

**BRICK TOWNSHIP BOARD OF EDUCATION
MINUTES
SPECIAL MEETING
DATE: AUGUST 12, 2015**

Location/Time: 6:15 PM, Veterans Memorial Middle School
105 Hendrickson Avenue, Brick, NJ 08724

Present: Mr. Barton, Ms. Suter (Arrived at 6:30PM) , Mr. Conti, Ms. Cusanelli, Mr. Pannucci, and Ms. Cantillo

Also present: Dr. Caldes, Interim Superintendent
Ms. Roberts, Assistant Business Administrator
Ms. McNamara, District Testing Coordinator
Ms. Osborn, Human Resources Manager
Mr. Sahradnik, Legal Counsel
and, Mr. Brown, Legal Counsel

Ms. Cantillo opened the meeting with a salute to the flag, moment of silence and roll call.

OPEN PUBLIC MEETINGS ACT NOTICE

Ms. Roberts announced: "The New Jersey Open Public Meetings Law was enacted to insure the right of the public to have advance notice of and to attend the meetings of public bodies at which any business affecting their interests is discussed or acted upon." In accordance with the provisions of this Act, the Brick Township Board of Education has caused notice of this meeting to be posted on the Administration Office bulletin board, the official District website and Channel BTV-20, and sent to the Asbury Park Press and Municipal Clerk's Office.

Mr. Sahradnik administered the Oath of Office to Dr. Vito A. Gagliardi, as follows:

1. Oath of Office administered to New Board Member.

I, _____ do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and this State under the authority of the people, So help me God.

I, _____ do solemnly swear (or affirm) that I possess the qualifications prescribed by law for the Office of Member of a Board of Education and that I will faithfully, impartially and justly perform all duties of that office according to the best of my ability, So help me God.

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Mr. Sahradnik asked for a motion to adopt the Code of Ethics, a motion was made by Mr. Conti, seconded by Mr. Barton with the following roll call vote:

Mr. Barton	Yes
Ms. Suter	Absent
Mr. Conti	Yes
Dr. Gagliardi	Yes
Ms. Cusanelli	Yes
Mr. Pannucci	Yes
Ms. Cantillo	Yes

2. Adoption of the Code of Ethics for School Board Members

A school board member shall abide by the following Code of Ethics for School Board Members:

- a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.
 - b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex or social standing.
 - c. I will confine my board action to policy making, planning and appraisal and I will help to frame policies and plans only after the board has consulted those who will be affected by them.
 - d. I will carry out my responsibility, not to administer the schools, but together with my fellow board members, to see that they are well run.
 - e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.
 - f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.
 - g. I will hold confidential all matters pertaining to the schools which, if disclosed would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members interpret to the staff the aspirations of the community for its school.
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h. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

i. I will support and protect school personnel in proper performance of their duties.

j. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

Ms. Cantillo asked for a motion to enter into Executive Session at 6:25PM, a motion was made by Mr. Pannucci, seconded by Mr. Barton, with the following roll call vote:

Mr. Barton	Yes
Ms. Suter	Absent
Mr. Conti	Yes
Dr. Gagliardi	Yes
Ms. Cusanelli	Yes
Mr. Pannucci	Yes
Ms. Cantillo	Yes

RESOLUTION TO ENTER CLOSED SESSION

WHEREAS, the Brick Township Board of Education (“Board”) has been formed pursuant to applicable New Jersey statutes, and

WHEREAS, the Board is charged with the responsibility of performing all acts and doing all things, consistent with law and the rules of the State Board of Education, necessary for the lawful and proper conduct, equipment and maintenance of the public schools and public school property of the Brick Township School District, and

WHEREAS, Section 7 of the Open Public Meetings Act (N.J.S.A. 10:4-12) permits the exclusion of the public (“Executive Session”) from a meeting of the Board in certain circumstances, and

WHEREAS, the Board has determined that circumstances exist for such an Executive Session, and

WHEREAS, the Board has found the action described below to be necessary and proper, **NOW, THEREFORE, BE IT RESOLVED** by the Board on August 12, 2015 that:

1. The public shall be excluded from discussion of and action on the Executive Session herein set forth.
2. The Session will be approximately forty five minutes and the general nature of the subject matter to be discussed is as follows:
Contracts and TWU Negotiations

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3. It is anticipated at this time that the above stated subject matter will be made public if and when it is deemed to be in the public interest to do so and the need for confidentiality is no longer required by the Board.

Ms. Cantillo asked for a motion to return to the Regular Meeting at 7:38PM, a motion was made by Mr. Pannucci, seconded by Mr. Conti, with the following roll call vote:

Mr. Barton	Yes
Ms. Suter	Yes
Mr. Conti	Yes
Dr. Gagliardi	Yes
Ms. Cusanelli	Yes
Mr. Pannucci	Yes
Ms. Cantillo	Yes

OPERATIONS ITEM #1

Ms. Roberts presented Operations item #1 for approval.

Motion: Dr. Gagliardi

Second: Ms. Cusanelli

Questions/Comments from the Board or public:

Ms. Cantillo asked Ms. Roberts to explain item #1.

On the motion made by Dr. Gagliardi, seconded by Ms. Cusanelli, the Board of Education approved Operations item # 1 with the following roll call vote:

Mr. Barton	Yes
Ms. Suter	Abstained
Mr. Conti	Yes
Dr. Gagliardi	Yes
Ms. Cusanelli	Yes
Mr. Pannucci	Yes
Ms. Cantillo	Yes

1. To approve a Business Associate Agreement between the New Jersey Department of Children and Families and the Brick Township Board of Education.

Attachment #1

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HUMAN RESOURCES ITEMS 1 THROUGH 7

Ms. Osborn presented Human Resources items 1 through 7 for approval.

Motion: Mr. Barton

Second: Mr. Conti

Questions/Comments from the Board or public:

Ms. Suter questioned item #1 and #6, Ms. McNamara answered.

Ms. Suter wished Mr. Bruno well in his retirement and mentioned how much he will be missed. She also wanted to let everyone know that as well as being the Athletic Director he is also the Supervisor of Social Studies.

She also thanked Dr. Caldes and Ms. Cantillo for allowing her to sit in on some of the interviews and review the resumes.

On the motion made by Mr. Barton, seconded by Mr. Conti, the Board of Education approved Human Resources items 1 through 7 with the following roll call vote:

Mr. Barton	Yes
Ms. Suter	Abstain on 3,4 and 6, Yes to the rest
Mr. Conti	Abstain on 1, 2 and 6, Yes to the rest
Dr. Gagliardi	Yes
Ms. Cusanelli	Yes
Mr. Pannucci	Yes
Ms. Cantillo	Yes

1. To accept, with regret retirements, as listed:

	Employee	Location/Title	Effective Date	Brick Experience
1.	Bruno, William	BMHS/Athletic Director & Supervisor of Social Studies	10/01/15	12 years, 9 months

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2. To approve resignations, as listed:

	Employee	Location/Title	Effective Date	Brick Experience
1.	Jarmon, Mark	District/Supervisor of Language Arts	08/16/15	2 years, 1 month

3. To ratify SAC Summer Hours 15-16 SY, \$49 per hour 6 hours per day, as listed:

	Employee	Location/Title	Days Worked
1.	Roland, Lori	BTHS/Substance Abuse Counselor	07/08, 13, 15, 20, 21, 22, 27, 29 08/05, 12
2.	Rettino, Nina	BMHS/Substance Abuse Counselor	07/09, 13,15,27,29 08/10, 11, 12

4. To approve SAC Summer Hours 15-16 SY, \$49 per hour 6 hours per day, as listed:

	Employee	Location/Title	Days To Be Worked
1	Rettino, Nina	BMHS/SAC Counselor	08/17, 19

5. To approve payment for hours worked for Tracy Nardiello from July 1, 2015-July 23, 2015 in the amount of \$3,737.90

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6. To approve changes to employment for the 15-16 SY, as listed:

	Employee	From: Location/Title/Salary	To: Location/Title/Salary	Effective
1	Mahoney, Aileen	VMES/Grade 5/BA Step 6 \$53,896	District/ Literacy Coach/ BA Step 7 \$55,165	09/01/15
2	Sarluca, Edward	BMHS/Health & Physical Education/ MA Step 14 \$68,981	BMHS & VMMS/Athletic Director/ MA Step 1 (Pending approval of successor agreement BTASA)	10/01/15

