

Memorandum of Understanding By and Between the State Public Charter School Authority and _____ Charter School Regarding the Provision and Funding of Special Education Services

Whereas, _____ Charter School (the “Charter School”) is a public charter school whose charter application was approved by, and is authorized by, the State Public Charter School Authority (the “Authority”). The Charter School and Authority are sometimes referred to hereinafter collectively as the “Parties”; and

Whereas, as set forth below in greater detail, the Charter School is required, under applicable law, including the Individuals with Disabilities Education Act (“IDEA”), Section 504 of the Federal Rehabilitation Act (“Section 504”) the Americans with Disabilities Act (the “ADA”), applicable Nevada law and regulations, and various Authority policies, to provide special education services to its students as required by those respective authorities; and

Whereas, under Nevada law the Authority serves as the Local Educational Agency (“LEA”) for charter schools that it authorizes, and the Charter School is, with regard to special education and other matters, a school within that LEA; and

Whereas, the Charter School and the Authority wish to further describe their respective duties and obligations regarding the provision and funding of special education services at the Charter School through this memorandum of understanding (“MOU”).

NOW, THEREFORE, THE PARTIES DO AGREE AND COVENANT AS FOLLOWS:

1. Charter School Special Education Responsibilities

a. General Requirements

The Charter School will adhere to the provisions of the IDEA and applicable Nevada special education laws and regulations to assure that all students with disabilities are accorded a free, appropriate public education (“FAPE”) including special education and related services. The Charter School will also ensure that no student otherwise eligible to enroll in their Charter School will be denied enrollment on the basis of their special education or disability status.

The Charter School will comply with the applicable requirements of Section 504, the ADA and all U.S. Department of Education Office of Civil Rights (“OCR”) mandates for students enrolled in the Charter School.

The Charter School will implement the program for special education set forth and referenced in its charter contract or application if operating under a written charter as subsequently modified in accordance with Authority policy for approving such modifications.

The Charter School shall be solely responsible for providing and subsidizing those specialized instructional and related services required pursuant to student IEPs, and the services, modifications or accommodations required by a student’s Section 504 Plan.

The Charter School will use State forms to develop, maintain, and review assessments and Individual Education Programs (“IEPs”) in the format required by the State and will enter accurate assessment and IEP data into the Authority’s designated data system, the Automated System of Accountability, in accordance with Authority policies and procedures adopted in accordance with federal and state laws as well as the school’s written charter (“Written Charter”) or charter contract (“Charter Contract”). The Charter School will maintain copies of assessments and IEP materials for the Authority to review. The Charter School will submit to the Authority all required reports, including but not limited to the reports identified in the Reporting Requirements Manual, in a timely manner as necessary to comply with federal and applicable state law requirements. To the extent practicable, requested reports will be sent to the school by the Authority in a timely manner allowing a reasonable time for response. The Charter School shall track attendance for each student which shall be reported and certified according to applicable state law and regulation on an ongoing basis through the Automated System of Accountability.

The Charter School will participate in the state quality assurance process for special education (i.e. verification reviews, coordinated compliance self-reviews, complaints monitoring, procedural safeguards, and the local plan).

The Charter School is responsible for the management of its special education budgets, personnel, programs and services. The Authority reserves the right to audit the use of federal and state special education funds provided to the Charter School to ensure compliance with program and fiscal requirements.

The Charter School will ensure that its special education personnel or contracted personnel are appropriately credentialed and licensed consistent with federal requirements and Nevada laws and regulations. The Charter School will implement the programs and services, including providing related services, required by the IEPs of the students enrolled at the Charter School. The Charter School shall rely on its discretion to determine whether or not to look to and contract with outside entities, such as consultants or local districts, for the provision of any mandated special education or related services. Upon request by the Authority, the Charter School will provide all requested or appropriate documentation to demonstrate the licensure status of Charter School personnel providing special education or related services and of independent contractors providing special education or related services, and, the training received by said personnel, and the steps taken by the Charter School to comply with applicable credentialing the requirements. The Charter School shall promptly provide the Authority with documentation that updates this information during the course of the school year to the extent that it has changes in its personnel, independent contractors, or training for staff through the Automated System of Accountability and other requested reports.

b. Transferring Students

For students transferring to the Charter School from other schools, the Charter School will provide those related services required by the students’ IEPs upon the students’ enrollment. IEP

team meetings for such students will be held within thirty (30) days of the student's enrollment in accordance with state and federal law.

When a student with a disability transfers to the Charter School from another school, the Charter School will take reasonable steps to obtain the child's records from the previous school where the student was enrolled. In accordance with state law, when a student with a disability transfers from the Charter School to another school, the Charter School must provide the student's records to the student's current LEA or school within 10 days of either receipt of notice of the student's transfer or, if the Charter School requires parental consent to release records, receipt of parental consent.

c. Assessments

The referral process shall include team meetings to review prior interventions, accommodations and modifications and to recommend further interventions as appropriate. The referral process shall be supported by documented interventions such as the Response to Intervention (RtI) model approach, using data to identify student strengths and weaknesses or as otherwise appropriate so long as it is consistent with state and federal law.

Upon review of accumulated data, observation and review of records, the Charter School may determine that assessment is necessary to determine possible eligibility for special education programs and related services.

Upon a parent's request for assessment, the Charter School will convene, as soon as possible, a meeting to review and discuss the request in light of student records, acquired data and student performance to agree or deny the request for assessment. If the Charter School determines that assessment for special education eligibility is not warranted, prior written notice must be given to the parent/guardian with a clear rationale for such refusal within 15 days of the request. If the Charter School concludes that there are suspected disabilities, the school must develop an assessment plan, utilizing the Authority's assessment process, for each student with suspected disabilities within the 15 day timeline. The assessment plan will describe the types of assessments that may be used to determine the eligibility of students for special education instruction and services. Assessments will be conducted, within legal timelines, after receiving the parents' written consent. The Charter School shall conduct an IEP team meeting that includes required team members within mandated timelines for each student assessed to discuss results, determine eligibility, and (if eligible) specify special education instruction and services. Consistent with federal and state special education laws and regulations through the IEP process, the IEP team convened at the Charter School will make decisions regarding eligibility, goals, program (including staffing and methodology), placement at the school, and exit from special education.

d. Alternative Placements

In the event that the Charter School is considering whether it is unable to provide an appropriate placement or services for a student with special needs, the Charter School must contact the Authority to discuss placement and service alternatives. The IEP team convened at the Charter

School shall have the authority to make offers of a FAPE and decisions regarding the staffing and methodology used to provide special education and related services at the Charter School pursuant to an IEP. The Charter School must present to the Authority their alternative education plan for review before action is taken. The Charter School will be responsible for all costs associated with alternative placements.

e. Least Restrictive Environment

The Charter School will support movement of students with disabilities, including students with moderate to severe disabilities, into less restrictive environments as appropriate and increase interactions of students with disabilities with non-disabled students. The Charter School's general program of instruction for students with disabilities shall be responsive to the required sequence of courses and related curricular activities provided for all students in the Charter School. Assessment and standardized testing procedures shall be implemented, including guidelines for modifications and adaptations, to monitor student progress.

f. Staffing Requirements

The Charter School shall provide planned staff development activities and participate in available appropriate Authority trainings to support access by students with disabilities to the general education classroom, general education curriculum, integration of instructional strategies and curriculum adaptations to address the diverse learner, and interaction with non-disabled peers. All Charter School personnel who are necessary to provide a student with a disability a FAPE are required to attend any staff development activities or Authority trainings.

The Charter School will ensure that the teachers and other persons who provide services to students with disabilities are knowledgeable of the content of students' IEPs. The Charter School will maintain responsibility for monitoring progress towards IEP goals for students with disabilities. The Charter School will assess and develop individual transition plans to help students with disabilities transition to postsecondary education and/or adult living in accordance with Authority policies and procedures.

g. Student Discipline/Inclusion

The Charter School will ensure that it makes the necessary adjustments to comply with the mandates of applicable state and federal laws, including the IDEA, regarding discipline of students with disabilities. Discipline procedures will include positive behavioral interventions. Prior to recommending expulsion, a single suspension lasting longer than 10 school days, or a suspension which will result in the student having been removed for more than 10 school days in a single year for a student with disabilities or a student that the Charter School knows may be eligible for services, the Charter School must consult with the Authority. After such consultation, the Charter School must convene a manifestation determination team within 10 days of the decision to impose the disciplinary procedure. The Charter School will collect data pertaining to the number of special education students suspended or expelled and report that data to the Authority on an ongoing basis through the Automated System of Accountability.

Pursuant to 34 C.F.R. § 300.530(d), in the event that such a student is removed for more than 10 school days within a single school year, the student's IEP team must determine the appropriate interim alternative educational setting so that the student's services are continued. Prior to determining the appropriate interim alternative educational setting, the Charter School must consult with the Authority to determine the available appropriate settings and locations. The Charter School must present to the Authority their interim alternative education plan for review before action is taken. The Charter School will be responsible for all costs associated with alternative placements.

2. Procedural Safeguards/Due Process Hearings

The Authority may invoke dispute resolution provisions set out in the charter application or charter contract, initiate due process hearings, and/or utilize other procedures applicable to the Charter School if the Authority determines that such action is legally necessary to ensure compliance with applicable federal and state special education laws and regulations.

In the event that a parent or guardian of a student attending the Charter School initiates due process proceedings, the Charter School will be named as respondent. Whenever possible, the Authority and the Charter School shall work together in an attempt to resolve the matter at an early stage (informal settlement or mediation). During due process proceedings and any other legal proceedings or actions involving special education, the Charter School will be responsible for retaining its own representation and for the cost of any such representation. Regardless of whether the Charter School retains such legal representation, the Charter School will fulfill any due process procedural requirements under IDEA and hold the responsibility of conducting and defending its positions during litigation. The Authority, as the LEA, will hold final decision-making authority in all aspects of the due process proceedings.

Because the Charter School will manage, and is fiscally responsible for its students' special education instruction and services, the Charter School will be responsible for any prospective special education and related services, compensatory education and/or reimbursement awarded by a due process hearing officer, court or settlement based on an allegation or allegations that solely the Charter School failed to fulfill its responsibilities under state and federal special education laws and regulations (which include, among other things, identifying students with disabilities, assessing students, conducting IEP team meetings, developing appropriate IEPs, and implementing IEPs). The Authority will be responsible for any prospective special education and related services, compensatory education and/or reimbursement awarded by a due process hearing officer, court or settlement based on an allegation or allegations that the Authority failed to fulfill its responsibilities under state and federal special education laws and regulations.

If parents' attorneys' fees and costs are to be paid because parents are the prevailing party as a result of a due process hearing or settlement agreement based on the Charter School's alleged failure to fulfill its responsibilities under state and federal special education laws and regulations, the Charter School will be responsible for payment of those attorneys' fees and costs. If parents' attorneys' fees and costs are to be paid because parents are the prevailing party as a result of a due process hearing or settlement agreement based on the Authority's alleged failure to fulfill its

responsibilities under state and federal special education laws and regulations, the Authority will be responsible for payment of those attorneys' fees and costs.

3. State Complaints

The Authority will investigate, cooperate with and respond to all special education complaints the Authority receives pertaining to the Charter School. The Authority will inform the school of the complaint within 5 days or prior to any investigation or whichever comes first. The Charter School will cooperate with the Authority in any such investigations and provide the Authority with any and all documentation that is required to respond to complaints within the timelines imposed by the investigating agency. The Charter School will be solely responsible for any and all costs resulting from, arising out of, or associated with the investigation and implementation of appropriate remedies in a manner consistent with Section 2, above, Procedural Safeguards/Due Process Hearings.

4. Local Educational Agency for Special Education

The Authority is required under state law to function as the LEA for charter schools it approves and oversees. Charter Schools authorized by the Authority are deemed to be public schools within the Authority for purposes of special education. The Authority will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the Charter Schools in the same manner as students in all Authority schools.

The Charter School will adhere to all Authority policies and procedures regarding special education and special education funding, as they may be amended from time to time.

The Charter School shall cooperate with the Authority in submitting all necessary reports and information and in meeting other administrative requirements of the Authority under state and federal laws applicable to the education of students with disabilities. The Authority may monitor the Charter School's compliance and direct such changes as necessary to comply with law or state or Authority policies concerning the Charter School's referral processes, evaluations, reevaluations, eligibility determinations, placement decisions, and development and implementation of IEPs for students with disabilities.

5. Funding of Special Education Services

NRS 388A.159(1) deems the State Public Charter School Authority a local education agency (LEA) for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. However, Special education funding was converted to a weight in the 2017 fiscal year and the additional resources will continue to be expressed as a multiplier and allocated to the Charter School by the Nevada Department of Education on a per-pupil basis (NRS 387.121).

Federal IDEA, Part B funding is primarily intended to provide assistance to states and LEAs in carrying out their responsibilities to educate students, age five through twenty-one, with

disabilities. Part B grant funds must only be used to pay for the excess cost of providing special education and related services to children with disabilities; to supplement, but not supplant, state, local, and other federal funds. The Authority will, after setting aside funds for required Authority personnel salaries, school training, and other administrative costs, allocate all remaining Part B funds to schools on a reimbursement basis based on the grant application submitted by the charter schools. In the event that a charter school fails to request monthly reimbursement based on the approved grant budget, the Authority reserves the right to reallocate funds to limit the risk of loss of federal funds.

6. Authority Responsibilities Relating to Charter School Special Education Program

The Authority shall provide information to the Charter School regarding Authority special education decisions, policies, and procedures to the same extent as they are provided to other schools within the Authority.

To the extent that the Authority provides training opportunities and/or information regarding special education to other school site staff, such opportunities and/or information shall be made available to Charter School staff.

7. Compliance with Indemnification and Financial Obligations

In the delivery of special education programming at the Charter School in the manner and to the extent described in the Charter School's Written Charter or Charter Contract, the Charter School shall maintain a special education reserve as a financial reserve or demonstrate, to the Authority's satisfaction, that the Charter School carries an insurance policy with sufficient coverage to ensure compliance with the indemnification and financial obligations set forth in this MOU.

Such a financial reserve or insurance product shall not in any way limit the Charter School's obligation to indemnify the Authority pursuant to any provision of this MOU; in the event the special education reserve or insurance coverage is insufficient to fully pay costs incurred in connection with any claim or claims, the Charter School shall remain fully responsible for any and all costs incurred in connection with such claim or claims. The Charter School shall keep any special education reserve separate from and not utilize it to satisfy any other requirements applicable to the Charter School. Any special education reserve shall be maintained in a separate bank account.

8. Notices

Unless otherwise specified by the Parties, all notices or the provision of written information shall be given via Epicenter and U.S. mail to the following contacts:

The Authority:

State Public Charter School Authority

1749 North Stewart Street Suite 40

Carson City, NV 89706

Charter School:

9. Modifications

With the exception of changes to Authority policies and procedures regarding the provision of special education services, the provisions of this memorandum of understanding may only be modified, supplemented or terminated through written agreement of the Parties. This memorandum of understanding is hereby incorporated by reference into the charter contract (the “Charter Contract”) of the Charter School and shall, to the extent necessary to carry out the terms and conditions of the memorandum of understanding, supersede any conflicting provisions in the Charter Contract.

10. Term

This MOU is effective upon execution and expires June 30, 2018.

Date:

For the Authority:

For the Charter School: