

HANDLE WITH CARE

Behavior Management System, Inc.

Bruce Chapman
President

Hilary Adler
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Warren County School District
6820 MARKET STREET
Russell, PA 16345-3406

HANDLE WITH CARE CONTRACT

Below is a contract for licensing and training in Handle With Care's Instructor Certification Program.

INSTRUCTOR CERTIFICATION TRAINING

Number of Participants	Up to 10* Instructor-capable staff
Length of Training:	Up to 8 Hours
Cost	\$3,000.00 plus expenses

*Participant number and training schedule is subject to change if there are Federal or State COVID or other restrictions limiting the number of attendees.

** Any Participants over the allotted amount of 10 (not to exceed 14) will be charged an extra \$300.00 per Instructor. Over 14 becomes a 2 day training at a cost of \$3,000.00 per day plus expenses.

Cost of Training & Licensing \$3,000.00

Total Certification Program: \$3,000.00 (excluding expenses)

ADDITIONAL COSTS

- \$85.00 per diem for any program requiring air travel &/or hotel accommodations.
- \$300.00 travel expense for any program requiring 3 or more hours of travel
- Air travel, hotel, car rental, parking & any other transportation costs.
- Auto travel: Mileage billed at the Federal Rate, currently .655 per mile.

**AGENCY IS GIVEN COPYRIGHT AUTHORIZATION FOR ONE YEAR.
ONE PARTICIPANT MANUAL, INSTRUCTOR MANUAL AND VIDEO IS INCLUDED
You may copy the materials for your staff at no additional cost as per license.**

SITE & EQUIPMENT REQUIREMENTS (please read carefully)

Physical Training

- Sign in table outside the event room.
- COVID Protocol for the organization which could include: Masks and sanitizer for participants, gloves, a self-health assessment and/or temperatures.
- Flip chart, whiteboard or blackboard
- Chairs for participants stacked or around perimeter
- Space to accommodate social distancing requirements for the number of persons attending
- Flat training area appropriate for the number of participants.
- Any relevant equipment normally used by Entity
- SOFT kneepads (soft e.g. volleyball) for each participant provided by the Entity
- Participants are advised to bring a change of clothing for after training
- Entity is responsible for the reproduction of HWC Materials per Contractual Terms

Participants should be advised to wear loose comfortable clothing e.g. sweats, t-shirts and sneakers. Note: Participants who cannot move down to or up from the floor comfortably may not be able to complete parts of this program. Instructor candidates must be able to complete the entire program, and should be comfortable going down to and up from the floor.

RECERTIFICATION/RETRAINING

Annual training is required to ensure the quality of training and to update Participants/Instructors on any refinements or changes in the technology. Annual training is required for the entity to maintain its license to use and copy Handle With Care's program and materials. Entities that are not current in their certification, and that do not have a training and licensing extension, will be responsible for discontinuing the use (and training) of HWC's program and materials.

Entities or instructors whose license term expired or requesting extensions over 30 days will be charged a pro rated licensing fee beginning after the 30 day grace period.

HWC CONTRACTUAL TERMS

In consideration of participating, attending or receiving access, certification or license to view, evaluate, use, teach or copy HWC's training or materials, entities and participants agree as follows:

Assumption of Risk. Each entity and participant represents and acknowledges that it is aware that there are inherent risks associated with physical training in behavior management, self-defense & physical restraint and understands that participation in this program entails risks which may result in physical injury, as well as complications arising therefrom, including death. Each entity and participant has had the opportunity to be informed of the content of the training provided by HWC and hereby voluntarily agrees to accept the inherent risks involved.

For purposes of this Contract, 'Handle With Care Behavior Management System, Inc.' includes its owners, directors, officers, independent contractors, and employees (hereinafter collectively referred to herein as 'HWC').

This is a one-year limited use non-exclusive, not-for-resale license and services agreement, not a contract of sale.

ENTITY OF RECORD.

Warren County School District (hereinafter "Entity" or "Entity of Record") is the entity contracting for HWC's Program.

The Entity may only use, teach or copy HWC's Programming or Materials to Entity employees pursuant to the terms of this contract unless otherwise authorized in writing by HWC.

If Entity contracts with independent contractors to provide employee-type services only on a contractor or casual basis, the Entity may consider those independent contractors as Entity Employees (hereinafter collectively 'Entity Employees') provided such staff are subject to these contractual terms and have insurance coverage comparable to that provided by Entity for Entity's employees. Entity and all Participants agree that Entity's Worker's Compensation coverage shall be primary and that Entity and Participants waive their right to sue HWC for any training or program related injury or cause of action. The Entity contracting for an on-site training may not invite outside entities i.e. agencies, facilities, partnerships, businesses, organizations, persons or schools without HWC's prior consent.

OWNERSHIP OF PROGRAM AND TRAINING.

Entity agrees that all intellectual and property rights (including, but not limited to, the written manual, video, and performance of the verbal and physical components, techniques, team strategies, teaching methods, presentation methods and exercises, demonstrations, performances, workshops and seminars) in the manual and training program provided to Entity by HWC are owned by HWC and are protected by United States Contract, Copyright, Trademark and Patent laws (International Rights Reserved), other applicable property laws, state and common laws and international treaty provisions. HWC retains all rights not expressly granted to Entity. Nothing in this agreement shall grant to Entity or Employee any rights, title or ownership interests in or to the Program, Training, Performance or Materials. Entity and Participant(s) agree that they will not remove, alter or otherwise obstruct any notice of Copyright, Trademark, Patent or other proprietary right.

Entity agrees to ensure that any and all copies permitted under this Agreement shall contain the same copyright and other proprietary notices.

OWNERSHIP OF DERIVATIVE WORKS.

The creation of derivative works is not permitted except with prior written approval by HWC. Derivative works include but are not limited to video, including cell phone, and audio taping of any training session. If a derivative work is made, then to the extent Entity or its Employee/s created such derivative work(s) of HWC Materials, Program or training, it is agreed that such derivative work(s) shall be the sole and exclusive property of HWC and agree that such derivative work(s) shall be denoted with appropriate HWC Copyright and Trademark notices. Entity further agrees to notify HWC of the existence, discovery or creation of any such derivative work, as soon as practicable, and further agrees to provide a copy of said work immediately upon HWC's request.

LICENSING AND CERTIFICATION

HWC- Verbal Training. HWC authorizes the Entity Employee(s) to use and teach HWC's Verbal program at Entity. HWC hereby grants Entity permission to use and reprint (copy) the Verbal Manual for each Employee receiving Verbal Training. If Entity is ONLY contracting for HWC's Verbal Program, there is no re-/certification requirement; however there is an annual licensing fee.

Basic Training. Basic Training licensing and certification authorizes the Entity Employee to use HWC's Verbal or Physical program. Entity Employee must be retrained in the Basic Physical at least annually either by HWC or by one of the Entity's in-house certified Instructors. Verbal refresher training can be provided as needed or as required by law or Entity policy.

Instructor Training. Instructor Training licensing and certification authorizes the Entity Employee to use or teach HWC's Verbal or Physical program. Entity Employee must be re-certified as an instructor annually. This re-certification may be accomplished by either sending the Instructor to a seminar conducted by HWC at various locations around the country or the Entity may contract for a qualified HWC Master Trainer to provide on-site (in-house) recertification. Instructor Certification expires one year from date of training, unless extension is granted in advance by Handle With Care in anticipation of a scheduled recertification program.

A 30-day extension is automatically granted. Entities and/or Employees requesting extensions over 30 days will be charged a pro-rated licensing fee beginning after the 30-day grace period.

MATERIALS

HWC's Materials may only be distributed to Entity Employees receiving HWC training pursuant to this Agreement. All HWC materials, including manuals, video, and training must contain a Notice of Copyright and Trademark. HWC materials must be kept and maintained separate and distinct from all other materials. Entity agrees that it will ensure that HWC materials, and program will only be used and/or taught by Entity Employees and further agrees that it will take all reasonable steps to ensure that said materials will not be shared with, or disclosed to person's outside Entity, except as permitted pursuant to this Agreement.

Entity agrees to keep up with HWC's currency requirements for In-house Basic and Instructor certifications and, as applicable, recertifications, and updates. If Entity fails to maintain its contractual requirements, HWC retains the right, upon written notice, to revoke any licenses, certification, authorities, rights or permissions granted by HWC.

PROTECTION OF PROPRIETARY RIGHTS.

Entity and/or Entity Employee acknowledge that HWC training and materials are proprietary and confidential and contain trade secrets. Entity is responsible for ensuring that all Entity Employees receiving HWC training or materials, comply with the terms and conditions of this Agreement. Entity agrees to take all reasonable steps to prevent all parties under its control or contract from using, copying, altering, incorporating, modifying, marketing, capitalizing, defaming, re-selling, lending, leasing, renting, assigning or distributing the HWC Program, goodwill and/or training other than as expressly authorized by this agreement (including but not limited to reverse engineering, taking components of the program and marketing them under a different name or title, or aiding or abetting anyone else in doing so). Entity and Entity Employee further agree that they will not aid or assist any other person or entity in the use, teaching or reproduction of said training and materials except as authorized under this agreement. Entity or Entity Employee shall promptly notify HWC of any unauthorized use discovered and agree to cooperate with HWC in any action taken by HWC or request by HWC to Entity to terminate any such unlawful or illegal conduct or actions.

INFORMATION AND MATERIAL REQUESTS.

Requests for HWC training or program information or copies of HWC Materials by outside entities (including attorneys), governmental organizations, non-profits or press, shall be referred to HWC.

POLICY AND COMPLIANCE.

Entity of Record and Entity Employees are responsible for knowing and complying with all applicable federal, state and local laws and regulations (hereinafter "Law") including those regarding the use (and reporting) of physical restraint. In the event there are variances between HWC and the Law, the Entity of Record and/or Employee shall follow the Law.

PROGRAM ADHERENCE.

Entity and Entity Employees acknowledge that they understand that they are responsible for knowing and complying with all applicable federal, state and local laws and regulations (hereinafter 'Law') including those regarding the use (and reporting) of physical restraint. In the event there are variances between HWC and the Law, the Entity of Record and/or Employee shall follow the Law.

INDEMNITY.

HWC and/or their directors, officers, volunteers, representatives, independent contractors and employees are NOT responsible for the errors, omissions, acts, negligence or failure to act of any party, participant or entity using or conducting HWC training on behalf of themselves or the Entity. The Entity agrees to hold HWC harmless from and against damages, liabilities, losses, judgments, attorneys' fees, costs, and expenses caused by the negligent acts, culpable acts, errors or omissions of Entity and/or Entity Employees.

CHOICE OF LAW.

Unless otherwise agreed to in writing, this agreement is governed by New York law and venued in Ulster County, New York or the Northern District of New York.

CANCELLATION POLICY.

GENERAL. Entity and/or Employee are required to give HWC 30-days advance notice if they need to reschedule or cancel scheduled dates, unless otherwise agreed to in writing. If HWC has booked travel arrangements, i.e, airline, hotel, car rental, etc. in reliance on a contract or scheduled training dates and the Entity cancels the training, Entity is responsible for unfunded travel fees.

WEATHER OR UNFORESEEABLE CIRCUMSTANCE. Scheduled trainings sometimes need to be cancelled due to weather conditions. If inclement weather will likely prohibit the registrants and/or the trainers from attending, HWC shall have the right to reschedule. HWC will make reasonable efforts to phone or email all registrants to inform of the cancellation. Once the training is underway, it is most likely that it will continue to completion as scheduled. HWC will allow registrants to attend an alternate training if s/he cannot attend due to inclement weather or other good cause. HWC shall not be responsible for travel expenses of the Entity of Record, registrants or Employees, for any reason.

HWC reserves the right to cancel or reschedule trainings at any time. If HWC cancels or reschedules the training for any reason, including, but not limited to weather, injury or illness of HWC's staff, or other circumstances, HWC will credit or refund the full amount of training. HWC is not responsible for non-HWC travel arrangements, travel fees, or any expenses incurred by the Entity or Employees.

TERMINATION.

In the event Entity or Entity Employees do not maintain their license or certification(s) according to the provisions in this Agreement, then this Agreement terminates and Entity and/or Entity Employee shall discontinue all use of HWC's Program or Materials.

In the event ENTITY is overdue on any fees, charges, disbursements or expenses as set forth in this agreement, and fails to cure within 15 days of written notice, HWC shall have the right to terminate this agreement, at its sole discretion.

In the event one party materially breaches the terms of this agreement, the other party may terminate this agreement after giving a written notice to the breaching party informing them of the breach; breaching party shall be entitled to cure the breach within 30 days of receipt of notification.

HWC retains the right to immediately terminate this agreement if Entity engages in an act or acts which bring HWC or its principles into public disrepute, contempt, scandal or ridicule, or fails to comply with quality assurance and training requirements or uses excessive or unlawful force.

In the event of termination, all copies of HWC's Materials must be destroyed or immediately returned to HWC, at HWC's option.

The rights and obligations under the section entitled "Protection of Proprietary Rights" shall survive any termination and continue to bind the parties to the agreements contained therein.

PAYMENT.

The Entity agrees to supply any information, documents and/or purchase orders needed to process payment. If a purchase order or other documentation is required, Entity is responsible to supply said documentation, in a form acceptable to HWC. If documents or purchase orders are required but not provided, the Entity hereby agrees to pay for services received (and/or costs incurred by HWC) according to HWC's terms then in effect. The Entity agrees to supply any information needed to process payment in a timely manner.

Payment is late if not received 30 days from the time training is delivered. Late fees of 1.5% per month shall be imposed after 30 days; Entity agrees to pay any costs or expenses incurred by HWC in collecting same, including reasonable attorney's fees and expenses.

RIGHTS AND REMEDIES

The rights and remedies provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

SERVERABILITY

In the event that one or more of any portion of the provisions contained in this agreement shall be invalid or unenforceable for any reason, the legality and enforceability of the remaining provisions shall not be affected thereby.

NO REPRESENTATIONS

This Agreement constitutes the entire Agreement and supersedes all prior agreements between the HWC and Entity in respect to the subject matter herein. HWC has made no representations or promises in respect to the Training which is the subject of this agreement except those contained herein, and those, if any, contained in some written communication to Entity, signed by an officer of HWC.

Respectfully submitted;



Bruce Chapman
President
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ATTEST:

WARREN COUNTY SCHOOL DISTRICT

Ruth A. Huck, Board Secretary

Donna L. Zariczny, Board President

