

**STANISLAUS COUNTY OFFICE OF EDUCATION
CHILD/FAMILY SERVICES DIVISION**

**MEMORANDUM OF UNDERSTANDING
TUTORIAL**

(ADAPTED FROM TUTORIAL IN MOU BINDER-AUTHOR UNKNOWN)

INTRODUCTION

The purpose of this tutorial is to provide information and suggestions for formulating a Memorandum of Understanding (MOU).

The MOU is often an essential document in interagency collaboration. Its main purpose is to provide structure to and contact persons for routine interactions and referrals between agencies that share a common interest on a particular theme. The MOU gives a voice and a context to good-faith partnerships within the community. Together, the cooperative vision embedded in the MOU has a better opportunity to be understood, consistently implemented, and passed down to future personnel.

Many state and local agencies already cross paths as a matter of daily routine. An MOU simply reflects the state of current interagency relationships, documenting the form and the substance of these joint efforts. In whatever manner the MOU is used or viewed by its participants, it represents the documentation of the on-going partnership between agencies.

A. MOU Overview and Key Considerations

The MOU might better be called the interagency working agreement or the partnership guide; it is not a binding document. Rather it is better seen as a documentation of the tasks to be done by the participating agencies that are already operating within the scope of their legal duties. Rather than bind the parties, the MOU adjusts and changes to reflect the changing relationships. When properly done, the MOU should compliment rather than complicate agency performance within the interagency theme.

The MOU is a tool for setting forth a plan of action between agencies that already share a common interest in one or more areas. This does not mean that legal issues will not appear.

The MOU is a dynamic document, its contents under the control of the agencies whose activities it describes. The MOU must be seen as a tool designed to serve rather than restrict the lawful actions of agencies. Its language will and should change to meet changing circumstances in the interagency relationship. The focus should always be on finding language that accurately expresses the shared vision of

each agency after which a review of the document for legal problems should take place.

B. Agency Participation

Agency need typically guides initial communication between interested parties. Representatives from each agency are identified and may constitute the MOU writing team.

- **Key Players are Essential to the MOU Drafting Process**

The MOU should be the work product of the individuals who will carry out its provisions. The team should include all of the agencies taking part in the collaboration.

Each participating agency should take care to find its voice in the tone of the document. Even when the goal for the collaboration is shared, the task requires thought, open dialogue, and input. Teams should consider the following:

Line personnel – will provide a clear picture of “where we are now.” Also input from line staff as to any proposed policy changes will help teams avoid overlooking difficulties that might arise due to subtle conflicts in the “nuts and bolts” of implementation.

Agency leaders – will be essential in providing a reality check between past practice and proposed policy. Supervisors, middle management, site administrators and others will be helpful in explaining the “why” of current policy so that assessments regarding the need for new policies can be more accurate. Their experience in handling legal issues will help the MOU team understand more clearly what the law permits and what it requires as plans for collaboration take shape.

Agency Legal Counsel(s) – are the advance scouts for legal obstacles for the interagency team. Their review of state, local and federal law will help the team maintain awareness of what the law allows and what it forbids. Their understanding of both the law and the goals of the interagency team allow them to suggest a range of options from which the team might select appropriate policy. Lawyers are also useful in the review of the MOU; making sure casual language within the document steers clear of ambiguity or inappropriateness. Properly utilized, legal counsels are an important information resource.

C. A Process for Drafting a Memorandum of Understanding

The variety of approaches to MOUs will always be a matter of function. Each team will want to assert its own vision of what provisions will shape the document. Within the constraints of law, the document should serve the team rather than the team serves the document.

Below, MOU guidelines are discussed. They represent guides for both form and content along a range of organizing themes. They should not be taken as suggestions of what every agency should adopt when implementing an interagency strategy. However, they do provide an accurate picture of the kind of thinking that should go into a MOU.

MOU Drafting Basics

The Memorandum of Understanding may be formal or informal; it may be long or short. There is no standard format. An MOU can be very long and detailed if a team chooses to make it so. It might contain every document pertaining to the actions of the interagency team in addition to the specific policies for collaboration.

However, most attempts at drafting the MOU should be modeled after the KISS method of writing: “Keep it Straightforward and Simple”. The more important focus should be on describing the common vision of the comprehensive strategy. Later on the team should decide how much of the “nuts and bolts” of implementation (which every agency will address anyway) would be in the document. But whether the MOU is long or short the process involves many of the same considerations.

Initially the interagency team should split the task of writing the MOU into two pieces:

- (a) Stating as clearly as possible common goals and objectives;
- (b) Supplying the necessary MOU details

Diving into details after setting the framework helps simplify the MOU drafting process. For most teams the details will be an ongoing process, as dynamic as the team itself. Some teams will want to dedicate the MOU to documenting the detail phase as it evolves.

Goals and Objectives

Simply stated, goals describe what you want to accomplish and objectives describe what you will do in order to accomplish the goal.

Resources Allocation

List the resources needed to complete each task (at all levels).

Legal Issues

MOU team writers should plan to discuss any legal issues that need to be researched and resolved before implementation.

- **An Understanding of the Legal Climate Helps Establish Credibility**

It will be important to understand the parameters of the law when making the MOU.

For some teams, there is already sufficient support in law for the collaborative process. In such an instance the team must simply follow the format and guidelines which the legislation provides.

In the absence of direct legal authorization, the local interagency team will need to make an assessment of state law and local policies on record sharing, file confidentiality and open records' laws. In addition, the statute that creates each participating agency should also be examined. These enabling provisions often provide the scope of authority for each agency making it easier to determine statutory limits.

Beyond state law, each team should inquire about the relevance of certain federal laws on record sharing and confidentiality. Such laws may affect the provisions in the MOU on education records and treatment of files.

D. Child/Family Services – MOU Template Guidelines

I. Purpose and Scope

The purpose and scope of the program must be fully thought out and clearly defined. The MOU should contain a general description of the vision of the interagency mission, its goal and objectives. Thereafter, the process should become as specific as needed to provide each agency with a clear statement of the duties of each partner.

- The MOU should clearly establish the partnerships at the outset;
- The MOU should identify agency representatives who will sign the MOU as ongoing line personnel and those who have administrative signing authority;
- The MOU should identify the key players at all levels of participation;
- The MOU should provide structure for task assignment and accountability by:
 - Defining tasks to implement the strategy;
 - Fixing responsibility for each task
 - Identifying resources needed to complete each task; and
 - Setting “start” and “completion” dates for each task
- The MOU should be reviewed no less than yearly to ensure its content is reasonably current. When the MOU no longer accurately describes the interagency activity, revision is necessary;
- Identify available sources of information within each agency team;
- Determine what information is available;
- Determine what information needs to be shared;
- Determine what information does not need to be shared;
- Identify any restrictions on record sharing for each agency
- Discuss use of “oral” (non-recorded) exchanges in day-to-day collaboration;
- Discuss rules for dissemination and controls to prevent unauthorized release of record data.

II. Background

This section simply identifies MOU parties, clarifying why the MOU is being entered into and the ultimate partnership goal.

III. – IV. Responsibilities of MOU Partners

Here, collaboration details are outlined in such a manner as to sufficiently communicate the services & resources to be provided by each agency.

V. Funding

Include a statement that communicates the MOU does not include nor implies an exchange of funds between SCOE CFS and the partnering agency.

VI. Records Retention

Outline in detail, child/family records and/or documents, and the circumstances under which these items will be mutually shared, copied, or exchanged. Ensure state and federal laws governing the confidentiality of records have been reviewed with legal counsel as appropriate.

VII. Confidentiality

Include parameters and safeguards MOU parties will adhere to, to ensure client confidentiality. Refer to state and federal law as needed to cover the contents of a particular MOU.

VIII. Terms of Agreement

Determine timelines & conditions related to the review and revision of the MOU.

IX. SCOE & Agency Contacts

Identify staff from collaborating agencies that are responsible for the ongoing implementation of the MOU. Include names, positions and contact information. SCOE staff will be asked to write their initials by their names acknowledging responsibility for MOU implementation.

X. Effective Date and Administrator Signatures

Include verbiage regarding renewal parameters including signature authority and timelines. Identify names, positions and contact information of agency administrators ultimately responsible for the issuance of the MOU.

Include date and signature lines appropriate for future MOU review and renewal.