7. To approve employment for the 15-16 SY, as listed:

	Employee	Location/Title	Effective	Salary
1.	Fitzgerald, Kathleen	District/ Elementary Title 1 Coach	09/01/15	BA Step 8/ \$56,365
2.	Wilson, Donald	Transportation/Supervisor of Pupil Transportation	08/24/15	\$85,000
3.	Segro, Nicole	WHW, EHY & HERB/ Media Specialist	09/01/15	MA Step12/ \$66,160
4.	Picchierri, Diane	VMMS/ Science	09/01/15	BA + 30 Step 2/\$53,380

BOARD COMMENT:

Ms. Cusanelli welcomed Dr. Gagliardi.
Dr. Gagliardi spoke about how he looks forward to serving the Board of Education.
Dr. Caldes introduced Mr. Wilson as the New Supervisor of Pupil Transportation Services.
He also spoke about Mr. Bruno and how is he a very well rounded individual as he is not only an Athletic Director but an academic man as well.

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PUBLIC COMMENT:

Several members of the public spoke about the letter they received regarding nonpublic transportation services not being continued.

One member of the public asked for the Board to review their proposal they have provided in order to retain transportation services.

IMPORTANT DATES

DATE	EVENT	TIME
August 27, 2015	Regular Meeting	7:00PM VMMS

ADJOURNMENT

There being no further business before the Board, at 8:03 PM a motion was made by Mr. Pannucci, seconded by Mr. Conti, and with the following roll call vote, the Board of Education **adjourned** this meeting.

Motion: Mr. Pannucci

Second: Mr. Conti

Mr. Barton	Yes
Ms. Suter	Yes
Mr. Conti	Yes
Dr. Gagliardi	Yes
Ms. Cusanelli	Yes
Mr. Pannucci	Yes
Ms. Cantillo	Yes

Respectfully submitted,



Maria Roberts, CPA
Assistant Business Administrator

State of New Jersey
DEPARTMENT OF CHILDREN AND FAMILIES

BUSINESS ASSOCIATE AGREEMENT between the New Jersey Department of Children and Families and **Brick Township School District** (Agency/Vendor.) for Contract Number **15-HLQR** .

This Business Associate Agreement sets forth the responsibilities of **Brick Township School District** (**Business Associate**), with an address of **101 Hendrickson Ave. Brick, NJ 08724** and the New Jersey Department of Children and Families, as a **Covered Entity**, in relationship to Protected Health Information (PHI), as those terms are defined and regulated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the regulations adopted there under by the Secretary of the United States Department of Health and Human Services, with the intent that the Covered Entity shall at all times be in compliance with HIPAA and the underlying regulations.

This Business Associate Agreement is entered into for the purpose of the Business Associate providing services on behalf of the Covered Entity.

In consideration for the respective benefits, rights and obligations described above, and for access to the PHI held by Covered Entity, the parties agree to be bound by the terms of this Agreement. There is no underlying contract associated with this Agreement, or the exchange of this PHI.

A. Definitions:

1. The terms specified below shall be defined as follows:

- a. "Business associate" shall mean a person or entity, other than a member of the workforce of a covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to protected health information. This definition is also applicable to a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate.
- b. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall the New Jersey Department of Children and Families.
- c. "Agreement" shall mean this Business Associate Agreement.
- d. "Breach" shall mean the unauthorized acquisition, access, use or disclosure of Protected Health Information in a manner not permitted by the Privacy Rule or the Security Rule, which compromises the security of such Protected Health Information. Breach shall exclude such acquisition, access, use or disclosure described in 45 CFR Section 164.402.

- e. **"Designated Record Set"** shall mean a group of records maintained by or for the Covered Entity that is the medical records and billing records of individuals maintained by or for the Covered Entity; and the enrollment, payment, claims, adjudication, and case or medical management record systems maintained by or for the Covered Entity, or used, in whole or in part, by or for the Covered Entity to make decisions about individuals.
- f. **"HIPAA"** shall mean the Health Insurance Portability and Accountability Act.
- g. **"HIPAA Regulations"** shall mean the regulations promulgated under HIPAA by the U.S. Department of Health and Human Services, including but not limited to, the Privacy Rule and the Security Rule, and shall include the regulations codified at 45 CFR Parts 160, 162 and 164.
- h. **"HITECH"** shall mean the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A of the American Recovery and Reinvestment Act of 2009, P.L. 111-005.
- i. **"Individual"** shall mean the person who is the subject of the Protected Health Information and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- j. **"Notice of Privacy Practices"** shall mean the Notice of Privacy Practices required by 45 CFR 164.520, provided by Covered Entity to Individuals.
- k. **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, Subparts A and E.
- l. **"Protected Health Information (PHI)"** shall mean individually identifiable health information that is transmitted by electronic media or transmitted or maintained in any other form or medium.
- m. **"Record"** shall mean any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminate by or for a Covered Entity.
- n. **"Required by Law"** shall have the same meaning as in 45 CFR 164.501.
- o. **"Secretary"** shall mean the Secretary of the United States Department of Health & Human Services or his designee.
- p. **"Security Rule"** shall mean the Standards for Security for the Protection of Electronic Protected Health Information, codified at 45 CFR parts 160, 162 and 164.

