

K-20-00006

STATE OF TEXAS

COUNTY OF FORT BEND



**AFFILIATION AGREEMENT FOR COURSE EXPERIENCE BETWEEN FORT BEND
COUNTY AND the UNIVERSITY OF HOUSTON – CLEAR LAKE**

This Affiliation and Program Agreement is entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, (hereinafter "COUNTY") and the University of Houston-Clear Lake, (hereinafter "SCHOOL").

RECITALS

WHEREAS, SCHOOL provides academic courses in fields that focus on public health and counseling and desires to provide its students with a practical learning experience (hereinafter "PROGRAM"); and

WHEREAS COUNTY is willing to make its facilities available to qualified students (hereinafter "Student" or "Students") who will be supervised by Fort Bend County Staff; and

WHEREAS, both parties hereto recognize that, in the performance of this Agreement, the greatest benefits will be derived by promoting the interests of both parties, and each party does, therefore enter into this Agreement with the intention of loyally cooperating with each other in carrying out the terms of this Agreement; and

WHEREAS, this Agreement serves the general health and well-being of the community and therefore serves a public purpose; and

WHEREAS, the governing bodies of COUNTY and SCHOOL have duly authorized this Agreement; and

NOW THEREFORE, for and in consideration of the mutual promises, obligations, and benefits hereinafter set forth, the COUNTY and SCHOOL hereby agree as follows:

I. BASIC TERMS

1. Both parties will share in the education process.
2. Both parties agree that this Agreement confers no financial obligation on either party.
3. Both parties agree that participation in the PROGRAM is gratuitous and voluntary.
4. Both parties agree that they will not discriminate against any person because of race, religion, color, gender, sexual orientation, national origin, age, disability, special disabled veteran's status, Vietnam-era veteran's status, or any other protected status.
5. Both parties mutually agree that the number of Students participating in the PROGRAM will be arranged jointly, with due consideration given to the clinical material available.
6. The COUNTY will provide contact information to SCHOOL regarding its representatives for the PROGRAM. SCHOOL shall inform COUNTY in a timely manner of any changes.

II. OBLIGATIONS OF COUNTY

1. COUNTY will, under proper supervision, permit "hands on" experience at levels COUNTY determines to be appropriate based on the knowledge and training of the Student.
2. COUNTY retains responsibility and decision-making authority for all aspects of COUNTY services and functions, including patient care.
3. COUNTY reserves the right to refuse participation of any Student designated by the SCHOOL and to terminate participation by any Student when, in the sole opinion of the COUNTY: (i) the Student is deemed to be a risk to the COUNTY'S employees, or to himself or herself, (ii) the Student fails to meet or abide by the rules, regulations, policies and procedures of the COUNTY, (iii) the Student's conduct is detrimental to the business or reputation of the COUNTY, (iv) the Student fails to accept or comply with the direction of COUNTY staff, or (v) further participation by the Student would be inappropriate. SCHOOL shall comply with COUNTY's request to remove a Student(s) in the event that COUNTY determines that there is cause to do so.

III. OBLIGATIONS OF SCHOOL

7. SCHOOL will establish guidelines for Student eligibility, including the provision of classroom theory and practical instruction, and ensure that all Students meet eligibility requirements prior to PROGRAM participation.
8. When requested by COUNTY, SCHOOL shall require Students to attend clinical orientation.
9. SCHOOL will assure COUNTY of Student's reasonable proficiency of infectious disease control issues.
10. SCHOOL will provide a faculty advisor who is available for consultation and direction and provide contact information to the COUNTY. SCHOOL shall inform COUNTY in a timely manner of any changes.
11. SCHOOL will require faculty and Students to comply with all COUNTY policies.
12. SCHOOL will require Students to provide to COUNTY a completed:
 - a. Student Confidentiality Agreement,
 - b. Student Assumption of Risk, Release, and Waiver of Liability, and
 - c. Student Participation Form.

All of which are attached to this Agreement as Exhibit A.

13. SCHOOL will adhere to COUNTY communicable disease reporting requirements.
14. SCHOOL will require Student to provide to the COUNTY such results for drug testing, health care, and criminal background checks prior to Student participation in the PROGRAM including proof of a:
 - a. PPD test (commonly referred to as a TB test);
 - b. HBV vaccine or signed refusal; and
 - c. Any other immunizations as required by laws.

15. SCHOOL understands and agrees that Student will be responsible for their own transportation, meals, and health care needs in the performance of this Agreement.
16. SCHOOL will be responsible for equipment that is broken or damaged due to Student's negligence.
17. SCHOOL will be responsible for the final grading of Student.
18. SCHOOL shall inform COUNTY in a timely manner of any change in Student(s) status, or curriculum, or faculty advisor during participation in PROGRAM.
19. Visits by SCHOOL and SCHOOL'S faculty are welcome for purposes of planning and observation of Student with prior notification to COUNTY.

IV. INDEPENDENT CONTRACTORS/NO AGENCY

In the performance of duties and obligations as described in this Agreement, NO SCHOOL FACULTY, STUDENTS, EMPLOYEES, OR AGENTS SHALL, FOR ANY PURPOSE, BE DEEMED TO BE AN AGENT, SERVANT OR EMPLOYEE OF THE COUNTY OR AUTHORIZED TO ACT FOR OR ON BEHALF OF THE COUNTY. NO EMPLOYEE OR AGENT OF THE COUNTY SHALL, FOR ANY PURPOSE, BE DEEMED TO BE AN AGENT, SERVANT OR EMPLOYEE OF THE SCHOOL OR AUTHORIZED TO ACT FOR OR ON BEHALF OF THE SCHOOL.

Neither party shall withhold on behalf of the employees of the other, any sums for income tax, unemployment insurance, social security or any other withholding or benefit pursuant to any law or requirement of any governmental body. Nothing in this Agreement is intended nor shall be construed to create any employer/employee relationship, a joint venture relationship, or to allow the parties to exercise control over one another or the manner in which their employees or agents perform any of the activities which are the subject of this Agreement. Both parties agree that no payment shall be made by either party to the other party or to either party's employees or agents.

V. INDEMNITY

TO THE EXTENT ALLOWED BY LAW, SCHOOL SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF SCHOOL, ITS STUDENTS, AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF SCHOOL OR ANY OF SCHOOL'S STUDENTS, AGENTS, SERVANTS OR EMPLOYEES.

VI. INSURANCE

The SCHOOL will arrange for liability and malpractice insurance coverage acceptable to the County for its faculty members and students assigned to the Facilities. COVERAGE SHALL BE WITH A COMPANY ACCEPTABLE TO THE FORT BEND COUNTY RISK MANAGEMENT DEPARTMENT AND A COPY OF THE POLICY OR CERTIFICATE OF COVERAGE SHALL BE DELIVERED TO COUNTY ON OR BEFORE THE DATE OF COMMENCEMENT OF THIS AGREEMENT.

X. CONFIDENTIAL AND PROPRIETARY INFORMATION

A. GENERAL TERMS. SCHOOL acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to COUNTY. Any and all information of any form obtained by SCHOOL or its employees or agents from COUNTY in the performance of this Agreement, including any reports or other documents or items (including software) that result from the use of Confidential Information, shall be deemed to be confidential information of COUNTY ("Confidential Information"). Confidential Information shall be deemed NOT to include information that (a) is or becomes (other than by disclosure by SCHOOL) publicly known or is contained in a publicly available document; (b) is rightfully in SCHOOL's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of SCHOOL who can be shown to have had no access to the Confidential Information.

SCHOOL agrees to hold Confidential Information in strict confidence, using at least the same degree of care that SCHOOL uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever, except as directed by COUNTY. SCHOOL shall use its best efforts to assist COUNTY in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, SCHOOL shall advise COUNTY immediately in the event SCHOOL learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and SCHOOL shall at its expense cooperate with COUNTY in seeking injunctive or other equitable relief in the name of COUNTY or SCHOOL against any such person.

SCHOOL agrees to obtain prior written consent of COUNTY for publication of any articles relating to the clinical experiences occurring at COUNTY. Upon termination of this Agreement or at COUNTY's request, SCHOOL shall promptly turn over to COUNTY any documents, papers, and other matter in SCHOOL's possession which embody Confidential Information. SCHOOL agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

B. TEXAS PUBLIC INFORMATION ACT. SCHOOL expressly acknowledges that COUNTY is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, COUNTY shall make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to COUNTY by SCHOOL shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

C. HIPAA. To the extent applicable to this Agreement, each party agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320d ("HIPAA") and any current and future regulations promulgated hereunder, including without limitation, the federal privacy regulations contained in 45 C.F.R, Parts 160-164 ("Federal Privacy Regulations", "Federal Security Regulations", and "Federal Electronic Transaction Regulations"), all as may be amended from time to time, and all collectively referred to herein as "HIPAA Requirements"). SCHOOL agrees not to use or further disclose any Protected Health Information (as defined in the Federal Privacy Regulations) or Individually Identifiable Health Information (as defined in the Federal Security Regulations), other than as permitted by the HIPAA Requirements and the terms of this Agreement. SCHOOL agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the HIPAA Requirements.

Solely for the purpose of defining their role in relation to the use and disclosure of protected health information, such Students are defined as members of COUNTY'S workforce, as that term is defined by 45 CFR 160.105, when engaged in activities pursuant to this Agreement. However, neither Students nor faculty are or shall be considered to be employees of COUNTY for any other purpose.

D. FERPA. For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), the SCHOOL hereby designates the COUNTY as a SCHOOL official with a legitimate educational interest in the educational records of the Student participating in the PROGRAM to the extent that access to the records are required by the COUNTY to carry out the PROGRAM. COUNTY agrees to maintain the confidentiality of the educational records in accordance with the provisions of FERPA.

E. BREACH OF CONFIDENTIALITY. SCHOOL acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, shall give rise to irreparable injury to COUNTY that is inadequately compensable in damages. Accordingly, COUNTY may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. SCHOOL acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of COUNTY and are reasonable in scope and content.

XI. ADDITIONAL TERMS

1. **Compliance with Applicable Laws.** Both SCHOOL and COUNTY shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement.
2. **Right to Inspect.** SCHOOL shall permit COUNTY, or any duly authorized agent of COUNTY, to inspect and examine the books and records of SCHOOL for the purpose of verifying the amount of work performed under this Agreement. COUNTY's right to inspect survives the termination of this Agreement for a period of four years.

3. **Venue and Applicable Law.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the COUNTY's sovereign immunity.
4. **Assignment and Delegation.** Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner. Neither party may delegate any performance under this Agreement. Any purported delegation of performance in violation of this Section is void.
5. **Waiver.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.
6. **Rights and Remedies.** The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.
7. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.
8. **Publicity.** Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of COUNTY. Under no circumstances whatsoever, shall SCHOOL release any material or information developed or received in the performance of this Agreement without the express written permission of COUNTY or where required by law.
9. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.
10. **Entire Agreement.** It is understood and agreed to by the parties that the entire Agreement of the parties is contained herein and in any exhibit or attachment identified in Agreement. It is further understood and agreed that this Agreement supersedes all prior communications and negotiations between the parties, oral or written, relating to the subject matter hereof as well as any previous Agreements presently in effect between the parties relating to the subject matter hereof.
11. **Conflict.** In the event there is a conflict between this Agreement and the attached exhibit(s) or attachments, this Agreement controls.

*{Execution Page Follows}
{Remainder Intentionally Left Blank}*

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below.

FORT BEND COUNTY

**UNIVERSITY OF HOUSTON-
CLEAR LAKE**

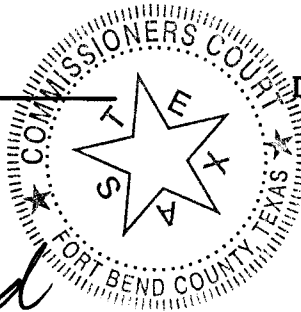
By: *KP George*
KP George, County Judge

[Signature]
Printed Name, Title Steven J. Berberich, m.c.
SR VP Acad. Affairs & Provost

Date: 9-24-2019

Date: 9-17-19

ATTEST:



Laura Richard
Laura Richard, County Clerk

APPROVED AS TO FORM BY:

M. Y. [Signature]
OFFICE OF THE GENERAL COUNSEL
UNIVERSITY OF HOUSTON SYSTEM

EXHIBIT A: REQUIRED DOCUMENTS

STUDENT CONFIDENTIALITY AGREEMENT

STUDENT ASSUMPTION OF RISK, RELEASE, AND WAIVER OF LIABILITY

STUDENT PARTICIPATION FORM

STUDENT CONFIDENTIALITY AGREEMENT

I, _____ ("STUDENT"), will be participating in an internship experience (hereinafter "PROGRAM") at Fort Bend County (hereinafter "COUNTY") pursuant to an agreement between Fort Bend County and _____.

I, _____ ("STUDENT"), acknowledge, understand and agree that in the performance of my duties as an intern that I may come in contact with, or be provided with, confidential or proprietary information.

I, _____ ("STUDENT"), agree to maintain the confidentiality of any information deemed confidential by the COUNTY, including any and all patient, client or hospital information. I agree not to reveal to any person or persons, except authorized individuals, any specific confidential information including any specific patient or client information, except as required by law or as authorized by COUNTY.

I, _____ ("STUDENT"), agree that if a computer network account is made available to me for PROGRAM purposes that such information contained within the computer network may be confidential in nature, and will be treated as such by me. I will not remove, change, delete, modify, or copy any confidential computer records or any other records, without explicit consent from COUNTY.

I, _____ ("STUDENT"), further agree that all documents, data, reports, research, graphic presentation materials, etc., developed by Student as a part of its work under this Agreement, shall become the property of COUNTY upon completion of this Agreement, or in the event of termination or cancellation thereof.

STUDENT acknowledges that any violation of this Confidentiality Agreement is cause for disciplinary action, including administrative removal from the PROGRAM, and may also result in legal action by the COUNTY, patients, other governmental entities, or other individuals.

Dated this _____ day of _____, 20__

STUDENT Signature: _____

Witness Signature: _____

Please read carefully! This is a legal document that affects your legal rights!

**FORT BEND COUNTY
INTERN ASSUMPTION OF RISK, RELEASE, AND WAIVER OF LIABILITY**

I, _____, the "STUDENT", will be participating in an internship experience (hereinafter "PROGRAM") at Fort Bend County, Texas and do hereby sign this **ASSUMPTION OF RISK, RELEASE, AND WAIVER OF LIABILITY**.

I, _____, the "STUDENT", **RELEASE FROM LIABILITY AND WAIVE THE RIGHT TO SUE** Fort Bend County, Texas, its employees, officers, volunteers, and agents (collectively "County") from any and all claims of any kind, including those resulting from any physical injury, illness, death, pain or suffering, or economic loss that I may suffer due to participation in PROGRAM.

I, _____, the "STUDENT", intend this **ASSUMPTION OF RISK, RELEASE, AND WAIVER OF LIABILITY FORM** to cover all situations that may occur while I participate in the PROGRAM.

I, _____, the "STUDENT", choose to voluntarily participate in this PROGRAM and understand that there are risks, such as physical injury, pain, suffering, temporary or permanent disability, which may occur from my participation in PROGRAM. These injuries or outcomes may arise from my or other's actions, negligence, inactions, or from the condition of the PROGRAM location. **NONETHELESS, I AGREE THAT I ASSUME ALL RISKS, WHETHER KNOWN OR UNKNOWN TO ME.**

I understand that this document is written to be as broad and inclusive as legally permitted by the State of Texas. I understand the legal consequences of signing this document including **(A) RELEASING COUNTY FROM ALL LIABILITY, (B) WAIVER OF MY RIGHT TO SUE COUNTY, AND (C) ASSUMPTION OF ALL RISKS OF PARTICIPATING IN PROGRAM.**

I agree that if any portion of this **ASSUMPTION OF RISK, RELEASE, AND WAIVER OF LIABILITY** is held invalid or unenforceable, I will continue to be bound by the remaining terms.

By my signature, I warrant that I am at least 18 years old; that I have the legal authority to sign this **ASSUMPTION OF RISK, RELEASE, AND WAIVER OF LIABILITY** and that I sign it of my own free will. In the event that the named participant is a minor, I certify that I am the parent or legal guardian of the participant and have agreed to the terms described herein on behalf of my minor child.

Signature of Volunteer: _____ Date: _____

Printed Name of Volunteer: _____ DOB: _____

Printed Name of Parent or Guardian (if applicable): _____

STUDENT PARTICIPATION FORM

STUDENT CONTACT INFORMATION:

Name: _____

Phone Number (H) _____ **Work (W)** _____ **Cell (C)** _____

DL: State: _____ **Number:** _____

Date of Birth: _____

In the event of an emergency, please contact: _____

Phone Number: _____

Allergies to medication or other special needs:

If I require medical treatment, the COUNTY is authorized to obtain medical treatment for me. I agree not to hold the COUNTY responsible for any claims resulting from any medical treatment.

By my signature, I warrant that I am at least 18 years old; that I have the legal authority to sign this STUDENT PARTICIPATION FORM and that I sign it of my own free will. In the event that the named STUDENT is a minor, I certify that I am the parent or legal guardian of the participant and have agreed to the terms described herein on behalf of my minor child.

Signature of Volunteer: _____ **Date:** _____

Printed Name of Parent or Guardian (if applicable): _____