

**Adopted:** February 2020 (M20-0023)  
**Revised:** April 2023  
**Review Date:** April 2027

### Objectives

The Halton District School Board (“HDSB”) acknowledges and appreciates its relationships with external service providers, and recognizes the value of working collaboratively to improve opportunities for students in Halton.

Where the HDSB intends to commit staff time and effort, its facilities, or financial resources, to a joint endeavor with a third party, it is the HDSB’s policy to enter into a written agreement to outline the rights and responsibilities of each party. Agreements with third parties will either be in the form of a contract or a memorandum of understanding (“MOU”), and must comply with the HDSB’s Third Party Agreement Procedure.

### Third Party Contracts

A contract is an agreement, usually but not always in writing, between two or more legal entities who intend for the terms to be legally binding and enforceable. In order for a contract to be legally binding, there must be an offer and acceptance of the offer, mutual understanding and agreement of the terms, and the exchange of something of value (“consideration”). Third parties refer to persons or legal entities that are at arm's length with the HDSB, and may enter into an agreement with authorized signing officers of the HDSB.

### Memoranda of Understanding

An MOU is also an agreement between two or more parties, but unlike a contract should not contain legally enforceable promises. An MOU can therefore be a useful means of outlining mutual expectations and responsibilities without creating legal obligations, and without giving rise to a legal remedy for non-performance.

Notwithstanding the informal nature of the agreement, MOUs can and often do include detailed descriptions of expectations, and as such are binding in the sense that there is a moral and good faith commitment, on which the parties intend to rely.

In determining whether an agreement is intended to outline the parties’ mutual understanding, or for creating a legally binding and enforceable contract, it is important to consider the nature and substance of the agreement, and not just how it is described. A document entitled “MOU” but containing the essential elements of a contract could be found to be a legally enforceable contract.

### **Partnerships**

It is common to refer to other service providers as community “partners”. A community partnership is distinguishable from a legal partnership. A legal partnership can be found to exist where two or more persons carry on a business in common with a view to making a profit. Because legal partners can be held liable for the actions of one another, it is important for the HDSB to clarify the terms of its third party relationships in a written agreement, whether by contract or MOU.

### **References**

#### **Related Policies**

Code of Ethics  
Community Planning and Partnerships

#### **Related Administrative Procedures**

Code of Ethics  
Procurement  
Third Party Agreement

#### **Related Ministry Documents**

PPM 149 “Protocol for Partnerships with External Agencies for Provision of Services by Regulated Health Professionals, Regulated Social Service Professionals, and Paraprofessionals”  
Broader Public Sector Procurement Directive

#### **Legal References**

*Education Act*: sections 169.1-171 Duties and Powers of HDSBs  
*Education Act*: section 283 Chief Executive Officer