2. All other terms used herein shall have the meaning specified in the Privacy Rule or in the absence of if no meaning is specified, shall have their plain meaning.

B. Obligations and Activities of Business Associate

1. Business Associate may use PHI for the following functions, activities, or services for or on behalf of Covered Entity provided that such use would not violate this Agreement, the HIPAA regulations the Privacy Rule, or Notice of Privacy Practices if done by Covered Entity. In the event that this Agreement conflicts and any other written agreement made between the parties, relating to the exchange of PHI, this Agreement shall control. Business Associate's access to and use of the PHI is limited to the provision of services by the Business Associate on behalf the Covered Entity set forth in the contract between the Business Associate and the Covered Entity.
2. Business Associate may further disclose PHI to a subcontractor/person for the proper management and administration of Business Associate, provided that such disclosure is Required by Law, or would not violate this Agreement, the Privacy Rule, or Notice of Privacy Practices if done by Covered Entity, and Business Associate executes an additional business associates agreement as Required by Law or for the purpose for which it was disclosed to the person, and the subcontractor/person notifies Business Associate of any instances of which it is aware in which PHI has been disclosed. In the event that this agreement conflicts with any other agreement relating to the access or use of PHI, this agreement shall control.
3. Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law. In the event that this agreement conflicts with any other agreement relating to the access or use of PHI, this agreement shall control.
4. Business Associate agrees to implement and use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities.
5. Business Associate agrees to take prompt corrective action to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
6. Business Associate agrees to notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, or the Privacy Rule, or of any suspected or actual breach of security or intrusion whenever it becomes aware within twenty-four hours of Business Associate becoming aware of such use, disclosure or suspected or actual breach of security or intrusion. Business Associate further agrees to take prompt

corrective action to cure or mitigate any harmful effects of any such use, disclosure, or actual or suspected breach of security of intrusion.

7. Business Associate agrees to ensure that any officer, employee, contractor, subcontractor or agent to whom it provides PHI received from or maintained, created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.
8. Access. Business Associate agrees to provide access to PHI in a Designated Record Set to Covered Entity or to an Individual as directed by Covered Entity in order to meet the requirements of 45CFR 164.524, within 30 days of the date of any such request, unless the request is denied by Covered Entity pursuant to 45 CFR 164.524(a)(1), (a)(2) or (a)(3).
9. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set as Covered Entity directs in order to meet the requirements of 45 CFR 164.526, within 30 days of such a request, unless the request has been denied pursuant to 45 CFR 164.526(d). Business Associate shall provide written confirmation of the amendment(s) to the Covered Entity.
10. Business Associate agrees to create and maintain an appeal process that meets the requirements of 45 CFR 164.524 and 164.526 that an Individual can utilize if the Individual's request for access to or amendment of PHI is denied.
11. Business Associate agrees to make its comprehensive written information privacy and security program, as well as its internal practices, books and records, including policies and procedures relating to the use and disclosure of PHI received from, or created, maintained, or received by Business Associate on behalf of Covered Entity available to Covered Entity within 30 days of the date of such request, or to the Secretary in a time and manner designated by the Secretary.
12. Business Associate agrees to document all disclosures of PHI which would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Business Associate agrees to provide to Covered Entity, within 30 days of the date of such request, all disclosures of PHI.
13. Notwithstanding the provisions of Section D of this Agreement, pursuant to 45 CFR 164.530(j), Business Associate agrees that it and its officers, employees, contractors, subcontractors and agents shall continue to maintain the information required under subsection B(9) of this Agreement for a period of six years from the date of its creation or the date when it was last in effect, whichever is later.
14. Business Associate agrees that from time to time, upon reasonable notice, it shall allow Covered Entity or its authorized agents or contractors, to inspect the facilities,

systems, books, records and procedures of Business Associate to monitor compliance with this Agreement. In the event the Covered Entity, in its sole discretion, determines that the Business Associate has violated any term of this Agreement or the Privacy Rule, it shall so notify the Business Associate in writing. Business Associate shall promptly remedy the violation of any term of this Agreement and shall certify same in writing to the Covered Entity. The fact that Covered Entity or its authorized agents or contractors inspect, fail to inspect or have the right to inspect Business Associate's facilities, systems, books, records, and procedures does not relieve Business Associate of its responsibility to comply with this Agreement. Covered Entity's (1) failure to detect, or (2) detection by failure to notify Business Associate, or (3) failure to require Business Associate to remediate any unsatisfactory practices, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Agreement. Nothing in this paragraph is deemed to waive Section E of this Agreement or the New Jersey Tort Claims Act, NJSA 59:1-1 et seq., as they apply to Covered Entity.

15. Business Associate shall implement administrative, physical and technical safeguards that protect the confidentiality, integrity, and availability of PHI in compliance with the Security Rule.
16. Business Associate shall report all security incidents, as defined by the Security Rule, within twenty-four hours of becoming aware of such actual or suspected security incident.
17. Sections 164.308, 164.312 and 164.316 of Title 45, Code of Federal Regulations, apply to Business Associate in the same manner as such sections apply to the Covered Entity. The HITECH requirements that relate to security, and that are applicable to the Covered Entity, shall also be applicable to the Business Associate and are incorporated into this Agreement by reference.
18. In the event of an actual or suspected breach, Business Associate shall provide Covered Entity with a written report, as soon as possible but not later than five ("5") days after the breach/suspected breach became known. The report shall include, to the extent available: a) the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the breach; b) a brief description of what happened, including the date of the breach and the date of the discovery, if known; c) a description of the types of unsecured PHI involved in the breach; d) any steps individuals affected by the breach should take to protect themselves from potential harm resulting from the breach; and e) a description of what Business Associate is doing to investigate the breach, mitigate harm to the individual(s), and protect against future breaches. In addition, the business Associate shall, at the request of the Covered Entity, provide breach notification required by HITECH.

C. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.

1. Covered Entity shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to this Agreement, in accordance with the requirements and standards in the Privacy Rule, until such PHI is received by Business Associate.
2. In accordance with 45 CFR 164.520, Covered Entity shall notify Business Associate of any limitations in Covered Entity's Notice of Privacy Practices to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
3. Covered Entity shall notify Business Associate of any changes in or revocation of permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
4. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
5. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity or under Covered Entity's Notice of Privacy Practices or other policies adopted by Covered Entity pursuant to the Privacy Rule.

D. Term of Business Associate Agreement

1. This Agreement shall be effective as of the date the Business Associate and the Covered Entity enter into a contract for the Business Associate's provision of services on behalf of the Covered Entity, and it shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created, maintained or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information in accordance with subsection 3, below.
2. Upon Covered Entity's knowledge of a material breach or violation(s) of any of the obligations under this Agreement by Business Associate, Covered Entity shall, at its discretion, either:
 - a. Provide an opportunity for the Business Associate to cure the breach or end the violation upon such terms and conditions as Covered Entity shall specify, and if Business Associate does not cure the breach or end the violation, upon such terms and conditions as Covered Entity has specified, Covered Entity may

terminate this Agreement and require that Business Associate fully comply with the procedures specified in subsection 3, below.

- b. Immediately terminate the Contract and require that Business Associate fully comply with the procedures specified in subsection 3, below, if Business Associate has breached a material term of this Agreement and Covered Entity has determined, in its sole discretion, that cure is not possible, or
 - c. If neither termination nor cure is feasible, as determined by Covered Entity in its sole discretion, Covered Entity shall report the violation to the Secretary.
3. Effect of Breach of this Agreement.
- a. Except as provided in paragraph b of this section, upon termination of the Contract for any reason, Business Associate shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI.
 - b. Business Associate shall provide Covered Entity with a certification, within 30 days, that neither it nor its subcontractors or agents maintains any PHI in any form, whether paper, electronic or film, received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. Covered Entity shall acknowledge receipt of such certification and, as of the date of such acknowledgement, this Agreement shall terminate.
 - c. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Covered Entity shall have the discretion to determine whether it is feasible for the Business Associate to return or destroy the PHI. If Covered Entity determines it is feasible, Covered Entity shall specify the terms and conditions for the return or destruction of PHI at the expense of Business Associate. Upon Covered Entity determining that Business Associate cannot return or destroy PHI, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

E. Indemnification and Release

- 1. Business Associate shall assume all risk and responsibility for, and agrees to indemnify, defend and save harmless Covered Entity, its officers, agents and employees and each and every one of them, from and against any and all claims, demands, suits, actions, recoveries, judgments, and costs (including attorneys fees

and costs and court costs), expenses in connection therewith, on account of loss of life, property or injury or damages to the person, body or property of any person or persons, whatsoever, which shall arise from or result directly or indirectly from Business Associate's use or misuse of PHI or from any action or inaction of Business Associate or its officers, employees, agents or contractors with regard to PHI or the requirements of this Agreement or the Privacy Rule. The provision of this indemnification clause shall in no way limit the obligations assumed by Business Associate under this Agreement, nor shall they be construed to relieve Business Associate from any liability nor preclude Covered Entity from taking any other actions available to it under any other provisions of this Agreement, the Privacy Rule or at law.

2. Notwithstanding the above, the obligations assumed by the Business Associate herein shall not extend to or encompass suits, costs, claims, expenses, liabilities and judgments incurred solely as a result of actions or inactions of Covered Entity.
3. Business Associate further acknowledges the possibility of criminal sanctions and penalties for breach or violation of this Agreement or the Privacy Rule pursuant to 42 USC 1320d-6.
4. Business Associate shall be responsible for, and shall at its own expense, defend itself against any and all suits, claims, losses, demands or damages of whatever kind or nature, arising out of or in connection with an act or omission of Business Associate, its employees, agencies, or contractors, in the performance of the obligations assumed by Business Associate pursuant to this Agreement. Business Associate hereby releases Covered Entity from any and all liabilities, claims, losses, costs, expenses and demands of any kind or nature whatsoever, arising under state or federal laws, out of or in connection with Business Associate's performance of the obligations assumed by Business Associate pursuant to this Agreement.
5. The obligations of the Business Associate under this Section shall survive the expiration of this Agreement.

F. Miscellaneous

1. A reference in this Agreement to a section of the Privacy Rule means the section as in effect or, it may be amended or interpreted by a court of competent jurisdiction.
2. Business Associate and Covered Entity agree to take such action as is necessary to amend this Agreement from time to time in order that Covered Entity can continue to comply with the requirements of the Privacy Rule and HIPAA and case law that interprets the Privacy Rule or HIPAA. All such amendments shall be in writing and signed by both parties. Business Associate and Covered Entity agree that this Agreement may be superseded by a revised Business Associate Agreement executed between the parties after the effective date of this Agreement.

3. The respective rights and obligations of Business Associate and Covered Entity under Section D, "Term of Business Associate Agreement", above, shall survive the termination of the Contract. The respective rights and obligations of Business Associate and Covered Entity under Section E, "Indemnification", and Section B(11), "Internal Practices", above, shall survive the termination of this Agreement.
4. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule and HIPAA, as it may be amended or interpreted by a court of competent jurisdiction.
5. Nothing expressed or implied in the Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Business Associate and Covered Entity, and any successor state agency to Covered Entity, any rights, remedies, obligations or liabilities whatsoever.
6. Any notices to be given hereunder shall be made via Regular and Certified US Mail, Return Receipt Requested, and if possible, by facsimile to the addresses and facsimile members listed below:

Business Associate: Brick School District

 James Edwards
 101 Hendrickson Ave.
 Brick, NJ 08724

Facsimile # 732-458-3670

Covered Entity: 1. Privacy Officer

 Department of Children and Families
 101 South Broad Street
 7th Floor, PO 975
 Trenton, NJ 08625
 ATTN: HIPAA Privacy Officer

Facsimile# (609) 292-3931

2. DCF Business Manager

Facsimile# _____

7. As the Covered Entity is a body corporate and politic of the State of New Jersey, the signature of its authorized representative is affixed below. The undersigned representative of Covered Entity certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such Covered Entity to this document.

The undersigned representative of Business Associate certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such Business Associate to this document.

Covered Entity:

Business Associate:

Signature

Signature

Printed Name

James Edwards
Printed Name

Title

Business Administrator
Title

Agency

Brick School District
Agency

Date:

Date: