

THIRD AMENDED INTERGOVERNMENTAL (28E) AGREEMENT

FOR

EASTERN IOWA MENTAL HEALTH-DISABILITY SERVICES REGION

The Third Amended Intergovernmental 28E Agreement is entered into this ___ day of _____, 2022, by Cedar County, Clinton County, Jackson County, Muscatine County and Scott County; collectively hereinafter referred to as “member counties”; as indicated by the actions of each having adopted this Amended Agreement by resolution of their respective governing bodies, and hereby join together to create the Eastern Iowa Mental Health-Disability Services Region, hereinafter referred to as “Region”, to serve as a separate legal entity pursuant to Iowa Code Chapter 28E and Iowa Code Section 331.388 et seq., and any amendments thereto.

In consideration of the mutual covenants and agreements hereinafter set forth, the member parties agree as follows:

SECTION 1: IDENTITY OF THE PARTIES

The undersigned counties are political subdivisions and constitute “public agencies” as defined in Iowa Code section 28E.2. The member counties are Cedar County, Clinton County, Jackson County, Muscatine County and Scott County. County membership may, however, change from time to time as provided in this Agreement and the current member counties at any time shall be referred to as the “member counties” in this Agreement.

SECTION 2: PURPOSE, GOALS AND OBJECTIVES

The member counties entered into this 28E Agreement to create a mental health and disability service regional administrative entity as described in the Iowa Code §331.388 et seq.; to provide local access to mental health and disability services (MHDS) for adults and behavioral health services for children; to ensure MHDS services are available so as to meet the Department of Human Services (DHS) Performance Based Contract statewide outcomes and; to engage in any other related activity in which an Iowa 28E organization may lawfully be engaged.

SECTION 3: TERM AND TERMINATION

3.0 Term

This Agreement shall be effective upon the ratification of all member counties as listed in Section 1 and this Agreement is filed with the Iowa Secretary of State as required by Iowa Code section 28E.8.

3.1 Termination

The term of this Agreement shall be perpetual, unless terminated by:

- a) a repeal or amendment of the Iowa Code sections that results in the elimination of a statutory requirement for mental health services to be provided through a regional format; or
- b) a majority of the member counties approve the termination of the region; or
- c) a majority of the member counties after providing notice no later than November 15th that the county's Board of Supervisors has passed a resolution indicating its intent to withdraw from the Region.

Dissolution of Region

In the event the Agreement is terminated as provided in Section 3.1, the Governing Board shall begin dissolving the Region effective for the succeeding June 30th.

Distribution of Assets

In the event this Agreement is terminated and the Region is dissolved, all property of the Region shall be liquidated for cash value and placed in the combined/Fiscal Agent account. All assets of the Region shall be disbursed by code back to the State of Iowa or as otherwise required. If member counties provide notice of their intent to withdraw from the Region, any asset division will be made pursuant to Section 5.4 of this agreement.

SECTION 4: GOVERNANCE

- 4.0 Governing Board of Directors The Governing Board of Directors shall contain the following Directors, “County-Appointed” and “Committee-Appointed”:
- a) Each member county shall appoint one of its supervisors to serve as a Director on the Governing Board or a person designated by the board of each county, as well as an “alternate” who would fill in during an absence. The Director shall serve at the pleasure of the County Board Chair appointing the Director. Any Director appointed under this section may be removed for any reason by the county appointing the Director, upon written notice to the Region’s Governing Board, which notice shall designate a successor Director to fill the vacancy. The Directors appointed in this section will be referred to as “County-Appointed” Directors.
 - b) One adult person who utilizes mental health and disability services, or is an actively involved relative of such a person, shall serve as a “Committee-Appointed” Director. The person shall be appointed by the Region’s Adult Advisory Committee described in Section 4.5, with such appointment to become effective upon confirmation by the Region’s Governing Board. This Director shall serve a two (2) year term, if interested re-appointed, serving a maximum of three (3) terms.
 - c) One individual representing adult service providers in the Region shall serve as a “Committee-Appointed” Director. The person shall be appointed by the Region’s Adult Advisory Committee described in Section 4.5, with such appointment to become effective upon confirmation by the Region’s Governing Board. This Director shall serve as an ex-officio, non-voting Director. This Director shall serve a two (2) year term, if interested re-appointed, serving a maximum of three (3) terms.
 - d) One individual representing children’s behavioral health service providers in the Region shall serve as a “Committee-Appointed” Director, as he/she shall be appointed by the Region’s Children’s Advisory Committee described in Section 4.5. This appointment will be effective upon confirmation by the Region’s Governing Board. This Director shall serve as an ex-officio, non-voting Director. This Director shall serve a two (2) year term, if interested re-appointed, serving a maximum of three (3) terms.

- e) One individual representing the education system in the Region shall serve as a “Committee-Appointed” Director. This Director shall be appointed by the Region’s Children’s Advisory Committee described in Section 4.5, with such appointment effective upon confirmation by the Region’s Governing Board. This Director shall serve a two (2) year term, if interested re-appointed, serving a maximum of three (3) terms.
- f) One person, who is a parent of a child who utilizes children’s behavioral health services or an actively involved relative of such child in the Region, shall serve as a “Committee-Appointed” Director. This Director shall be appointed by the Region’s Children’s Advisory Committee described in Section 4.5, with such appointment effective upon confirmation by the Region’s Governing Board. This Director shall serve a two (2) year term, and if interested re-appointed, serving a maximum of three (3) terms.
- g) The membership of the Governing Board shall not include employees of the Department of Human Services or a nonelected employees of the county.

4.1 Director Vacancies

- a) County-Appointed Directors: If a vacancy occurs during the term of a “County-Appointed” Director, the vacancy shall be filled within thirty (30) days of its occurrence by the county board chair having the right of appointment.
- b) Advisory Committees-Appointed Directors: If a vacancy occurs during the term of a “Committee-Appointed” Director due to death, change in status warranting appointment, or resignation, the vacancy shall be filled within thirty (30) days of its occurrence by the committee having the right of appointment. Such appointment to fill a vacancy shall become effective upon the confirmation of the Governing Board and shall be for the remaining term of the Director being replaced.

4.2 Voting Procedures for Governing Board Members A quorum must be present in order for the Governing Board to take action. A quorum shall be two thirds of all Directors. The Governing Board shall take action by approval from the majority of the Directors present. Voting shall be done by roll call vote. Proxy voting is prohibited, however, a Governing Board Director or designated Alternate (described in section 4.0 (a) may attend via electronic means and be considered present for purposes of quorum and voting.

Electronic meetings must follow Iowa Code Chapter 21.8:

1. A Governmental body may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the governmental body complies with all of the following:
 - a. The governmental body provides public access to the conversation of the meeting to the extent reasonably possible.
 - b. The governmental body complies with section 21.4 of Iowa Code. For the purposes of this paragraph, the place of the meeting is the place from which the communication originates or where public access is provided to the conversation.
 - c. The majority of the governmental body must be present (in person) for the meeting.
 - d. Minutes are kept of the meeting. The minutes shall include a statement explaining why a meeting in person was impossible or impractical.
2. A meeting conducted in compliance with this section shall not be considered in violation of this chapter.
3. A meeting by electronic means may be conducted without complying with paragraph "a" of subsection 1 if conducted in accordance with all of the requirements for a closed session contained in Iowa Code section 21.5.

4.3 Board Officers. At the first meeting of each calendar year, the Governing Board shall elect a Chair, Vice-Chair and Secretary to serve in the new calendar year. Board Officers shall only be County-Appointed Directors.

- a) The Chair shall preside at the Board's meetings, preserve order and enforce this Agreement. The Chair shall perform such other duties as are usually exercised by the Chair of a Governing Board or as specifically authorized by this 28E Agreement, any bylaws or the Management Plan.
- b) The Vice-Chair shall preside and act in the capacity of the Chair in the absence of the Chair.
- c) The Secretary shall ensure that a complete and accurate record of the Governing Board's actions (minutes of all Governing Board meetings) and proceedings are kept. In the absence of the Chair and Vice-Chair, the Secretary shall act in their capacity.

4.4 Powers of the Governing Board. Except as otherwise provided in this Agreement, the Region shall be under the direction and control of the Governing Board and the Chief Executive Officer (CEO). The Governing Board shall serve as the Regional Administrative Entity, as defined in Iowa Code Section 331.390(1).

The Governing Board shall have all of the following powers:

- a) Any powers and authority granted to the Region by Iowa Code Chapter 28E or Iowa Code §331.390 et seq. to do and perform any acts authorized by the Code of Iowa, under, through or by means of its officers, agents and employees, or by contracts with any person or entity;
- b) To appoint, supervise and remove the Chief Executive Officer (CEO) upon the vote of the super majority of Governing Board Directors;
- c) To contract with any public or private entity to provide all necessary services;
- d) To authorize the acquisition, holding, disposal of, and leasing such real and personal property it deems necessary to fulfill the purposes of this Agreement;
- e) To accept, receive and administer grants or other funds or gifts for the purposes of carrying out the functions of this agreement; and to review and approve the expenditures of all funds budgeted;
- f) To approve the Annual Service and Budget Plan for the following fiscal year beginning July 1 as well as the Annual Report (summary of previous fiscal year) and any other reports required by the Department of Human Services (DHS);
- g) To establish a system of accounting and budgeting, and a system for receiving payments;
- h) To retain legal counsel, accountants and other professional individuals needed in order to fulfill the purposes of this Agreement;
- i) To sue and be sued;
- j) To make and enforce bylaws or rules and regulations for the management and operation of the Region's business and affairs;
- k) To consult with representatives of Federal, State and local agencies and departments, and their officers and employees, and to contract with such agencies and departments;
- l) Act as oversight and hear any appeals of decisions made by the Region's Management Team;
- m) To establish the times and places for business meetings pursuant to Iowa Code Chapter 21 the agenda shall be posted in the building of the location of the meeting. Other counties may post in the same way they post agendas for their board meetings for informational purposes. All meetings will be governed by Roberts Rules of Order, Revised unless otherwise provided; and
- n) To exercise any other power or do any other legal act necessary to discharge its obligations and fulfill the purposes of this Agreement.

The Governing Board may delegate any of these powers to staff of the Region or staff of member counties serving the Region as the board deems necessary. The board may adopt such policies, rules, regulations and actions consistent with law or this Agreement.

4.5 Committees Members of any committee of the Region shall be appointed by the Region's Governing Board. Committee members shall serve at the pleasure of the Governing Board.

a) The Adult Advisory Committee, as confirmed by the Eastern Iowa MHDS Governing Board, shall include individuals who utilize services or actively involved relatives of such individuals and service providers as stated in Iowa Code Section §331.390(e) and a Director from the Governing Board. The committee shall include the Management Team as ex officio non-voting members. The advisory committee shall advise the Governing Board as requested and shall also make designations to the Governing Board as described above. A quorum shall be the majority of the committee members.

b) The Children's Advisory Committee, as confirmed by the Eastern Iowa MHDS Governing Board, shall have up to ten (10) members as stated in Iowa Code Section §331.390(f). The committee members shall be: parents of children who utilize services or actively involved relatives of such children, a member of the education system, an early childhood advocate, a child welfare advocate, a children's behavioral health service provider, a member of juvenile court, a pediatrician, a child care provider, a local law enforcement representative and regional Governing Board members. The committee shall include the Management Team as ex officio non-voting members. The Child Advisory committee shall advise the Governing Board as requested and shall also make designations to the Governing Board as described above. A quorum shall be the majority of the committee members.

c) The Governing Board may take action to create additional committees for various other purposes it deems appropriate and to determine the extent and purpose of said committees.

d) All meetings shall comply with Iowa Code Chapter 21 and Section 4.4(m) of this agreement.

4.6 Methods for Dispute Resolution

In the event an internal dispute arises amongst or between the Governing Board, the Chief Executive Officer or any of the member counties, which cannot be resolved, the following dispute resolution shall be used:

a) Mediation shall be conducted pursuant to Chapter 679C of the Iowa Code. If the dispute still remains unresolved, arbitration shall be conducted pursuant to Chapter 679A of the Iowa Code. The cost of mediation shall be split between the Region and the county.

5. MEMBERS

5.0 Specification, Requirements, Obligations, Expectations of Member Counties

The member counties agree to the following:

- a) To respond to reasonable requests to make local records available to the Region for the purposes of this Agreement;
- b) To support the effective collaboration of other county functions related to the provision of contracted services;
- c) To provide county staff as agreed to between the member county and the Governing Board for the effective provision of regional services; and
- d) To abide by decisions of the Governing Board.
- e) To abide by the terms of the Memorandum of Understanding (MOU) detailing the funding of administrative expenses for member counties.

5.1 Decisions that Require an Individual Member Votes

The Governing Board shall not have authority to, and they covenant and agree that they shall not do, or cause the Region to do, any of the following acts without the prior consent of the Boards of Supervisors of a majority of the member counties:

- a) Permit any new member counties (unless the new member counties are required by the State);
- b) Remove any member county (other than a voluntary withdrawal of a county as provided below);
- c) Terminate or amend this Agreement; or
- d) Dissolve the Eastern Iowa MHDS Region.

5.2 Member Voting Procedure

Any questions related to the issues listed in Section 5.1 may be presented to the member counties by resolution of the Governing Board by first adopting a recommendation on the issue and then submitting it to the individual member counties. A separate explanation of the reasons for the recommendation may be included. Each member county desiring to vote upon the proposal shall do so by resolution of its Board of Supervisors and return of the same to the Region's Governing Board Chair a certified copy of the resolution stating the county's vote within thirty (30) days of the date that the county received a copy of the proposal. Any member county not voting upon the proposal within this time frame shall be considered to have approved the

proposal. If the proposal receives approval by majority of the member votes, it shall become effective immediately unless otherwise specified by resolution.

5.3 Additional Member Counties

If a county wishes to become a member county of the Region after the effective date, the county must make a written request to the Region's Governing Board. Such request will then be addressed through the Member Voting Procedure set forth in Section 5.2. If a new county's request is approved through such procedure, such new membership will not become effective until:

- a) the county provides a signature page to this Agreement and a resolution from its Board of Supervisors that it agrees to abide by the terms of this Agreement as set out herein and possess legal power and authority to do so; and
- b) if the new written county's request has been properly approved and it has submitted the documentation in Section 5.3(a) prior to November 15th, then such membership shall become effective on the first day of the next fiscal year. If all of these requirements are not met until after November 15, the membership shall become effective one year from the first day of the next fiscal year. The timing requirements in this subsection may be waived by the Governing Board for cause, including in the event the Region is required by law or by the Iowa Department of Human Services to accept a new member county.

5.4 Member County Withdrawal / Removal

a) Member County Withdrawal

Any member county, by resolution of its Board of Supervisors, may withdraw from the Region by giving written notice to the Governing Board of the Region no later than November 15 prior to the end of the fiscal year the withdrawal will be effective. Services shall continue to be provided to the withdrawing member county until the date of withdrawal. In the event a member county withdraws, the Region's cash flow amount shall be divided by the percentage of each county's population according to the Region's population indicated in the Annual Service and Budget Plan, and the amount for the member county withdrawing will be returned to the State of Iowa or as otherwise requested.

b) Member County Removal

If the Governing Board feels it is in the best interest of the Region for a member county to be removed from the Region, the Governing Board will pass a resolution to that effect and proceed under the Member Voting Procedure set forth in Section 5.2. Upon removal, a member county shall not be entitled to any repayment for funds, including "Transfer" funds, services or property provided to the Region.

6. STAFF

6.0 Selection Process for Chief Executive Officer

The Governing Board shall appoint an individual to serve "at will" as the region's mental health and disability services administrator, known as the Chief Executive Officer (CEO). The CEO shall serve at the pleasure of the Governing Board. The CEO shall be considered a shared employee of the Region/County, for employment purposes the CEO shall be considered an employee of the county employer of record. The CEO shall be the primary point of contact for the region. The CEO may perform duties for the member county as outlined in an agreement between the region and the county employer of record. Compensation will be determined based on a split between regional duties and county duties.

6.1 Performance Evaluation of Chief Executive Officer

The Governing Board shall conduct annual evaluations of the Chief Executive Officer (CEO). The Governing Board may conduct additional evaluations of the Chief Executive Officer at any time, if it is deemed necessary. All evaluations shall be summarized in writing. In the event the CEO resigns, retires or otherwise has his or her employment terminated, the Governing Board shall, in consultation with the county employer of record and CEO Shared Duties Agreement, appoint an acting CEO which may be a member county Disability Coordinator.

6.2 General Functions and Responsibilities of Staff

- a) The Chief Executive Officer will be responsible for duties including but not limited to the primary contact for the region to the Department of Human Services (DHS), submit required reports to DHS, sign various reports and plans after Governing Board approval, oversee contracts entered into by the Governing Board, prepare agendas and minutes of the Governing Board and the Regional Adult and Children's Advisory Committees, ensure

the Region is meeting all requirements in the Performance Based contract, as well as other duties as directed by the Governing Board.

- b) The Chief Executive Officer may employ or contract with persons or entities (including contracting with member counties for member county employees to provide services to the Region) to perform services to meet the needs of the Region. However, the terms of all employment or contracts shall be approved by the Governing Board.
- c) The Management Team shall consist of Coordinators of Disability Services (as defined in Iowa Code Section 331.390(3)b) of each member county whose duties shall include activities such as assisting the Chief Executive Officer, reviewing exceptions to policies, ensuring that timely data is collected and submitted to the CEO for inclusion in reports, reporting accurate financial data, developing and submitting annual county budgets, coordinating and recommending the regional budget, monitoring of revenues and expenditures, assuring evidence based practices are used, and making recommendations for agenda items before the Governing Board and Regional Advisory Committees. The Management Team shall also consist of one or more Coordinators of Children’s Behavioral Health Services.
- d) The Region may contract for services for functions and responsibilities including but not limited to:
 - 1) Communications;
 - 2) Strategic Plan Development;
 - 3) Risk Management;
 - 4) Annual audit;
 - 5) Provider Network- development, contracting, quality and performance;
 - 6) Quality Assurance; and Fidelity Reviews
 - 7) Information Technology
 - 8) HIPAA
 - 9) Marketing
 - 10) Legal Counsel
 - 11) Trainings

7. REGION FINANCES

7.0 Management & Expenditure of Funding

a) The Governing Board through its budget adoption authorizes expenditures of funds at the county and regional level. The Region's funds are all pooled and used to fund all services deemed appropriate by the Governing Board. The Management Team will assist in preparation of the Region's annual budget. The Management Team will recommend new services as well as the projected cost.

b) Administrative Funding and Resources:

Administrative services and costs shall be a component of the Region's budget. The Management Team will be expected to do a time study with each employee who completes regional work every October to determine administrative costs and support the budget.

c) Use of Savings for Reinvestment

The Region shall comply with Chapters 12B and 12C of the Iowa Code for deposit and investment of Region funds. Through the Region's budgeting process, it shall strive to maintain the appropriate amount of fund balance per Iowa code section.

7.1 Process for Annual Independent Audit

The Region's account shall be audited annually by a certified public accountant certified in the state of Iowa, as selected by the Governing Board. The annual audit shall be submitted to the Department of Human Services within the month in which the Region's Governing Board take action to approve it.

8. SCOPE & AMENDMENTS

8.0 Amendments

The Governing Board is authorized to make non-substantive amendments to this Agreement with a two-thirds vote of board members present. All other amendments to this Agreement shall be conducted through the member approval process described in Section 5.3 and in compliance with Iowa Code Chapter 28E, which includes filing all amendments with the Iowa Secretary of State.

8.1 Entire Agreement

This Agreement represents the entire 28E Agreement of the Region. All Agreements shall be submitted to the Department of Human Services. The Department shall approve the Agreement if it complies with the requirements in Iowa Code 331.392.

8.2 Invalidity

If any one or more provisions of this Agreement are declared unconstitutional or contrary to law, the validity of the remainder hereof shall not be affected.

8.3 No Waiver

The waiver by any party of a breach or violation of any provisions of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach.

SIGNATURE PAGE

IN WITNESS WHEREOF, _____ COUNTY EXECUTES THIS THIRD AMENDED 28E AGREEMENT, FOR THE EASTERN IOWA MENTAL HEALTH-DISABILITY SERVICES REGION

EFFECTIVE _____ :

BY: _____
(print name)
_____ Board of Supervisors, Chairperson

ATTEST: _____
(print name)
_____ County Auditor

ACKNOWLEDGMENT BY NOTARY

STATE OF IOWA)
)ss.
_____ COUNTY)

On this _____ day of _____, 2022, before me the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, to me personally known, who, being duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor of _____ County, Iowa respectively; that the seal affixed hereto is the seal of said County; that said instrument was signed and sealed on behalf of the said _____ County, Iowa, by authority of its Board of Supervisors and that said _____ and _____ as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of said County, it and by them voluntarily executed.

Notary Public In and For Said County
And State of Iowa

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES
THAT THIS RESOLUTION HAS BEEN FORMALLY
APPROVED BY THE BOARD OF SUPERVISORS ON

DATE

SCOTT COUNTY AUDITOR

R E S O L U T I O N

SCOTT COUNTY BOARD OF SUPERVISORS

DECEMBER 20, 2022

APPROVING THE THIRD AMENDED INTERGOVERNMENTAL (28E) AGREEMENT FOR EASTERN IOWA MENTAL HEALTH/DISABILITY SERVICES REGION

BE IT RESOLVED BY the Scott County Board of Supervisors as follows:

Section 1. That the third amended 28E agreement between Scott County, Cedar County, Clinton County, Jackson County, and Muscatine County has included the language of the voting membership of the Governing Board to consist of at least one Board of Supervisor member from each county comprising the region or a person designed by the board of each county, as well as clarified the number of members on the Children's Advisory Committee,

Section 2. And that the changes in the third amended 28E Agreement is hereby accepted and approved.

Section 3. This resolution shall take effect immediately.