

**INTERAGENCY COOPERATION CONTRACT
BETWEEN THE TEXAS EDUCATION AGENCY AND
THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

STATE OF TEXAS §

COUNTY OF TRAVIS §

This INTERAGENCY CONTRACT (the "Contract") is entered into by and between the Texas Education Agency ("TEA" or "Receiving Agency") and the State Office of Administrative Hearings ("SOAH" or "Performing Agency"), for administrative hearing services pursuant to the authority granted in the Interagency Cooperation Act, Tex. Gov't Code § 771.001, *et seq.* and pursuant to Tex. Gov't Code § 2003.021(b)(4).

SECTION I. CONTRACT REPRESENTATIVES

The following will act as the representative authorized to act on behalf of their respective Party.

Performing Agency

Name:	State Office of Administrative Hearings
Address:	P.O. Box 13025
Contact Person:	Cynthia Reyna, General Counsel
City and Zip:	Austin, Texas 78711-3025
Telephone:	(512) 936-6624
Fax number:	(512) 475-4994
E-Mail Address:	Cynthia.Reyna@soah.texas.gov

Receiving Agency

Name:	Texas Education Agency
Address:	1701 N. Congress Avenue
Contact Person:	Heather Reisman
City and Zip:	Austin, Texas 78701
Telephone:	(512) 463-8305
Fax number:	(512) 463-9838
E-Mail Address:	Heather.Reisman@tea.texas.gov

SECTION II. STATEMENT OF SERVICES TO BE PROVIDED

SOAH will provide to TEA the services as provided in Attachment 1, Description of Services, which is incorporated by reference and made a part of this Contract.

As used in this Contract, the term "IDEA ALJ" refers to Administrative Law Judges employed by SOAH that SOAH has designated to serve as hearing officers for IDEA cases, pursuant to this Contract.

SECTION III. CONTRACT PERIOD AND RENEWAL

The Contract is effective on September 1, 2017 and terminates on August 31, 2019 unless amended or terminated pursuant to the terms and conditions of the Contract.

SECTION IV. AMENDMENT

The Parties to this Contract may modify this Contract only through the execution of a written amendment signed by both parties.

SECTION V. CONTRACT AMOUNT

The total amount of this Contract for the biennium shall not exceed two million one hundred eighty-seven thousand five hundred dollars (\$2,187,500.00), or one million ninety-three thousand seven hundred fifty dollars (\$1,093,750.00) per fiscal year for the term of this Contract.

The total Contract amount consists of SOAH's hourly rate of one hundred twenty-eight dollars (\$128.00), and the requirement that TEA reimburse SOAH for employee benefit costs for salaries and wages because TEA will pay SOAH from funding sources other than General Revenue. S.B. 1, General Appropriations Act, 85th Legislature, Article VIII, SOAH bill pattern, Rider 4. For any non-General Revenue funds paid by TEA to SOAH, TEA must, in addition, submit the required reimbursement to SOAH. The required reimbursement is determined by calculating 25% of the non-General Revenue payment.

SECTION VI. PAYMENT FOR SERVICES

6.1. TEA shall pay for services received from the appropriation item or account from which TEA would ordinarily make expenditures for similar services or resources. Payments received by SOAH shall be credited to its current appropriation items or accounts from which the expenditure for the services or resources were made.

6.2. TEA shall pay SOAH the fee of \$128.00 per hour for actual time that IDEA ALJs spend providing the services described in Attachment 1. TEA will also pay SOAH the required reimbursement for employee benefit costs set out in Section V of this Contract.

6.3. TEA-Sponsored IDEA Training. TEA shall pay SOAH the fee of \$128.00 per hour for the time that an IDEA ALJ attends such training related to IDEA that is sponsored by TEA.

6.4. Other IDEA Training. For IDEA-related continuing legal education/training seminars that are not sponsored by TEA but are approved by TEA, TEA will pay \$128.00 per hour for time that an IDEA ALJ attends such training, not to exceed 40 hours per year per IDEA ALJ.

SOAH CONTRACT NO. 360-18-1019

6.5. Upon designation as an IDEA ALJ, each IDEA ALJ may attend up to two IDEA hearings for observation and training purposes, and TEA will pay \$128.00 per hour for such time.

6.6. SOAH will submit to TEA by the 20th day of each month an invoice for services provided by SOAH under this Contract. With the invoice, SOAH will provide TEA with specific supporting documentation relating to services provided. SOAH may submit invoices electronically to teaaccountspayable@tea.texas.gov or mail invoices to: Texas Education Agency, Attn: Accounting Department, 1701 N. Congress Ave., Suite 2-125, Austin, Texas 78701-1494.

TEA will remit payments to SOAH for services performed under this Contract in accordance with section 771.008, Texas Government Code.

6.6. SOAH will maintain all such documents and other records relating to this Contract for the applicable legal retention period. SOAH agrees to make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the services described in this Contract in the format as maintained by SOAH in the regular course of business.

SECTION VII. LEGAL NOTICES

Any notice relating to this Contract, which is required or permitted to be given under this Contract by one party to the other party shall be in writing and addressed to the Contract Representatives identified in Section I above. Notices under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the Contract Representatives' address specified in Section I above.

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

SECTION VIII. AUDIT OF CONTRACT

Performing Agency understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Performing Agency further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Performing Agency will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Performing Agency and the requirement to cooperate is included in any subcontract it awards.

SECTION IX. DISPUTE RESOLUTION

The dispute resolution process provided for in Tex. Gov't Code Ch. 2009 must be used by Performing Agency and Receiving Agency to attempt to resolve all disputes arising under this Contract.

SECTION X. ENTIRE AGREEMENT

This Contract together with the described Attachments contains the entire agreement between the Parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this Contract shall be of no force or effect unless contained in a subsequent written Contract amendment executed by both Parties.

The following documents are attached to this Contract and are incorporated by reference: Attachment 1, Description of Services.

SECTION XI. CERTIFICATIONS

The undersigned Parties certify that:

- A. The services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;
- B. Each Party executing this Contract on its behalf has full power and authority to enter into this Contract;
- C. The proposed arrangements serve the interest of efficient and economical administration of state government; and
- D. The services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

The Receiving Agency further certifies that it has statutory authority to contract for the services described in this Contract under Tex. Gov't Code § 771.003.

The Performing Agency further certifies that it has statutory authority to contract for the services described in this Contract under Tex. Gov't Code § 771.003, Tex. Gov't Code § 2001.001, *et seq.*, and Tex. Gov't Code § 2003.021(b)(4).

SIGNATURE PAGE FOLLOWS

SOAH CONTRACT NO.

SIGNATURE PAGE FOR SOAH CONTRACT NO.

TEXAS EDUCATION AGENCY



Mike Morath
Commissioner

9/5/17

Date

STATE OFFICE OF ADMINISTRATIVE HEARINGS

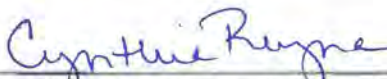


Lesli G. Ginn
Chief Administrative Law Judge

9.7.17

Date

Approved as to form

By: 
Cynthia Reyna, General Counsel

9/7/2017

Date

Attachment 1

Description of Services

I. Purpose and Objectives

A. The Texas Education Agency (TEA) is responsible for conducting due process hearings on issues arising under the Individuals with Disabilities Education Act (IDEA). These hearings must be conducted by impartial hearing officers who meet the minimum qualification in IDEA. TEA currently contracts with private practice attorneys and the State Office of Administrative Hearings (SOAH) to provide special education hearing officer services.

B. SOAH conducts contested case hearings for various state agencies in Texas and employs licensed attorneys as administrative law judges (ALJs) to preside over hearings.

C. Upon consultation with TEA, SOAH will designate ALJs (hereinafter "IDEA ALJs") who are qualified to conduct IDEA hearings for TEA (hereinafter "IDEA Cases") in accordance with applicable federal and state special education requirements and the terms of the Contract executed by the Parties. Before designation, SOAH will take appropriate measures to determine qualifications, including verification of current State Bar licensure and good standing status, as well as determination of driving history and other criminal background information as permitted by law. SOAH's designation of qualified IDEA ALJs will also take into account any prior known compliance or non-compliance with IDEA.

D. SOAH will ensure that the IDEA ALJs will maintain qualifications to provide services under this Contract through appropriate continuing legal education (CLE) and training. IDEA ALJs will review all training materials provided by TEA and will, where possible, attend all training sessions held by TEA (generally two sessions per fiscal year). SOAH will ensure that each IDEA ALJ earns at least 10 hours of CLE per fiscal year in subject areas directly applicable to IDEA ALJ duties.

E. SOAH will provide TEA with a current list of designated IDEA ALJs and their qualifications upon the execution of this Contract and will immediately advise TEA of any changes to this list. TEA will maintain this information in accordance with 34 C.F.R. § 300.511(c)(3).

F. The typical volume of referrals to SOAH will represent approximately 75% of the requests received by TEA. SOAH and TEA agree to communicate and collaborate on the workload and volume of IDEA cases referred to SOAH as needed throughout the duration of the Contract, and the percentage and volume of such referrals may be adjusted upward or downward, to include equitable distribution of IDEA Cases between SOAH and TEA's contract hearing officers, due to the business needs of the Parties.

II. Roles and Responsibilities

A. Case Assignments and Actions

1. TEA will refer IDEA Cases to SOAH by submitting a Request to Docket form to SOAH's Docketing department. The Request to Docket form will contain the TEA Docket number and the school district information. The Request to Docket form will also include any available information relating to whether the case may constitute an "expedited" case under IDEA, including whether a party has identified the case as such. The Request to Docket form will not contain the name of the student or other personally identifying information of the student.
2. TEA will simultaneously submit other pertinent information in its possession related to a referred IDEA case, including information that may be confidential or sensitive, to a dedicated SOAH intake (separately from the information provided to Docketing).
3. TEA will also advise SOAH at the point of referral if a referred IDEA Case involves the same student who was involved in another hearing that was filed within the last 12 months or siblings.
4. For potentially expedited IDEA cases, TEA may consult directly with the SOAH Team Leader for IDEA regarding scheduling availability before submitting a Request to Docket form.
5. After an IDEA Case is docketed at SOAH, SOAH will promptly assign the IDEA Case to a designated IDEA ALJ.
 - a. SOAH will notify TEA no later than two (2) business days of the assignment of the designated IDEA ALJ.
 - b. If an IDEA Case is determined by SOAH to constitute an expedited case, then SOAH will notify TEA no later than one (1) business day of the assignment of the designated IDEA ALJ.
6. Once TEA has been notified by SOAH of the ALJ assignment, TEA will provide the parties and SOAH with written notice of the hearing request.
7. SOAH will conduct the administrative hearings and will handle related matters, including prehearing and post-hearing matters and the issuance of final decisions and orders, in accordance with the applicable federal and state statutes and regulations.
8. SOAH will comply with all legal and contractual timelines, including but not limited to the following:

- a. In accordance with 19 Tex. Admin. Code § 89.1180, promptly after being assigned a case, SOAH will forward to the parties a scheduling order, which sets the time, date, and location of the hearing and contains the timelines for the following actions, as applicable:
 - i. Response to Request for a Due Process Hearing (34 Code of Federal Regulations (C.F.R.) § 300.508(f));
 - ii. Resolution Meeting (34 C.F.R. § 300.510(a));
 - iii. Contesting Sufficiency of the Complaint (34 C.F.R. § 300.508(d));
 - iv. Resolution Period (34 C.F.R. § 300.510(b));
 - v. Five-Business Day Disclosure (34 C.F.R. § 300.512(a)(3)); and
 - vi. Date by which the final decision of SOAH will be issued (34 C.F.R. § 300.515 and § 300.532(c)(2));
- b. SOAH will schedule a prehearing conference to be held at a time reasonably convenient to the parties to the hearing. The prehearing conference will be conducted in accordance with 19 Tex. Admin. Code § 89.1180.
- c. For hearings conducted under 34 C.F.R. §§ 300.507 through 300.513, SOAH will render a final decision no later than 45 days after the expiration of the 30-day period under 34 C.F.R. § 300.510(b), or the adjusted time periods described in 34 C.F.R. § 300.510(c), unless the deadline for a final decision has been extended by SOAH at the request of a party as provided in 34 C.F.R. § 300.515(c).
- d. If a request for an extension of the decision deadline is granted, SOAH will render a written order stating the good cause grounds for the extension and the specific date by which the final decision is due. SOAH will provide the written order to the parties within one business day following the issuance of the order.
- e. SOAH will email all orders extending the timeline for rendering a final decision and all dispositive orders (e.g., orders of dismissal, summary judgment orders, orders following a hearing, etc.) to TEA on the day that the order is issued.
- f. For hearings held under 34 C.F.R. § 300.532, SOAH will conduct the hearing in an expedited manner within 20 school days of the date the complaint requesting the hearing is filed and render a decision within 10 school days after the hearing as provided by 34 C.F.R. § 300.532(c). SOAH will not grant any extensions of time in a hearing requested under 34 C.F.R. § 300.532.
- g. SOAH will provide a final written decision or any dispositive order to the parties on the date the decision or order is issued.
- h. SOAH will return individual case files to TEA within 30 calendar days of issuing a final decision or a dispositive order that disposes of all of the issues in a hearing.

9. Under 34 C.F.R. § 300.515, the IDEA ALJ must conduct hearings at a time and place that is reasonably convenient for the parents and children. Generally, the IDEA ALJ will conduct such hearings at the school district or charter school at issue, or at TEA's Educational Regional Service Centers. If, in a particular case, it is not possible or practicable for the hearing to be held at a location that is free of associated cost, SOAH will notify TEA of such, and TEA will reimburse SOAH upon invoicing for any rental costs or other facility costs that SOAH incurs in the course of conducting a hearing.
10. SOAH will arrange for the attendance of a TEA-contracted court reporter to record verbatim testimony at the hearing.
11. If an IDEA ALJ is removed, dies, becomes disabled, or withdraws from a hearing before the completion of duties, SOAH will designate a substitute ALJ to complete the performance of duties without the necessity of repeating any previous proceedings.
12. SOAH will comply with the standards of neutrality, confidentiality, and conduct required by IDEA, the Family Educational Rights and Privacy Act (FERPA), State Bar of Texas Rules, and other applicable state or federal law.
13. SOAH will ensure that each case file accurately records the activity in each IDEA Case, including orders, decisions, and correspondence. Upon the conclusion of an IDEA Case at SOAH, SOAH will provide TEA with sufficient information relating to issues, implicated regulations, and holdings for each case as to enable TEA to comply with its legal obligations under 34 C.F.R § 300.600.
14. SOAH will comply with the decision format requirements set by TEA pursuant to the rules governing special education due process hearings. Specifically, decisions must include the following:
 - a. Findings of fact that are clear and concise, supported by the evidence, and necessary to resolve an issue properly before SOAH;
 - b. Conclusions of law that accurately apply the law to the findings of fact and that are necessary to resolve an issue properly before SOAH;
 - c. Discussion to explain a rationale not otherwise apparent from the findings and conclusions; and
 - d. An order that rules on all requests for relief and that does not require the parties to refer to any other part of the decision to implement the mandates in the order.
15. If TEA determines that SOAH has failed to comply with the requirements of IDEA, TEA will promptly notify SOAH of such. If either Party determines that the other has failed to comply with the terms of this Contract, such Party will promptly notify the other Party. The Parties agree to cooperate with each other to resolve any noncompliance with IDEA or this Contract.

16. SOAH acknowledges that TEA is responsible for ensuring that hearings are conducted in accordance with the federal and state special education requirements and for ensuring that any identified noncompliance is corrected as soon as possible and in no case later than one calendar year from when it was identified.
17. TEA and SOAH acknowledge that each is a governmental body subject to Texas Public Information Act, Chapter 552 of the Texas Government Code (PIA), and will comply with the PIA in the event that a request for information is received by either TEA or SOAH that implicates documents related to this Contract. Upon notice that TEA or SOAH has received a request for a document or other information pursuant to the PIA or other law, TEA and SOAH agree to cooperate in responding to the request to the extent permitted by law.