide Celina City Schools with an itemized projection of estimated annual costs no later than October 1 of each year. The Mercer County ESC shall provide Celina City Schools with an invoice for monthly installment payments for OT, PT, and Alternative School Services. A final invoice of each year shall be adjusted by the Mercer County ESC to reflect the actual cost of the provision of said services during the fiscal year.

Celina City Schools shall have thirty (30) days from the date appearing on the invoice to provide the Mercer County ESC with written notice of its objection to charges reflected in the invoice. Celina City Schools' written notice of objection shall specifically identify those charges which the Mercer County ESC, in good faith, disputes.

Celina City Schools is excluded from billing for professional development and technology services provided by the Mercer County ESC, unless by mutual agreement.

Authorized representatives on behalf of each party shall promptly engage in dialogue in an effort to informally resolve any disputed charges. Should attempts at informal dispute resolution prove unsuccessful, the parties may pursue all legal means to resolve the dispute.

### 6. TERMINATION

Celina Local Board of Education may terminate this Agreement, by providing the Mercer County Educational Service Center Governing Board by written notice by the first day of January of any odd-numbered year, and that termination shall be effective on June 30<sup>th</sup> of that year. (ORC 3313.843)

7. INDEMNIFICATION

The Mercer County ESC agrees to indemnify, defend and hold harmless Celina City Schools and its officers, members of its board of education and employees from any and all liability, claims, demands, actions, losses, damages and other costs, including the incursion of reasonable attorney's fees arising from or in connection with the following:

- a. The performance of the Mercer County ESC's duties as set forth in this Agreement, except liability arising out of the sole negligence of Celina City Schools; and
- b. Any acts or omissions by the Mercer County ESC or its officers, members or employees that result in personal injury, property damage or death.

Celina City Schools agrees to indemnify, defend and hold harmless the Mercer County ESC and its officers, members of its governing board and employees from any and all liability, claims, demands, actions, losses, damages and other costs, including the incursion of reasonable attorneys fees arising from or in connection with the following:

- a. The performance of Celina City Schools' duties as set forth in this Agreement, except liability arising out of the sole negligence of the Mercer County ESC; and
- b. Any acts or omissions by Celina City Schools or its officers, members or employees that result in personal injury, property damage or death.

8. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein, and supersedes all prior or contemporaneous oral agreements, representations or understandings.

9. AMENDMENT

This Agreement shall not be modified or amended except by an instrument in writing signed by the parties.

10. INVALID PROVISION

If, after the date of the execution of this Agreement, any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable and shall not affect the remaining provisions of the agreement, which shall remain in full force and effect.

11. LAW GOVERNING

This Agreement has been executed in the State of Ohio. All questions concerning the validity or intention of this Agreement, and all questions relating to performance hereunder, shall be resolved under the laws of the State of Ohio.

The parties agree to comply with all federal and state laws, rules, regulations and auditing standards that are applicable to the performance of this Agreement.

12. TITLES, HEADINGS AND CAPTIONS

All titles, headings and captions used in this Agreement have been included for administrative means only and do not constitute matters to be construed in interpreting this Agreement.

13. ASSIGNMENT

The parties agree not to transfer, sell or assign their duties or responsibilities under this Agreement without prior written consent of all parties.

14. NOTICE

All notices required or permitted to be sent hereunder to the parties shall be by U.S. mail, certified, return receipt, or by a recognized private courier, with return receipt required, to the parties at the following addresses or such other addresses as they may, pursuant to this paragraph, notify the party of:

Superintendent  
Mercer County Educational Service Center  
441 E. Market St.  
Celina, OH 45822

Superintendent  
Celina City School District  
585 E. Livingston St.  
Celina, OH 45822

Service shall be deemed made when delivered, or on the attempted delivery to the recipient of the notice with written documentation of the attempt maintained by the party attempting delivery, which party will thereafter make all reasonable effort to notify the other party of its attempt and the nature of the notice.

15. DISCLAIMER

Nothing in this Agreement shall be construed as creating an employment agreement between Celina City Schools and the Mercer County ESC's employees. Personnel funded by this Agreement shall be considered, for all purposes, to be employees of the Mercer County ESC.

**IN WITNESS WHEREOF**, the parties have executed this Agreement and affixed their signatures on the dates indicated below.

**MERCER COUNTY EDUCATIONAL SERVICE CENTER**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Board President

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Board Treasurer

**CELINA CITY SCHOOL DISTRICT  
BOARD OF EDUCATION**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Board President

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Board Treasurer