

Wendell School District No. 232
HIPPA BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is entered into on this ____ day of _____, 20____ by and between WENDELL SCHOOL DISTRICT NO. 232, validly organized as a body corporate and politic hereby authorized to enter into contracts pursuant to Idaho Code Title 33, Chapter 6, and is a HIPAA covered entity or hybrid entity (hereinafter "Covered Entity"), and _____, a contractor or service provider (hereinafter "Business Associate"). Covered Entity and Business Associate are sometimes collectively referred to herein as the "Parties."

WHEREAS, Covered Entity will make available and/or disclose to Business Associate certain employee Protected Health Information ("PHI"), along with goods or services that are being provided by the Business Associate to the Covered Entity; and

WHEREAS, Business Associate will have access to and/or receive from Covered Entity certain PHI that can be used or shared only in agreement with this Agreement and the U.S. Department of Health and Human Services ("HHS") Privacy Regulations; and

WHEREAS, the Parties intend this Agreement to govern Business Associate's access to, use of, and disclosure of PHI received from, or created or maintained on behalf of, Covered Entity.

NOW, THEREFORE, Covered Entity and Business Associate agree to the following for the mutual benefit of each:

1. DEFINITIONS. The following words are defined below:

1.01 Agreement shall refer to this document.

1.02 Electronic PHI ("ePHI") means PHI transmitted or maintained in electronic form.

1.03 HIPAA Rules shall mean the Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164), Security Rule (Subparts A and C of Part 164), and Breach Notification Rule (Subpart D of Part 164).

1.04 Protected Health Information or PHI shall have the same meaning as the term "protected health information" as defined in 45 CFR §160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

- 2.01** Business Associate agrees to not use or disclose PHI other than as permitted or required by the Agreement or as required by law.
- 2.02** Business Associate agrees to use appropriate administrative, physical, and technical safeguards to prevent use or disclosure of the PHI other than as provided by this Agreement.
- 2.03** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- 2.04** Business Associate agrees to report to Covered Entity, within five (5) business days) of discovery, any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware.
- 2.05** Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received by Business Associate on behalf of Covered Entity agrees, in writing, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- 2.06** Business Associate agrees to make any amendment(s) to PHI that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an individual, and in the time and manner agreed between the parties.
- 2.07** Business Associate agrees to make internal practices, books, and records, including policies and procedures related to PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity or to the Secretary of Health and Human Services (“Secretary”), in a time and manner agreed between the parties, or designated by the Secretary, for purposes of compliance review.
- 2.08** Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528.
- 2.09** Business Associate agrees to provide to Covered Entity or an individual, in the time and manner agreed by the parties, information collected in accordance with Section 2.08 of this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528.

2.10 Business Associate shall provide an accounting of all claims to Covered Entity by _____, 20_____, and each month thereafter by the ____ day of the month.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

3.01 Specific Purpose. Except as otherwise limited in the Agreement, Business Associate may use or disclose PHI only as necessary to perform services described in the underlying service contract.

3.02 Management and Administration. Business Associate may use PHI for proper management or administration, or to carry out its legal obligations if: (a) the disclosure is required by law; or (b) the recipient provides written assurances of confidentiality and breach reporting.

3.03 Deidentification. Business Associate may de-identify PHI consistent with 45 CFR §164.514(b).

3.04 Restrictions. Business Associate shall not use or disclose PHI in any manner not permitted by this Agreement or by law.

4. OBLIGATIONS COVERED ENTITY.

5.01 Minimum PHI. Covered Entity shall provide Business Associate with only the minimum necessary PHI to allow Business Associate to perform the services identified in the underlying service agreement.

5.02 Notifications.

5.01.01 Covered Entity shall notify Business Associate of any restrictions to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5.01.02 Covered Entity shall notify Business Associate of any changes in individual permissions.

5.01.03 Covered Entity shall notify Business Associate of confidentiality limitations that affect Business Associate's work or services under the underlying service agreement.

5. PERMISSIBLE REQUESTS BY COVERED ENTITY. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, including use and disclosure of PHI for data aggregation or management as requested by the Covered Entity, and for administrative activities of Business Associate.

6. TERM AND TERMINATION.

7.01 The term of this Agreement shall be effective as of _____, 2004, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity. If it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Agreement.

7. TERMINATION FOR CAUSE. Covered Entity may terminate this Agreement if Business Associate:

7.01 Materially breaches this Agreement and fails to cure the breach or end the violation, within thirty (30) days; or

7.02 Engages in a pattern of activity that violates HIPAA.

8. EFFECT OF TERMINATION.

8.01 Except as provided in paragraph 8.02 of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

8.02 In the event Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

9. BREACH NOTIFICATION. In the event of a security breach involving PHI, Business Associate shall:

9.01 Notify Covered Entity without unreasonable delay, and no later than five (5) business days, after discovering a breach of unsecured PHI.

9.02 Provide all information required by 45 CFR §164.410, including: (a) identification of the affected individuals; (b) description of the breach; (c) types of PHI involved; (d) steps taken to mitigate harm; and (e) corrective actions implemented.

9.03 Covered Entity retains responsibility for providing notifications to individuals, HHS, and media unless otherwise agreed in writing.

10. MISCELLANEOUS PROVISIONS.

10.01 Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

10.02 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

10.03 Survival. The respective rights and obligations of Business Associate under Section 9 of this Agreement shall survive the termination of this Agreement.

10.04 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

10.05 Choice of Law. This Agreement shall be governed by the laws of the State of Idaho.

10.06 Change of Address. Either party may at any time change its address for notification purposes by mailing a notice stating the change and giving the new address.

10.07 Entire Agreement. This Agreement consists of this document and is the entire agreement between the parties regarding compliance with the Privacy Rule. There are no other agreements that are not fully stated in this Agreement and no change, release, or discharge of responsibilities arising under this Agreement shall be valid unless it is in writing and carried out by the party against whom such change, release, or discharge is sought to be enforced.

10.08 Independent Contractor. The relationship of Covered Entity and Business Associate is that of independent contractors. All acts performed by Business Associate shall be deemed to be performed in its capacity as an independent contractor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COVERED ENTITY: SCHOOL DISTRICT NO. _____

By: _____

Print Name: _____

Its: _____

Date: _____

BUSINESS ASSOCIATE: [name]

By: _____

Print Name:

Its: _____



LEGAL REFERENCE:

ADOPTED: September 15, 2026

AMENDED: