

STUDENT PLACEMENT AGREEMENT
BETWEEN
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND
BILLINGS AREA INDIAN HEALTH SERVICE

THIS STUDENT PLACEMENT AGREEMENT, dated March 5, 2014 (Effective Date"), is by and between The Regents of the University of California, a California corporation, on behalf of the University of California, Berkeley, ("SCHOOL"), and Billings Area Indian Health Service, ("BAIHS").

A. SCHOOL conducts educational programs for optometry students (hereinafter collectively referred to as "TRAINEES") leading to a professional degree, and desires access to BAIHS'S clinical facilities in which TRAINEES can obtain broader clinical learning experiences pursuant to the requirements of the Accreditation Council on Optometric Education ("ACOE") of the American Optometric Association ("AOA").

B. The Billings Area Indian Health Service (IHS) provides health services to more than 70,000 American Indian and Alaska Native (AI/AN) people in Montana and Wyoming. The health services are delivered by six IHS operated Service Units, two tribal operated health departments, and five Urban health programs.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth below, the parties agree as follows:

I. RESPONSIBILITIES OF SCHOOL. SCHOOL shall:

A. Establish the educational goals and objectives of its (SCHOOL'S) educational programs in a manner consistent with the standards and requirements set forth by SCHOOL the ACOE for program accreditation. The School's educational program covered by this agreement is the Doctor of Optometry (O.D.) professional degree program. School shall notify BAIHS promptly of any changes in the program(s) covered by this agreement.

B. Designate a member of SCHOOL'S faculty to provide coordination, oversight and direction of TRAINEES' educational activities and assignments while at BAIHS. He/she should possess suitable equivalent qualifications as an instructor, clinician, and administrator, as determined by SCHOOL.

C. Cooperate with BAIHS in coordinating and reviewing work schedules of TRAINEES while at BAIHS.

D. Assign SCHOOL faculty members in sufficient numbers to provide supervision and management of TRAINEES' work while at BAIHS'S facilities. Supervisory faculty must qualify for, obtain and maintain a faculty appointment with SCHOOL in accordance with SCHOOL'S academic review and appointment procedures.

E. Provide the names of TRAINEES, their level of training, and their assignments to BAIHS sufficiently in advance to allow for convenient planning of duty schedules.

F. Develop and implement a mechanism for determining evaluation of the performance of TRAINEES to include, where appropriate, input from BAIHS.

G. Maintain records and reports concerning the education of TRAINEES and of TRAINEES' time spent in the activities referred to in this Agreement, as may be required by SCHOOL, the ACOE, and/or for compliance with the regulations, guidelines, and policies of third-

party payors.

H. Require assigned TRAINEES to:

1. Comply with BAIHS'S applicable Rules and Regulations, state and federal laws and regulations, the requirements of the of the ACOE;

2. Participate, to the extent scheduled or otherwise requested by BAIHS and approved by SCHOOL, in activities and assignments that are of educational value and that are appropriate to the course and scope of SCHOOL'S Program consistent with the requirements of ACOE;

3. Cooperate in the timely preparation and maintenance of a complete medical record for each patient in whose care he/she participates, on forms provided by the BAIHS. The medical record shall, at all times, remain the property of the BAIHS.

I. Provide BAIHS with a copy of SCHOOL's Corporate Compliance Program and Code of Conduct and assign a SCHOOL representative to work with BAIHS regarding any corporate compliance issues. All SCHOOL faculty and TRAINEES are expected to comply with the requirements of SCHOOL's Corporate Compliance Program.

II. RESPONSIBILITIES OF BAIHS. BAIHS shall:

A. Maintain adequate staff, facilities, and SCHOOL faculty at its premises located at Crow/Northern Cheyenne Hospital, Crow Agency, Montana to meet the educational goals and objectives of the SCHOOL's Program in a manner consistent with the standards and requirements established by SCHOOL and the ACOE.

B. Conduct formal quality assurance programs and review patient complications and deaths as follows:

1. All TRAINEES shall receive instruction in BAIHS'S quality assurance/performance improvement and risk management programs. To the degree possible and in conformance with state law, TRAINEES shall participate in appropriate components of BAIHS'S quality assurance/performance improvement and risk management programs.

2. BAIHS shall have a medical records system that assures the availability of medical records at all times and documents the course of each patient's treatment and care. The medical records system must be adequate to support the education of TRAINEES and quality-assurance/performance improvement activities.

C. Designate, after consultation with SCHOOL, a person to coordinate TRAINEES' duty schedules and activities while at BAIHS.

D. Protect the health and safety of TRAINEES on rotation at BAIHS'S health facility.

E. Comply with all applicable laws, regulations, and the ACOE requirements. BAIHS shall notify SCHOOL within five days of receipt of notice that BAIHS is not in compliance with any such laws, regulations, or requirements.

F. Permit inspection of its clinical and related facilities by individuals charged with the responsibility for accreditation of SCHOOL.

G. With respect to any professional services performed by TRAINEES under this Agreement, BAIHS agrees to inform SCHOOL as follows:

1. Immediately upon initiation of an investigation of a TRAINEE or SCHOOL faculty member or upon the occurrence of a substantive untoward event involving a TRAINEE or SCHOOL faculty member.
2. Within five days after receipt of service of a complaint, summons or notice of a claim naming or involving a TRAINEE or SCHOOL faculty member.
3. Prior to making or accepting a settlement offer in any lawsuit or legal claim in which a SCHOOL faculty member or TRAINEE has been named or in which a settlement is being proposed on their behalf; or
4. Prior to making a report to the National Data Bank or the California State Board of Optometry in which a SCHOOL faculty member or TRAINEE is named.

H. Cooperate with and assist SCHOOL in investigating facts which may serve as a basis for taking any disciplinary or academic action against a TRAINEE or SCHOOL faculty member. SCHOOL may, but need not, consult with BAIHS concerning any proposed disciplinary action. BAIHS agrees to abide by SCHOOL's recommended disciplinary action against TRAINEE(S) or SCHOOL faculty member. Notwithstanding the foregoing, BAIHS shall have the right, for good cause and after consultation with SCHOOL, to prohibit further attendance at BAIHS of any TRAINEE; provided, however, that BAIHS will not take any action against TRAINEES in an arbitrary or capricious manner. Upon such termination, SCHOOL will use its best efforts to replace the terminated TRAINEE with another TRAINEE as soon as possible.

I. BAIHS shall provide SCHOOL with a copy of BAIHS's corporate compliance program or any such plan or program that describes BAIHS's plan for ensuring ethical and legal compliance with all federal and state laws. BAIHS shall not require any SCHOOL faculty or TRAINEE to conduct his/her professional behavior in a manner that would contradict the requirements of SCHOOL's Corporate Compliance Program.

III. ASSIGNMENT OF TRAINEES.

Commencing on the date of execution of this Agreement and subject to the provision of Section II. hereof, SCHOOL shall assign TRAINEES for rotation at BAIHS'S facilities as described in Section II.A of this Agreement.

IV. DISCRIMINATION PROHIBITION.

SCHOOL and BAIHS shall not discriminate in the selection or acceptance of any TRAINEE pursuant to this Agreement because of race, color, national origin, religion, sex, sexual orientation, mental or physical disability, age, veteran's status, medical condition (cancer-related) as defined in section 12926 of the California Government Code, ancestry, or marital status; or citizenship, within the limits imposed by law or SCHOOL policy.

V. TERM. The term of this Agreement ("Term") shall begin on the Effective Date and shall continue for a maximum of five (5) years, through March 4, 2019 or until earlier terminated.

VI. TERMINATION.

A. Termination Without Cause. Notwithstanding any other provision to the contrary, this

Agreement may be terminated without cause at any time by either party upon sixty (60) days' prior written notice to the other party or upon completion of the TRAINEES' rotation, whichever is greater.

B. Termination For Cause. In the event of a material breach of this Agreement, the aggrieved party may terminate this Agreement by giving thirty (30) days' prior written notice of termination to the breaching party.

VII. INSURANCE.

SCHOOL and its faculty understand that claims arising from BAIHS's performance of activities under this Agreement will be subject to the Federal Tort Claims Act (28 USC 1346(b)). University and its faculty members and students shall not seek indemnification from either the United States or the IHS for any settlement, verdict or judgment resulting from any claim or lawsuit against it, its faculty members or students in general or arising out of the performance of its faculty members' or students' professional duties while training at the IHS facility, except as provided herein. In addition, University, faculty, and students must be covered under the following liability coverage provisions throughout the Term:

SCHOOL shall insure its liabilities in connection with this Agreement by maintaining programs of self-insurance as follows:

1. Professional Medical and Hospital Liability self-insurance and Professional Liability/Errors and Omissions Insurance Policy) each with limits of one million dollars (\$1,000,000) per occurrence.
2. General Liability Self-Insurance Program with a limit of one million dollars (\$1,000,000) per occurrence.
3. Workers' Compensation Self-Insurance Program covering SCHOOL's liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.

During the term of this Agreement, University will maintain for Trainees, or require that TRAINEES maintain, professional liability coverage, in amounts that are reasonable and customary in the community for the appropriate specialty (not less than \$1,000,000 per occurrence). The professional liability insurance coverage may be on a claims-made basis. An extended reporting endorsement for a period of not less than 3 years after the end of the agreement term must also be provided. The University shall notify the BAIHS immediately if an adverse change in coverage occurs for any reason. SCHOOL is self-insured and no certificate of insurance shall issue. The coverages required hereunder shall not in any way limit the liability of SCHOOL. SCHOOL's liability exposure is limited to the negligent acts or omissions of SCHOOL, its officers, agents and/or employees. No aspect of this Agreement shall inure or operate to the benefit of any third party.

VIII. INDEMNIFICATION.

A. BAIHS shall defend, indemnify and hold SCHOOL, its officers, employees, agents, and TRAINEES harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement or the training activities of TRAINEE but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of BAIHS, its officers, employees, or agents.

B. SCHOOL shall defend, indemnify and hold BAIHS, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or

damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of SCHOOL, its officers or employees. Notwithstanding this or any other provision, SCHOOL is not precluded from asserting any defense available to it.

IX. OTHER MATTERS.

A. Confidentiality of Records: The content of patient medical records shall be held in confidence and in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a; Privacy Act Regulations, 45 CFR Part 5b; Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended, 42 U.S.C. § 290dd-2, Confidentiality of Alcohol and Drug Abuse Patients Records, 42 CFR Part 2; the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 160 and 164 and applicable state law in which the IHS facility is located.

B. Training: BAIHS facility agrees to provide training on its HIPAA policies and procedures to those who will be working in its facility. No protected healthcare information is anticipated to be exchanged between the IHS and the University. It is understood that while receiving clinical training at the IHS facility pursuant to this Agreement, the faculty members and students of the University do not meet the definition of business associates under HIPAA. Therefore, no business associate agreement between the IHS and the University is necessary. In the event that the IHS facility requires computerized medical record access as part of the educational experience, then the student shall complete and execute the IHS facility computer security documentation and requirements.

C. Compensation/Reimbursement: Students shall not receive monetary reimbursements from the IHS for expenses such as tuition, meals, lodging, travel, parking, books, or supplies. Likewise, students shall serve without compensation

D. Cooperation In Disposition Of Claims. BAIHS and SCHOOL will cooperate with each other in the timely investigation and disposition of audits, peer review matters, substantive adverse events, disciplinary actions and third-party liability claims arising out of any services provided under this Agreement or in the operation of the Program. The parties shall notify one another as soon as possible of any adverse event which may result in liability to the other party. It is the intention of the parties to fully cooperate in the disposition of all such audits, actions or claims. Such cooperation may include, but is not limited to, sharing records, timely notice, joint investigation, defense, disposition of claims of third parties arising from services performed under this Agreement, and making witnesses available. SCHOOL shall be responsible for discipline of TRAINEES in accordance with SCHOOL'S applicable policies and procedures.

E. Patient Records: To the extent allowed by law, BAIHS and SCHOOL shall have reasonable and timely access to the medical records, charts, and/or quality assurance data of the other party relating to any claim or investigation related to services provided pursuant to this Agreement; provided, however, that nothing shall require either BAIHS or SCHOOL to disclose any peer review documents, records or communications which are privileged under applicable law, under the Attorney-Client Privilege or under the Attorney Work-Product Privilege. Any and all of BAIHS'S medical records and charts created at BAIHS'S facilities as a result of performance under this Agreement shall be and shall remain the property of BAIHS. Both during and after the term of this Agreement, SCHOOL shall be permitted to inspect and/or duplicate, at SCHOOL'S expense, any individual charts or records which are: (1) necessary to assist in the defense of any malpractice or similar claim; (2) relevant to any disciplinary action or substantive adverse event; and/or (3) for educational or research purposes. Such inspection and/or duplication shall be permitted and conducted pursuant to commonly-accepted standards of patient confidentiality in accordance with applicable federal, state and local laws.

F. Interruption Of Service. Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, labor disputes, riots, earthquakes, or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. In the event the interruption of a party's services continues for a period in excess of thirty (30) days, the other party shall have the right to terminate this Agreement upon ten (10) days' prior written notice to the other party.

G. Attorneys' Fees. [NOT USED]

H. Assignment. Neither BAIHS nor SCHOOL shall assign their rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other. BAIHS may not assign TRAINEES to locations other than those described in Section II.A., without the prior written consent of SCHOOL.

I. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been a part of the Agreement, and the remaining provisions shall remain in full force and effect unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this Agreement.

J. Waiver. Waiver by either party of any breach of any provision of this Agreement or warranty of representation herein set forth shall not be construed as a waiver of any subsequent breach of the same or any other provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided for herein are cumulative.

K. Exhibits. Any and all exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

L. Modifications and Amendment. This Agreement may be amended or modified at any time by mutual written consent of the authorized representatives of both parties. BAIHS and SCHOOL will amend this Agreement to the extent amendment is required by an applicable regulatory authority, provided that the amendment does not materially affect the provisions of this Agreement.

M. Entire Agreement. This Agreement contains all the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

N. Governing Law. This Agreement shall be governed by applicable Federal law.

O. Notices. All notices required under this Agreement shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid, certified mail, return receipt requested, and addressed as follows:

TO SCHOOL:

Edward J. Revelli, O.D.
UC Berkeley School of Optometry
230 Minor Hall
Berkeley, CA 94720
(510) 642-0945
(510) 642-2893 FAX

TO BATHS:

Barbara Cohn, O.D., FAAO
CDR US Public Health Service
Chief of Optometry
Crow/Northern Cheyenne Hospital
P.O. Box 9
10110 South 7650 East
Crow Agency, Montana 59022
Office: (406) 638-3313
Fax: (406) 638-3341

IN WITNESS WHEREOF: The parties hereto have duly executed this Agreement in accordance with the terms and provisions contained herein. The persons signing this Agreement warrant that they have full authority to do so and that their signatures shall bind the parties for which they sign.

**BILLINGS AREA INDIAN
HEALTH SERVICE**

Title: Chief Executive Officer, Crow Service Unit

Date:

By

Title: Chief of the Contracting Office, Billings Area IHS

Date:

By

Title: Director, Billings Area IHS

Date:

By

APPROVED AS TO FORM AND LEGALITY

Date:

**THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA**

By

Title: Business Contracts Specialist

Date:

SCHOOL agrees to require students each academic year to sign a Student Responsibility Statement, substantially as attached hereto as Exhibit "A", and provide an original signed copy to IHS.

EXHIBIT A

STUDENT RESPONSIBILITY STATEMENT

I acknowledge and will comply with the following duties and responsibilities with regard to my participation in the clinical education at the IHS facility ("facility") as part of the 4th Year Optometric Externship program.

1. I agree that my participation is as a student and not as an employee of the facility.
2. I agree to participate in any and all clinical and/or administrative activities deemed necessary by my preceptor, requested by the facility, and/or required by the Institution.
3. I acknowledge the _____ or his or her designee, and the facility preceptor to be my primary contacts with IHS. I agree to communicate with them prior to my placement, submit all required paperwork through them, and understand that both have authority over my placement and removal.
4. I agree that I will receive no monetary compensation for or as a result of any rotation related activities.
5. I agree to maintain professional liability coverage, in amounts that are reasonable and customary in the community for the appropriate specialty (not less than \$1,000,000 per occurrence). I will provide documentary proof of the insurance coverage to the IHS Area Office and facility prior to the start of my clinical experience and such proof will be attached to this Agreement.
6. I must provide evidence of screening for tuberculosis infection and immunity against Rubella, Measles (Rubeola) and Hepatitis B. If the tuberculosis skin test is positive, I will provide evidence of treatment in accordance with DHHS Centers for Disease Control and Prevention Guidelines.
7. I must comply with the infection control guidelines of the IHS facility.
8. I must complete and be responsible for the cost of providing a curriculum vitae (or resume'), all forms, health forms, and/or certificates requested by IHS.
9. I agree to complete the required form "Addendum to Declaration for Federal Employment- Indian Health Service Child Care & Indian Child Care Worker Positions", as well as all required security forms and send the forms to the IHS Area Office and facility in advance of my placement. I understand that any indication of having been arrested for a crime involving a child, a felony conviction, or being placed on the DHHS Inspector General Exclusion List (<http://oig.hhs.gov/fraud/exclusions.asp>) will preclude me from participation in this program. I further understand that making false statements on any form will result in removal from the program immediately upon discovery, and may subject me to criminal prosecution. I also acknowledge that IHS may immediately remove me without prior notice from participation in this clinical experience based upon my conduct, regardless of where and when the conduct took place that IHS deems

detrimental to the interests of the United States, DHHS, or IHS, or any personnel of these entities.

10. I agree to acknowledge receipt of the IHS "Standards of Conduct and Ethics" Policy when they are provided to me by IHS. If they are not provided by IHS during my first day at the facility, I agree to ask for them.
11. I must comply with all applicable policies, procedures, and rules of IHS and the facility.
12. I will conduct myself in an ethical manner, both personally and professionally, at all times.
13. I will demonstrate professional behavior appropriate to the environment, including adherence to the facility's professional dress code and maintaining high standards of patient care.
14. I will hold protected health information or other confidential information pertaining to patients or the IHS in confidence and in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a; Privacy Act Regulations, 45 CFR Part 5b; Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended, 42 U.S.C. § 290dd-2, Confidentiality of Alcohol and Drug Abuse Patients Records, 42 CFR Part 2; the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 160 and 164 and applicable state law.
15. I will participate in the orientation, mandatory education, and skills training as required by the facility.
16. I will obtain prior written consent from the IHS before publishing or presenting any material, including presentations, reports, or publications of any kind, relating to the clinical experience.
17. If applicable, I will notify the designated representatives upon learning that I am pregnant before or during the clinical practicum so that appropriate personal safety precautions can be implemented.

I HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS CONTAINED IN THIS STATEMENT AND AGREE TO ABIDE BY THEM.

Signature: _____

Printed Name: _____

Date: _____