

**STATE OF NEW JERSEY
DEPARTMENT OF CHILDREN AND FAMILIES**

EDUCATIONAL SERVICES CONTRACT AGREEMENT

This Agreement is effective as of the date recorded on the signature page between the Department of Children and Families and the Provider Agency identified on the signature page.

WHEREAS the New Jersey Department of Children and Families and its Departmental Component, the Office of Education, are authorized by the N.J.S.A. 18A:7B-1 et seq., the State Facilities Education Act, to be responsible for the funding, implementation, and administration of certain educational programs and services for Eligible Students, including the programs and services covered by this Agreement; and

WHEREAS the Department desires the provision of services and the Provider Agency agrees to provide those services in accordance with the terms and conditions contained in this Agreement;

THEREFORE the Department and the Provider Agency agree as follows:

I. Definitions

For the purpose of this document, the following terms, when capitalized, shall have meanings as stated:

Agreement means this document, the Annex(es), any additional appendices or attachments (including any approved assignments, subcontracts or modifications) and all supporting documents.

Department means the Department of Children and Families.

Notice means an official written communication between the Department and the Provider Agency. All Notices shall be delivered in person or by certified mail, return receipt requested, and shall be delivered to the persons and addresses specified for such purposes in the Annex(es) or to such other persons as either party may designate in writing.

Termination means an official cessation of this Agreement, resulting either from routine expiration or from action taken by the Department or the Provider Agency, in accordance with provisions contained in this Agreement to nullify the Agreement prior to term.

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II. Basic Obligation of the Department

Payment for delivered educational services shall be made in accordance with the rate per unit of service specified in the Annex(es) and with applicable State Statutes and regulations regarding the cost of educational services. Such payments shall be authorized by the Department according to the time frames specified in the Annex(es). Payment shall not exceed the maximum Agreement amount, if any, specified in the Annex(es).

III. Basic Obligations of the Provider Agency

- A. A Provider Agency located in the State of New Jersey shall provide educational services to eligible students in accordance with applicable New Jersey Statutes and regulations.

A Provider Agency located outside the State of New Jersey shall provide educational services to eligible students in accordance with applicable New Jersey Statutes and regulations and/or the applicable laws and regulations of the state in which the Provider Agency is located, as appropriate for the student.

- B. The Provider Agency shall provide the Department with a monthly invoice and the appropriate documentation required by the Department to verify the services provided to the student(s) such as student enrollment and attendance reports, service logs, and timesheets.

IV. Audit

Upon written request of the Department, the Provider Agency must submit to the Department a copy of its most recent annual organization-wide audit report. All payment authorization under this Agreement shall be subject to revision on the basis of the organization-wide audit.

V. Termination

- A. The Provider Agency or the Department may terminate this Agreement upon 60 calendar days advance written Notice to the other party. If the Agreement is terminated under this section, the Provider Agency shall settle all accounts with the Department.
- B. The parties expressly recognize and agree that the Department's ability to honor the terms and conditions of this Agreement is contingent upon receipt of federal funds and/or appropriations of the State Legislature. If during the term of this Agreement, therefore, the federal and/or State government reduces its allocation to the Department, the Department reserves the right, upon notice to the Provider Agency, to reduce or terminate the Agreement.

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VI. Indemnification

The Provider Agency shall defend, indemnify and otherwise hold harmless the State of New Jersey, its agencies, departments, bureaus, boards, officials and employees from any and all claims or actions at law, whether for personal injury, property damage or liabilities, including the cost of defense (a) which arise from acts or omissions, whether negligent or not, of the Provider Agency or its agents, employees, servants, subcontractors, material suppliers or others working for the Provider Agency, irrespective of whether such risks are within or beyond the control of the Provider Agency, or (b) which arise from any failure to perform the Provider Agency's obligations under this Agreement or any improper performance. Notwithstanding the Provider Agency's responsibilities outlined above in this section, the State reserves the right to provide its own attorney(s) to assist in the defense of any legal actions which may arise as a result of this Agreement.

VII. Sufficiency of Funds

The Provider Agency shall recognize and agree that both the initial provision of funding and the continuation of such funding under the Contract is expressly dependent upon the availability to the Department of funds appropriated by the State Legislature from State and/or Federal revenue or such other funding sources as may be applicable. A failure of the Department to make any payment under its Contract with the Provider Agency or to observe and adhere to its performance obligation under the Contract as a result of the failure of the Legislature to appropriate the funds necessary to do so shall not constitute a breach of the Contract by the Department or default thereunder and the Department shall not be held financially liable therefore. In addition, future funding shall not be anticipated from the Department beyond the duration of the Contract with the Provider Agency and in no event shall the Contract be construed as a commitment by the Department to expend funds beyond the Termination date set therein.

VIII. Executive Order No. 189

Executive Order No. 189 establishes the expected standard of responsibility for all parties that enter into a contract with the State of New Jersey. All such parties must meet a standard of responsibility which assures that State and its citizens that such parties will compete and perform honestly in their dealings with the State and avoid conflicts of interest.

As used in this document, "provider agency" or "provider" means any person, firm, corporation, or other entity or representative or employee thereof which offers or proposes to provide goods or services to or performs any contract for the Department of Children and Families.

In compliance with Paragraph 3 of Executive Order No. 189, no Provider Agency shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State Officer or

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employee or special State Officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury or any other agency with which such Provider Agency transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A.. 52:13D-13g.

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State Officer or employee or special State Officer or employee from any Provider Agency shall be reported in writing forthwith by the Provider Agency to the Attorney General and the Executive Commission of Ethical Standards.

No Provider Agency may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with., whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such Provider Agency to, any State Officer or employee or special State Officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State Officer or employee or special State Officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

No Provider Agency shall influence, or attempt to influence or cause to be influenced, any State Officer or employee or special State Officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

No Provider Agency shall cause or influence, or attempt to cause or influence, any State Officer or employee or special State Officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Provider Agency or any other person.

The Provisions cited above shall not be construed to prohibit a State Officer or employee or special State Officer or employee from receiving gifts from or contracting with Provider Agencies under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.