



Kenton County School District | It's about ALL kids.

Issue Paper

ENC.

DATE:

May 18, 2023

AGENDA ITEM (ACTION ITEM):

Consider/Approve the Memorandum of Agreement between the American College of Surgeons STOP THE BLEED Program and the Kenton County Board of Education with automatic renewals for successive one-year terms.

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board

HISTORY/BACKGROUND:

STOP THE BLEED is an interactive course that guides participants through the three methods of bleeding control (pressure, packing, and tourniquet) using video demonstrations, interactive learning and quizzes. Nurses in the KCS D have completed the instructor course and are ready to train staff starting the 2023-24 school year. This is a suggested training for staff who want to participate. STOP THE BLEED training kits and personal STOP THE BLEED kits are in place at each school. The American College of Surgeons STOP THE BLEED Program and distinctive logo is trademarked and training videos are copyright protected. For this training to be added to the KCS D Safe Schools Vector Solutions training platform, a memorandum of agreement is required to use STOP THE BLEED course materials and distinctive logo.

FISCAL/BUDGETARY IMPACT:

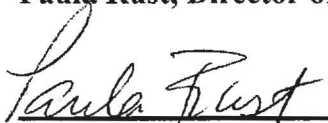
\$0.00 for schools and district

RECOMMENDATION:

Approval of the Memorandum of Agreement between the American College of Surgeons STOP THE BLEED Program and the Kenton County Board of Education with automatic renewals for successive one-year terms.

CONTACT PERSON:

Paula Rust, Director of Health Services


Principal/Administrator


District Administrator


Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.
Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

MEMORANDUM OF AGREEMENT -
Authorization for Organization to Represent the American College of Surgeons STOP THE BLEED®
Program as a Recognized Entity

The goal of the STOP THE BLEED® program is to train and equip bystanders to take decisive, lifesaving action to assist victims with traumatic injuries involving severe bleeding until first responders arrive on the scene (the "STB Program"). The DEPARTMENT OF DEFENSE (DoD), an agency of the United States government, by and through the Defense Health Agency's Combat Casualty Research Program, owns or controls the trademark on the words, STOP THE BLEED® and its distinctive logo (the "Marks"). The American College of Surgeons (ACS) is licensed by the DoD to provide training and outreach efforts relative to the STB Program and to utilize the Marks in connection with its educational and promotional activities.

This Memorandum of Agreement ("Agreement") is effective [DATE] between The American College of Surgeons (ACS) STB Program and Kenton County Board of Education ("Sublicensee"). Sublicensee wishes to participate in and represent the ACS STB Program through education and promotional activities. The ACS is willing to recognize Sublicensee as an authorized entity to provide training classes for the ACS STB Program in the Territory under this Agreement.

1. GRANT OF SUBLICENSE:

1.1 Subject to the terms and limitations of this Agreement, during the Term, ACS grants to Sublicensee a limited, revocable, non-sublicensable, non-exclusive right to use the Marks and the ACS STB Course Materials for the sole purpose of providing training classes in the Territory pursuant to the terms of this Agreement.

1.2 Sublicensee acknowledges that STOP THE BLEED® is a registered trademark of the U.S. Department of Defense, Defense Health Agency and that the ACS STB Program is operated according to a licensing agreement granted by DoD. The license gives ACS the right to use and the Marks in conjunction with ACS's STB Program's educational and outreach efforts and to grant sublicenses to others to use the Marks in conjunction with hands-on, in-person, virtual, and interactive training classes that teach the ACS STB Program bleeding control course.

1.3 Sublicensee recognizes that ACS STB Course and all audio and visual training aids, and all other program-related materials ("ACS STB Course Materials"), and all intellectual property rights therein, is the exclusive property of ACS. Sublicensee will not make any revisions or changes to the ACS STB Course Materials without ACS's prior written consent and understands that the training will not be used by or transferred to any other organization not a party to this Agreement.

1.4 Sublicensee acknowledges that DoD owns the Marks and agrees that it will do nothing inconsistent with such ownership, that its use of the Marks shall inure to the benefit of and be on behalf of DoD and agrees that it will not attack the title of DoD to the Marks or this license. Sublicensee agrees that the Marks will be reproduced in a manner that is substantially identical to the appearance of the Marks in the DoD STOP THE BLEED® Style Guide.

1.5 The DoD Marks are registered trademarks in the United States and many foreign countries. However, there may be some countries where third parties may claim rights to the slogan, Stop the Bleed, that are superior to those owned by DoD. If the Marks are to be used

outside of the United States, Sublicensee is solely responsible for ensuring that such use does not violate any third-party rights. Sublicensee warrants and represents that it will only use the Marks in the manner authorized in this Agreement and that such use will not violate or infringe upon any third-party intellectual property rights, trade secrets, or other proprietary rights. Should a different program name need to be used, such name will be authorized through a written addendum to this Agreement.

1.6 American College of Surgeons trademarks and logo are proprietary and owned exclusively by the American College of Surgeons. If Sublicensee would like to use any ACS trademarks, including the ACS logo, prior written permission must be obtained from the ACS STB Program office, at stopthebleed@facs.org.

1.7 Sublicensee shall include an acknowledgement of the DOD ownership of the Marks and the ACS ownership of the ACS STB Course Materials in a form acceptable to ACS. All rights not granted in and to the Marks and ACS STB Course Materials is specifically reserved to the DOD and the ACS, respectively.

2. EDUCATIONAL PROGRAMMING AND OUTREACH

2.1 Sublicensee will ensure that STB training is taught in compliance with ACS's established standards, including its instructor and virtual training guidelines, and that it is taught only by ACS-approved instructors. All instructors must be registered through the ACS STB Instructor portal accessed at <https://cms.bleedingcontrol.org/applicant/create>.

2.2 The Territory within which Sublicensee is approved to conduct training and outreach activities is defined in Exhibit A.

2.3 ACS STB Program will make available approved resources for Sublicensee to use when providing training authorized under this Agreement. STB training and instructor materials can be accessed through the STB Instructor Portal at <https://cms.bleedingcontrol.org/>. If ACS issues updates to the STB training materials, Sublicensee agrees that it will use the updated materials.

2.4 Sublicensee will provide instructor training using materials accessed through the STB Instructor Portal and following ACS-approved professional categories of instructors.

2.5 Sublicensee will provide the most current in-person or virtual ACS STB Course available and is authorized the utilization of the ACS STB Interactive Course in lieu of the classroom portion of the presentation. The skills/hands-on portion of the training, which must include engaging emergency services, recognizing life-threatening bleeding, applying direct pressure, and packing a wound must be taught in-person. Both training components, didactic and skills, are required for course completion and to issue the course completion certificate Sublicensee will use a CoTCCC approved tourniquet such as the Combat Application Tourniquet (C-A-T) for training. If CoTCCC equipment is not available or not found in local protocols or medical formularies, the STB Steering Committee must approve, in writing, any other change to training equipment before training use. The skills/hands-on training can be in-person or virtual.

2.6 Sublicensee may charge a student fee. All such fees collected must be used exclusively for providing STB training in support of the STB Program. The organization must request permission

from the ACS STB Program before collecting any fee. The request must include the cost associated with the course, an itemization of charges, and an explanation of how fees will be utilized for future training and support of the organization's STB Program.

3. EQUIPMENT AND MATERIALS

3.1 Sublicensee shall make every reasonable attempt to support the ACS STB Program by purchasing training equipment and bleeding control supplies through the ACS STB Program Store <https://www.bleedingkits.org/all-products.html>. Volume pricing is sometimes available through the approved ACS vendor.

3.2 Any marketing material, i.e., pamphlets, posters, or advertisements, must be approved in writing by ACS STB Program before use and/or publication to ensure the appropriate use of Marks under all licensing and sublicensing agreements. In addition, the use of Marks on websites and/or social media platforms must be approved in writing before publication. T-shirts and other support materials can be purchased at the ACS STB Program Store.

3.3 Sublicensee may not place the Marks on any training equipment, bleeding control supplies, or clothing or promotional items without prior written approval of ACS.

4. REPORTING

4.1 In addition to being tracked internally, Sublicensee will register all STB training through the ACS STB Instructor Portal. All Sublicensee STB instructors will maintain current profile information on the ACS STB Instructor Portal. This information is critical for demonstrating the promulgation of STB knowledge and for quickly communicating program updates to instructors.

4.2 Sublicensee will provide to the STB Program information regarding any media requests or significant STB events to coordinate public relations releases through both the Sublicensee and ACS Integrated Communications.

4.3 Sublicensee shall keep and maintain accurate records relating to use of the Marks and the ACS STB Course Materials. The ACS, upon reasonable requests, shall be able to audit and make copies of such records. In the event that ACS determines that Licensee is using the Marks or the ACS STB Course Materials beyond the scope of the license granted herein, solely in ACS's option and discretion, Licensee shall correct such non-conformance within ten (10) days' notice from ACS and/or ACS shall have the right to terminate this Agreement.

5. POINT OF CONTACTS

The Parties have designated the persons listed below as their point-of-contact for all matters dealing with this Agreement.

ACS STB Program at:
Senior Manager, ACS STB Program (currently Jimm Dodd)
American College of Surgeons Committee on Trauma
633 N. Saint Claire Street
Chicago, IL 60611-3211

stopthebleed@facs.org
312.202.5726

Kenton County Board of Education at:
Director of Health Services KCSD, currently Paula Rust
1055 Eaton Drive
Ft. Wright, KY 41015
paula.rust@kenton.kyschools.us

6. TERM OF LICENSE

6.1 This Agreement becomes effective as of the date of its execution and will continue to be in effect for a period of three years from the date of execution. This Agreement is renewable annually upon review and written acceptance of both the ACS and Sublicensee through a written amendment.

6.2 Either party may terminate the Agreement upon 30 days' written notice to the other party.

6.3 This Agreement shall automatically terminate in the event that the ACS license from the DOD terminates or expires.

7. CONFIDENTIALITY

7.1 Each party shall keep the Confidential Information of the other party confidential and secret unless the express prior written approval to a disclosure is given by the other party. For the purposes of this clause, **Confidential Information** means any information passed by one party to the other party that is, or ought to reasonably be known to be, secret but does not include information that is:

- (a) in the public domain;
- (b) the parties agree is not confidential; or,
- (c) independently discovered or received by the other party without reference to the information disclosed under this Agreement;

7.2 The Parties must ensure that any Personal Information disclosed as a result of this Agreement is collected, stored, used, and disclosed in accordance with legislation, codes, and guidelines in relation to the use of Personal Information which apply in their relevant jurisdiction. For the purposes of this clause, **Personal Information** means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion.

8. DISCLAIMER OF WARRANTY & LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ACS STB COURSE MATERIALS ARE PROVIDED "AS IS" WITH ALL FAULTS, AND ACS DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE ACS STB COURSE MATERIALS, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT. THE ENTIRE RISK AS TO THE SELECTION, SATISFACTION QUALITY AND PERFORMANCE AND USE OF THE LICENSED MATERIAL SHALL BE WITH THE SUBLICENSEE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ACS BE LIABLE TO SUBLICENSEE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES RELATED TO DELAYS, LOSS OF BUSINESS, REVENUE, OR PROFITS) IN CONNECTION WITH THIS AGREEMENT, USE OR INABILITY TO USE THE ACS STB COURSE MATERIALS, UNDER ANY LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ACS BE LIABLE FOR ANY THIRD PARTY CLAIM. LIABILITY FOR DAMAGES SHALL BE LIMITED AND/OR EXCLUDED AS PROVIDED IN THIS AGREEMENT, EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. ACS'S TOTAL LIABILITY FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, SHALL BE LIMITED TO THE GREATER OF THE AMOUNT OF LICENSE FEES (IF ANY) ACTUALLY PAID OR OWED BY LICENSEE DURING THE TERM OF THIS AGREEMENT OR \$1,000.

9. GENERAL PROVISIONS.

9.1 This Agreement represents the entire agreement and understanding among the parties with respect to the subject matter hereof, and supersedes and replaces all prior agreements, understandings, representations, proposals, negotiations, and other written or oral communications among the parties with respect to the subject matter of this Agreement. If any court of the competent jurisdiction holds any aspect, provision or portion of this Agreement to be invalid, void, contrary to law or public policy or otherwise unenforceable, the remaining provisions shall nevertheless survive and continue in full force and effect without being impaired or invalidated in any way. In the event that a court of competent jurisdiction holds any provision of this Agreement to be unenforceable as written, but such provision may be made enforceable by limitation thereof, then such provision shall be enforceable to the maximum extent permitted by applicable law. This Agreement shall not be amended, altered, or modified in any way except in writing signed by all parties to the Agreement.

9.2 Sublicensee is an independent entity relative to ACS, and not an employee, partner, agent, franchisee, or joint venture of ACS for any purpose.

9.3 This Agreement may be executed and delivered in multiple counterparts. All such counterparts, when so executed, shall be deemed to constitute one final agreement as if one document had been signed by all parties to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date and year indicated below.

American College of Surgeons

By: _____

Print Name: _____

Title: _____

Date: _____

[ORGANIZATION NAME]

By: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

Licensee Name:

Licensee Address:

Contact name:

Territory: