



## CMS4Schools Service Agreement Stanley-Boyd Area Schools Jun 17, 2022

Service beginning July 1, 2022



CLIENT	CLIENT CONTACT
Stanley-Boyd Area Schools 507 E 1st Ave Stanley, WI 54768	Jeffrey Koenig District Administrator jkoenig@s-bschools.org 715-644-5534

PROVIDER	
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PROVIDER	
CESA 6 Kari Moon CMS4Schools Marketing & Sales Manager kmoon@cesa6.org	<i>For assistance with this contract, please contact:</i> Mary Ann Schwandt Manager, Operations 920-236-0563 mschwandt@cesa6.org

1. Confidentiality. All information provided in this Customer Terms Sheet is to remain private and confidential. Customer shall not disclose the terms and conditions outlined herein to anyone without the prior written consent of CESA 6.

2. Customer Service/Support. Customer is responsible for providing their users with Level 1 Support. Primary users of the 4Schools product(s) should be selected by the Customer to be Level 1 Support Contacts (these individuals should have a thorough understanding of the 4Schools product(s)).

CESA 6 provides Level 2 and 3 customer service for the 4Schools product(s) to Level 1 Support Contacts on an unlimited basis as questions/issues arise through any of the following means:

- Customer will have access to the following components on the 4Schools Help Center located at <https://support.4schools.net> and the CMS4Schools Help Center located at <https://support.cms4schools.net> - documentation, video tutorials and training, ticket submissions, and enhancement request submissions.
- Customer will have access to email [support@4schools.net](mailto:support@4schools.net).
- Customer will have access to the 4Schools Phone Support Help Line at [920 354-6540](tel:9203546540).
- Response time is generally within 24 hours of a request during 4Schools Support hours.

3. CMS4Schools Annual Fee Agreement.

A. CMS4Schools Content Management System:

- Customer will be able to add/update/delete website pages using the provided CMS4Schools features included.
  - Main Body: Announcements; Building Use Calendar; Bulletin Board/Forum/Blog; Calendar of Events; Embedded Audio/Video; Faculty List; Homework List; Interactive Forms; Links; Lunch Menu; Members Database Opt-In Form; Members Directory; Photo Gallery; Profiles; Request Building Usage; Resources/News; Scholarships; Site Map; Slideshow; Social Media Feed, Text/Graphic Editor
  - Right Sidebar: Announcements; Mini Calendar; Quick Links; Resources/News; Text/Graphic Editor; Slideshow; Social Media Feed, Translator; Upcoming Events
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  - Modules: Announcements Database; Banner Library; Calendar Administrator; File Uploads; In-Page Banner Library; Lunch Menu Administrator; Members Database; Scholarship Database, Video Library
  - WebOffice4Schools Intranet
    - Password-protected document repository of various file types.
    - I-Form creation and multi-tier routing approval.
    - Link creation to various web resources.
    - Group and user based permissions.

B. Services Included:

- Hosted CMS4Schools Content Management System.
- Hosted Customer website within the CMS4Schools hosting environment and data entry through CMS4Schools.
- Hosting space is available for content contained within the CMS4Schools Content Management System for the types permitted within.
- Video hosting up to the number of videos and length as defined within the Video Library is provided by JDL Horizons, LLC with all content distributed using JDL's bandwidth. Additional service upgrades available through a separately executed service agreement between CESA 6 and Customer.
- Automatic upgrades made to the existing application tools, modules, and integrations.
- Customer service/support through live and online customer service/support as outlined hereinabove.

Name	Price	QTY	Subtotal
CMS4Schools 2022-23 Annual Fee 1001-2000 Students	\$3,299.00	1	\$3,299.00

Subtotal	<b>\$3,299.00</b>
Discount	<b>\$0.00</b>
Tax	<b>\$0.00</b>
<b>Total</b>	<b>\$3,299.00</b>

## Additional Offerings

If you are interested in learning more about any of the services below, please check the desired options and Kari will reach out with a quote and next steps. You are NOT committed to purchasing these by checking any of the boxes below.

- [Touch Mobile App](#) - your district/school/agency mobile app, integrated with your website, providing push notifications, sign-able forms, supply lists, and more!
- [Touch Mobile App Secured Access](#) - add-on to Touch that allows you to restrict content in the app based on user role, target notifications to groups, monitor two-way conversations and more!
- [Touch+ Mass Notifications](#) - integrated with your SIS, streamlines your communication channels, allowing you to post to all at once - website, app, social media and voice/text/email lists.
- [Academic Career Planning \(ACP\) Module](#) - interactive ACP website that connects students to courses, careers, and work/community opportunities.
- [Content Services](#) - one-time services such as content review, implementation, development, etc. or annual services should you want assistance with maintaining your website content, ensuring your website is current, etc.

# Product / Services Agreement

**THIS PRODUCT/SERVICES AGREEMENT** (the "Agreement") is made and entered into by and between **COOPERATIVE EDUCATIONAL SERVICES AGENCY NO. 6** ("CESA 6") and Stanley-Boyd Area Schools ("Customer").

**GENERAL PURPOSE OF THIS AGREEMENT.** CESA 6 has developed a suite of software programs and services that is designed to provide electronic data and content storage. Customer has expressed a desire to use one or more of the software programs and/or services comprising the suite. This Agreement shall set forth the terms and conditions pursuant to which CESA 6 shall make the software programs and/or services available to Customer.

**IT IS MUTUALLY AGREED AS FOLLOWS:**

**1. Definitions.**

A. "Customer" – The public/private school and/or school district, governmental entity or non-profit organization that agrees to purchase the suite of software programs and/or services (or specific components thereof) from CESA 6

B. "Documentation" – The reference materials, if any, furnished by CESA 6 relating to the suite of software programs and/or services.

C. "Customer Terms" – Those terms and conditions attached as "Exhibit A" to this Agreement specific to the suite of software programs and/or services (or specific components thereof) purchased by Customer, as may be modified from time to time.

D. "Support Services" – The training and on-going technical support provided by CESA 6 as well as related consultation and initial problem determination that CESA 6 will provide to Customer.

E. "Trademarks" – The trademarks, logos and slogans used by CESA 6 to identify the suite of software programs and/or services (or specific components thereof).

**2. Term/Termination.**

A. This Agreement shall be for a term of \_\_\_\_\_ unless earlier terminated as provided herein (the initial term may be pro-rated based upon when the parties enter into this Agreement). This Agreement shall automatically renew per the terms and conditions outlined in the Customer Terms Sheet (except for pricing, which shall be subject to negotiation) for successive one-year periods until such time as either of the parties gives written notice, at least ninety (90) calendar days prior to the termination of this Agreement (or extension thereof), of its intent not to extend the term or extension of this Agreement for such additional one-year term.

B. Notwithstanding the above, CESA 6 may terminate this Agreement should CESA 6 discontinue offering the software programs and/or services contemplated herein or assign this Agreement (as provided herein) by providing notice in writing ninety (90) calendar days prior to termination or assignment.

C. If either party refuses, fails or is unable to perform or observe any of the terms or conditions of this Agreement, the party claiming such failure shall provide the other party written notice of such breach. If the failure has not been corrected within thirty (30) calendar days from such notice (or, with respect to default in payment, within ten (10) calendar days from such notice), the non-breaching party may terminate this Agreement effective ten (10) calendar days after the end of such period.

D. In the event of termination for any reason, all amounts outstanding will become due and payable to CESA 6, immediately upon termination. In the event of termination for breach, the breaching party will be liable to the non-breaching party for reasonable wind-up and management costs.

3. Rights of Customer. Subject to the terms of this Agreement and in consideration of the performance by Customer of its obligations hereunder, CESA 6 grants to Customer the non-exclusive, non-transferrable right during the term of this Agreement to use the suite of software programs and/or services (or specific components thereof) identified in the attached Customer Terms Sheet(s).

CESA 6 shall at all times during the term and any extended term of this Agreement and at all times after the expiration of this Agreement, have the right and retain the right to market and distribute the suite of software programs and/or services (or specific components thereof) to anyone.

4. Proprietary Rights. CESA 6 will own all proprietary rights of any kind, including copyright, in and to the suite of software programs, services and/or Trademarks (including the rights to any derivatives or add-ons to the suite of software programs and/or services (or specific components thereof)). Customer shall not (and will not allow any third party to):

A. Reverse engineer, decompile or attempt to discover any source code or underlying algorithms of the suite of software programs and/or services (or specific components thereof).

B. Adapt, modify, translate or copy the suite of programs and/or services (or specific components thereof).

C. Use the suite of software programs and/or services (or specific components thereof) for the benefit of any third party.

CESA 6 reserves the right to modify the suite of software programs and/or services (or specific components thereof) at any time upon written notice to Customer.

5. Confidential Information. In the course of providing the suite of software programs and/or services (or specific components thereof) hereunder, the parties recognize that CESA 6 may gain access to certain information, including personnel records of Customer employees and educational records of Customer students. The parties acknowledges and understands that Customer is primarily required to safeguard the privacy of such records. To the extent CESA 6 gains access to such records:

A. CESA 6 shall maintain personnel records of Customer employees and educational records of District students received from Customer according to federal and state statutory provisions applicable to such information.

B. CESA 6 shall only collect information necessary to fulfill its obligations as outlined herein.

C. CESA 6 shall use the information collected from Customer only for the purpose of fulfilling its duties and providing the services called for herein.

D. CESA 6 is prohibited from mining any Customer information for any purpose other than as agreed to by the parties herein.

E. Any information collected from Customer will be made available to Customer upon request by Customer.

F. CESA 6 shall, upon request of Customer or upon termination of this Agreement, return promptly to Customer the original and all copies of any documents, reports, notes or other materials (whether in written, electronic or other tangible or intangible form) incorporating or reflecting, in any way, any information obtained by CESA 6 from Customer in the possession or control of CESA 6.

G. In the event of a data breach, CESA 6 shall immediately notify Customer in writing and take all other steps as required by law.

6. CESA 6 Obligations.

A. CESA 6 shall provide the suite of software programs and/or services (or specific components thereof) purchased by Customer. CESA 6 shall also provide the Documentation and Support Services to Customer as outlined in the Customer Terms Sheet.

B. CESA 6 shall directly bill Customer for all appropriate cost(s) or charge(s). A Confirmation will be issued by CESA 6 upon Customer accepting the terms hereof. In addition to the specific information concerning the suite of software programs and/or services (or specific components thereof) and the Customer Terms Sheet, the Confirmation shall contain a date upon or before which the suite of software programs and/or services (or specific components thereof) will be made available to Customer.

C. CESA 6 expressly reserves the right to contract with other entities to use its suite of software programs and/or services (or specific components thereof).

7. Customer Obligations.

A. Customer shall utilize the suite of software programs and/or services (or specific components thereof) only as permitted herein.

B. Customer shall make payment for any cost(s) or charge(s) directly to CESA 6 within Thirty (30) calendar days.

1. For any overdue payments, late fees will accrue on the amount outstanding calculated from the date payment is due from Customer until payment in full at the lesser of: (a) One and One-Half Percent (1 ½%) per month or (b) the maximum lawful rate. The accrual and collection of late fees is without prejudice to CESA 6's other rights and remedies.

2. Customer's failure to make any payment required hereunder by the due date shall constitute sufficient cause for CESA 6 to terminate this Agreement as provided herein.

8. Security. In order to access or use the suite of software programs and/or services (or specific components thereof), CESA 6 will establish confidential user names and passwords and provide them to Customer (Customer reserves the right to add/remove confidential user names and passwords thereafter). CESA 6, at any time, may implement additional security procedures. It will be the sole responsibility of Customer to safeguard any such user name, password or security procedure. CESA 6 will not be responsible for any damage or expense related to Customer's failure to safeguard user names, passwords or security procedures. Customer shall promptly notify CESA 6 in the event that such user names, passwords or security procedures are compromised.

9. Insurance. Each party agrees to maintain the following insurance policies at all times during the term of this Agreement.

A. Both parties shall carry sufficient commercial general liability insurance with a combined single limit of not less than \$3,000,000:

(1) The commercial general liability insurance shall cover premises, operation, contractual liability and personal injury (false arrest, false imprisonment and malicious prosecution, defamation of character, libel or slander) as follows:

\$1,000,000 General Aggregate  
\$1,000,000 Personal Injury  
\$1,000,000 Each Occurrence

(2) Umbrella liability insurance as follows: \$1,000,000 Each Occurrence

10. Indemnification.

A. CESA 6 shall defend Customer with respect to any third party claims relating to infringement as to the suite of software programs and/or services of any (1) U.S. patent; (2) Copyright or (3) Trade Secret.

CESA 6 shall indemnify Customer for damages and costs awarded under any final judgment by a court of competent jurisdiction or agreed to by CESA 6 in a final settlement. CESA 6's obligations under the preceding sentence are subject to Customer notifying CESA 6 promptly of any threats, claims or proceedings, not making any prejudicial statement(s) and giving CESA 6 reasonable assistance and sole control over any defense and settlement.

B. Customer agrees to defend, indemnify and hold CESA 6 harmless with respect to any third party claims (and all related expenses, including attorneys' fees) relating to (1) Customer's use of the suite of software programs and/or services (or specific components thereof); (2) Customer's violation of the restriction on use set forth in this Agreement or (3) Customer's breach of certain articles of this Agreement (as specifically indicated).

Customer's obligations hereunder are subject to CESA 6 notifying Customer promptly of any threats, claims or proceedings, not making any prejudicial statement(s) and giving Customer reasonable assistance and sole control over any defense or settlement.

11. Limited Warranty and Disclaimer. CESA 6 warrants that it has the right to enter into and perform this Agreement and to grant the rights specified herein.

12. Excusable Delays and Failures. Each party shall be excused from delays in performing, or from its failure to perform hereunder, to the extent that such delays and failures result from causes beyond such party's reasonable control. Such causes could be, but are not limited to, acts of God, criminal activity, local or regional states of emergency, labor strikes, cyber-attack, etc. Each party must remedy, with all reasonable dispatch, the cause preventing it from carrying out its obligations under this Agreement to the extent practicable.

13. Limitation of Liability. CESA 6 WILL NOT BE LIABLE TO CUSTOMER WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE FOR:

- A. ANY COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES.
- B. LOSS OF PROFITS OR GOODWILL.
- C. ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.
- D. INTERRUPTION OR LOSS OF USE, LOSS OR CORRUPTION OF DATA.

CESA 6'S TOTAL LIABILITY TO CUSTOMER, WHETHER IN CONTRACT, NEGLIGENCE OR OTHERWISE, IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES RELATED TO THE CAUSE OF ACTION OR CLAIM.

14. No Agency. CESA 6 and Customer are not partners or joint venturers, neither is the agent, representative or employee of the other and nothing in this Agreement shall be construed to create any relationship between them other than as expressly set forth herein.

15. Independent Contractor Relationship. The parties intend that an independent contractor relationship will be created by this Agreement. CESA 6 and its employees or agents performing under this Agreement are not employees or agents of Customer. CESA 6 will not hold itself out as or claim that its officers or employees are officers or employees of Customer by reason hereof nor will CESA 6 make any claim of right, privilege or benefit that would accrue to such officers or employees under law. Conduct and control of the work will be solely with CESA 6.

16. No Assignment; Successors and Assigns. Neither party may assign or otherwise transfer or delegate (including subcontracting) any of its rights, duties or obligations under this Agreement without the prior written consent of the other party, except:

- A. Either party may, upon written notice to the other party (but without any obligation to obtain the consent of such other party), assign this Agreement or any of its rights hereunder to any person or entity who succeeds (by purchase, merger, operation of law or otherwise) to all or substantially all of the business of such party, if such person or entity agrees in writing to assume and be bound by all of the obligations of such party under this Agreement.
- B. CESA 6 may delegate (including subcontracting) any of its duties or obligations under this Agreement to other entities due to efficiency, cost, etc. provided CESA 6 obtains Customer's prior written consent and approval, the same not to be unreasonably withheld, delayed or conditioned.

Any attempted assignment, transfer or delegation in contravention of this Paragraph shall be void and of no force and effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assignees.

17. Notices. All notices and demands which may be or are required to be given by either party to the other hereunder shall be in writing and delivered in person or sent by United States mail, postage prepaid. Notices and demands shall be addressed to such place(s) as CESA 6 and Customer may from time to time designate in writing.

18. Governing Law/Venue. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin. Venue for any dispute arising under or relating to this Agreement shall lie in Winnebago County, Wisconsin.



19. Binding Effect. The covenants, agreements and obligations herein contained, except as otherwise herein specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns (but in the case of assigns only to the extent that assignment is permitted hereunder).

20. Assurances. CESA 6 and Customer agree that all activity pursuant to this Agreement will be in accordance with all applicable current federal, state and local laws, rules and regulations.

21. Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement.

22. Waiver. The waiver by a party of any default or breach of this Agreement, or the failure of a party to enforce any provision hereof or to exercise any right or privilege hereunder, shall not be deemed to waive any prior or subsequent breach or default, the enforcement of any provision hereof or the exercise of any right or privilege hereunder, unless otherwise stated in writing, signed by an authorized representative of the party and attached to the original Agreement.

23. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

24. Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees, from the non-prevailing party.

25. Counterparts. This Agreement may be executed in two (2) or more counterparts, including by means of faxed signature pages or electronic signature, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ACCEPTANCE OF SERVICE: I agree to the terms as laid out in this proposal and certify that I have the authority to make this authorization.

IN WITNESS WHEREOF, the parties acknowledge that they have reviewed and agree to be bound by the [CESA 6 Terms and Conditions](#) contained herein as of the date first above written.

**Stanley-Boyd Area Schools**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Title*

Purchase Order Number:

**CESA 6**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

Kari Moon

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

Jason Levash

Chief Operations Officer

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Title*