


DEPARTMENT OF SPECIAL SERVICES
Township of Union Public Schools
M – E – M – O – R – A – N – D – U – M

TO: Dr. Gerald Benaquista

C: Yolanda Koon
Dr. Gretel Perez
Diane Cappiello
Bernadette Watson
Kim Conti

FROM: Joseph Seugling 

RE: Board Agenda

DATE: 05/24/2024

Approve teachers employed through Positive Pathways Behavior Services, LLC to provide home instruction for district students on an “as needed” basis for the school year 2024-2025 in an amount not to exceed \$6,000 (7693-11-150-100-320-01-19) in accordance with the information in the hands of each board member.



Treatment Results.

The School District acknowledges and accepts that no guarantee as to progress or outcomes for or related to their student can be made or will be made by Positive Pathways Behavior Services.

Hours, Fees and Payment.

This contract covers the time period from September 1, 2024 through June 24, 2025, for consultation and direct services, this excludes weeks wherein the district is closed. The School District understands and acknowledges that they are responsible for payment for all services delivered under this Agreement and agree that they will pay for such services (by check payable to "Positive Pathways Behavior Services") within thirty calendar days of Board of Education approval of invoice. The district will not reimburse for mileage, gas, tolls, or any other transportation fees that Positive Pathways Behavior Services may accrue.

The School District understands that Positive Pathways Behavior Services will bill at the following 60-minute session rates:

Service	Hourly Rate
Direct Home Instruction	\$75.00
Registered Behavior Technician/Behavior Therapist	\$85.00
Behavior Consultation (conducted by a BCBA)	\$140.00
Functional Behavior Assessment	\$140.00
BCBA/RBT Supervision (conducted by a BCBA)	\$140.00
Parent Training	\$140.00
Program/Educational Evaluation	\$165.00

Description of Services:

1. *Direct Home Instruction:* Our certified teachers provide home based instruction rooted in each student's curriculum and/or IEP goals. In addition, our teachers have experience and training in behavior analytic approaches to learning.
2. *Registered Behavior Technician/Behavior Therapist:* Our Behavior Therapists/RBTs can provide home based or school based instruction and behavioral intervention rooted in the principles of behavior analysis, while working collaboratively with school personnel.
3. *Behavior Consultation:* Our BCBA's provide consultation and work collaboratively with school personnel in order to meet the academic and behavioral needs of each student, utilizing evidence based practices.
4. *Functional Behavior Assessment:* Direct and indirect assessment conducted by a Board Certified Behavior Analyst. Assessment consists of direct observation, interviews with stakeholders, functional analysis when appropriate, report writing and follow up meeting and training. Assessment not to exceed 18 hours of direct and indirect services combined.
5. *BCBA/RBT Supervision:* Our BCBA's with supervision certifications provide both remote and face to face supervision of employees working towards their BCBA certifications or RBT certifications, as well as supervise individuals working towards maintaining their certifications.



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6. *Parent Training:* Our BCBAs consult with and provide home based training for parents of learners with behavioral needs, while further supporting school based goals.

Rate Breakdown: In (U.S. Dollars) per 60-minute session/meeting or any part thereof, billed to the quarter-hour (15 minute increments) for up to 24 hours per month for the entirety of the 2024-2025 school year- and will stay in place regardless of the mode/model of instruction/school (face to face, virtual or hybrid). Invoices will be sent to the Director of Special Services and will be accompanied by a detailed service log of hours worked and description of activities.

The School District further understands that Positive Pathways Behavior Services will bill at the above hourly rates of pay for any and all activities that are related to the provision of services to the Client under this Agreement. Services for which Positive Pathways Behavior Services will bill the School District include but are not limited to: direct or indirect consultation/observation, direct implementation, case review, data review, assessment, report writing, material preparation, staff training, and emails/telephone calls. All of these services will occur face to face if possible, and virtual if/when they cannot.

The School District understands that should they fail to pay each month's invoice for services in full every month, Positive Pathways Behavior Services may suspend any and all services provided by Positive Pathways Behavior Services until such time as the Client pays in full all due invoices.

Entire Agreement; Severability.

This Agreement contains the entire agreement between the parties regarding the subject matter hereof and may be modified only by a written document signed by both parties. Any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety, and are of no further force and effect. There are no oral agreements or understandings that modify this Agreement. Any modification to this Agreement must be in writing and signed by the parties to be effective. If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, then such offending provision shall, if feasible, be deemed to be modified to the minimum extent necessary to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken from this Agreement and all other provisions of this Agreement shall remain valid and enforceable in all other respects.

Authority.

The School District does not have and shall not hold themselves out as having the authority to create any contract or obligation that is binding on behalf of Positive Pathways Behavior Services. The School District further acknowledges and agrees that provision of services under this Agreement does not establish the Positive Pathways Behavior Services as having any further responsibilities to the School District.

Construction and Attorneys' Fees.

This Agreement shall be construed according to the laws of the State of New Jersey. In any action or arbitration to enforce any right or remedy under the Agreement, or to interpret any provision of the Agreement, In the event that any dispute arises between the parties to this Agreement, and legal action is initiated, each party shall be solely responsible for their own attorney's fees and related expenses incurred in connection with such legal action. Neither party shall be responsible for the attorney's fees or related expenses of the other party, except as may be required by law. This provision shall survive the termination of the agreement.

Waiver.

Waiver by one party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

Termination.



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Either party may terminate this contract by providing written notice to the other party at least 30 days prior to the intended termination date. Such notice shall clearly state the effective date of termination and reason for termination. Upon receipt of the termination notice, both parties shall work collaboratively to ensure a smooth transition of any ongoing responsibilities, projects, or obligations. Both parties agree to fulfill any outstanding commitments and to cooperate in the transfer of relevant information, materials, and assets. In the event of termination, both parties shall remain responsible for any financial obligations or liabilities incurred up to the effective date of termination. Any fees, expenses, or payments due and unpaid as of the termination date shall be settled prior to the termination effective date. This termination clause does not relieve either party from any obligations or liabilities that by their nature are intended to survive termination, including but not limited to confidentiality obligations, intellectual property rights, and indemnity provisions. This mutual termination clause is subject to any other terms or conditions set forth in this contract. Termination of this contract shall not affect any rights or remedies that have occurred to either party prior to the termination.

DATED 05/21/2024

District Representative Name & Signature

Michelle Siebert

Michelle Siebert, Executive Director, BCBA

UNION TOWNSHIP BOARD OF EDUCATION - RIDER

This Rider is incorporated fully into the terms of the attached Agreement between **Positive Pathways Behavior Services LLC** and the **Union Tp. Board of Education**, for the **2024-2025** academic school year. To the extent that there are any inconsistencies between the terms of the Agreement and this Rider, the terms of the Rider take precedence.

I. Licensing/Certification

Provider shall only provide employees who are licensed or certified as may be required by State law.

II. Criminal Background Check

Provider shall provide a Criminal History Record Information (CHRI), including fingerprint background check for each of its employees who provide direct services to a student during the term of this Agreement and shall provide the Board with verification of the CHRI. During the term of the Agreement, Provider shall report to the Board any modification of the CHRI including without limitation any arrest or conviction of any employees providing direct services to students.

III. Sexual Abuse/Child Abuse Disclosure Release Form

Provider hereby acknowledges its obligations under the Sexual Abuse/Child Abuse Disclosure requirements of P.L. 2018, c.5, N.J.S.A. 18A:6-7.6 to 7.13 (commonly referred to as “Pass the Trash”, the “PTT Law”), as applicable, and certifies that it is compliant with the PTT Law and all obligations required therein.

IV. Insurance

1. Provider shall maintain general liability and professional liability coverage for any negligent acts or omissions of its employees which may give rise to liability under this Agreement. Coverage shall be written on a “claims made basis” for a minimum of One Million Dollars (\$1,000,000.00) per individual and in the sum of Three Million Dollars (\$3,000,000.00) per occurrence.
2. Provider shall maintain, as its sole expense, Worker's Compensation insurance for its employees.
3. Provider shall file upon execution of the contract all certificates of insurance upon forms acceptable to Board. The certificates shall contain a provision that the coverage afforded on the policies will not be cancelled or materially changed during the term of the contract.

V. Indemnification

Provider agrees to indemnify and hold harmless Board from any and all claims, liability, damages and expenses, including but not limited to reasonable attorney's fees, arising out of, resulting from and/or related to the services which Provider, its agents and/or employees render pursuant to the within Agreement, whereby the claims, liability, damages and expenses are caused by any error, omission, negligence, willful misconduct, or intentional act of Provider, its agents and/or employees.

VI. Fees.

The Provider shall be paid in an amount **Not To Exceed \$6,000.00** for the term of the Agreement in accordance with the fee schedule set forth in the Agreement.

VII. Term.

This Contract may be renewed at the option of the Board for two additional one-year extensions subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation.

VIII. Public Contracting Requirements

- A. Non-Collusion. The Provider warrants and represents that this Agreement has not been solicited, secured or procured directly or indirectly in a manner contrary to the laws of the State of New Jersey and that the federal, state and local laws and regulations have not been violated and shall not be violated as they relate to the procurement or the performance of the Agreement by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any state or district employee, officer or official.
- B. Business Registration. Pursuant to N.J.S.A. 52:32-44, the Provider must provide a copy of its business registration certificate to the District prior to execution of the contract.
- C. Pay-To-Play. Pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271), each contracting for-profit Provider shall file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission if the for-profit Provider receives contracts in excess of \$50,000 from public entities in a calendar year. It is the for-profit Provider's responsibility to determine if filing is necessary.
- D. Non-Discrimination. The Provider shall be fully responsible for the recruitment and hiring of staff necessary to perform this Agreement. The Provider shall

operate in conformity with applicable provisions of all federal and state anti-discrimination statutes and directives, including the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., the mandatory language of N.J.A.C. 17:27-3.4(a) and N.J.A.C. 17:27-7.4(a) and (b), regarding Affirmative action, and the requirements of 42 U.S.C. 121.01 et seq., regarding the Americans with Disabilities Act.

The Provider certifies that it is an Equal Opportunity Employer and will not discriminate in the recruitment, selection, hiring, promotion or demotion of staff or the selection of services provided to children on the basis of or against any person because of race, creed, religion, color, national origin/nationality, ancestry, age, sex/gender (including pregnancy), marital status/civil union partnership, familial status, affectional or sexual orientation, gender identity or expression, domestic partnership status, atypical hereditary cellular or blood trait, genetic information, disability, (including perceived disability, physical, mental, and/or intellectual disabilities), or liability for service in the Armed Forces of the United States.

- E. Records. Provider shall keep all records pertaining to its services under this Agreement for no less than five (5) years.

IX. ADDITIONAL TERMS

- A. Governing Law. This Agreement will be construed and governed in all respects according to the laws of the State of New Jersey. Any litigation shall be filed within the courts of the State of New Jersey.
- B. Relationship to Parties. Provider enters into this Agreement as an independent contractor. Nothing contained in this Agreement will be construed to create a partnership, joint venture, agency or employment relationship between the parties.
- C. Assignment. This Agreement may not be assigned by either party, in whole or part.
- D. Modification of Terms. No amendments or modifications to the terms of this Agreement will be binding unless evidenced in writing and signed by an authorized representative of each party hereto.
- E. Notices. Any Notice given in connection with this Agreement will be given in writing and will be delivered either by hand, by courier with proof of delivery, or by certified mail, return receipt requested, to the other party, at the party's address stated below.

- F. Confidentiality. Except for acknowledging the existence of this Agreement, the parties understand and agree that the terms of this Agreement, including all payment terms, shall be kept confidential unless disclosure is required by law or the parties agree, in writing, to such disclosure. All methods and mode of conduct of business for Board and Provider are to be kept confidential by Board and Provider and not disclosed to any other party or used in part or whole without the permission of Board and/or Provider.
- G. Entire Agreement. This Rider, along with the Contract, constitutes the entire Agreement between the Provider and Board. **To the extent any terms included in the Contract conflict with the terms of the Rider, this Rider takes precedence.**
- H. Force Majeure. Neither Provider nor the Board shall be deemed to be in default of the Agreement if either party is prevented from performing any of the obligations hereunder by reason of fire, floods, strikes, boycotts, embargoes, unusually severe weather conditions, epidemics, pandemics or any other similarly extreme circumstance for which it is not responsible or which is not within its control. If any of the foregoing occur during the term of the Agreement and Provider is unable to perform, the Board shall not be responsible for payment of any services that are not performed.

X. NOTICE

All notices, requests, consents and approvals under this Agreement shall be served or given in writing by certified mail or courier with signature required and tracking confirmation.

Notices to the Board shall be delivered to:

Yolanda Koon , Business Administrator/Secretary
Union Tp. Board of Education
2369 Morris Avenue
Union, New Jersey 07083

With a copy of legal notices to:

Lester E. Taylor, Esq.
Taylor Law Group, LLC
430 Mountain Avenue, Suite 103
New Providence, NJ 07974

Notices to Provider shall be delivered to:

Michelle Siebert, Executive Director
Positive Pathways Behavior Services, LLC
583 McKendimen Road
Medford NJ 08055

THE PARTIES hereby agree to the terms of this Rider:

PROVIDER

BOARD OF EDUCATION

Print name/Title:

Print Name/Title:

Dated: _____

Dated: _____

