

DA 2/4064/22 R.K.  
Date Issued 6/2011

NEW JERSEY STATE DEPARTMENT OF EDUCATION  
MANDATED "TUITION CONTRACT" (N.J.A.C. 6A:23A-18.4(a)13)  
PRIVATE SCHOOLS FOR STUDENTS WITH DISABILITIES  
(Tuition Paid by a N.J. Sending District)  
\_\_\_\_ School Year (Any time period July to June)  
\_\_\_\_ Extraordinary Services (Any time period July to June)  
(Shall be used for both, mark one or both)

RECEIVED

STATE DEPARTMENT OF EDUCATION

AGREEMENT dated this 1<sup>st</sup> day of JULY, 2011, between the BRICK Board of Education in the County of OCEAN in the State of New Jersey (hereinafter referred to as the "SENDING DISTRICT") and THE HARBOR SCHOOL, an approved private school for students with disabilities County Code (26), District Code, (1260) & School Code, (060), in the County of OCEAN in the State of New Jersey (hereinafter referred to as the "APPROVED PRIVATE SCHOOL").

**WITNESSETH**

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree as follows:

1. The SENDING DISTRICT agrees to purchase from the APPROVED PRIVATE SCHOOL the educational services described in the pupil's individualized education program for [REDACTED] a resident pupil from the SENDING DISTRICT. The APPROVED PRIVATE SCHOOL agrees to provide the educational services described in the pupil's individualized education program to [REDACTED] in accordance with the applicable New Jersey Statutes and the rules and regulations of the State Board of Education.
2. This agreement shall be in effect for the 2011-2012 School Year. The educational services shall commence on SEPTEMBER 7, 2011.
3. Under the New Jersey Special Education Medicaid Initiative (SEMI) Program, the SENDING DISTRICT shall bill Medicaid for the related services that the APPROVED PRIVATE SCHOOL provides to pupils pursuant to this AGREEMENT and in accordance with each pupil's individualized education program. The SENDING DISTRICT and APPROVED PRIVATE SCHOOL agree to comply with all the requirements promulgated by the Commissioner of Education and the State Board of Education, as applicable.
4. Tuition charges, as a part of this AGREEMENT, as well as the payment of same shall be made in accordance with the applicable New Jersey Statutes and the rules and regulations of the State Board of Education. Complete 4A for any time period a pupil is enrolled during the July through June school year and, if applicable, 4B for extraordinary services for any time period a pupil is enrolled during the July through June school year.
  - A. JULY TO JUNE SCHOOL YEAR - The SENDING DISTRICT agrees to pay the APPROVED PRIVATE SCHOOL each month a tentative tuition charge based upon a per diem rate of \$244.70 (two decimal places) for the total number of days such pupil was enrolled during the month. The per diem rate was determined by dividing the tentative tuition rate for the school year of \$51,387.00 by the estimated number of days school will be in session, but not less than 180 days (July through June) of 210 and rounding to the nearest two decimal places. For July through August, if applicable, such pupil will be enrolled for 30 days for a total tentative tuition charge of \$7,341.00 (two decimal places), and/or for September through June, if applicable, such pupil will be enrolled for 180 days for a total tentative tuition charge of \$44,046.00 (two decimal places). The July through June total tentative tuition charge will be \$51,387.00 (two decimal places). For audit purposes, the number of days the APPROVED PRIVATE SCHOOL was actually in session from July through June will be used to determine the per diem rate.
  - B. EXTRAORDINARY SERVICES - The SENDING DISTRICT agrees to pay the APPROVED PRIVATE SCHOOL each month a tentative tuition charge for extraordinary services based upon a per diem rate of \$146.38 (two decimal places) for the total number of days such pupil was enrolled during the month the service was provided. The per diem rate was determined by dividing the estimated cost of the services for the school year (July through June) of \$ by the estimated number of days school will be in session (July through June) of 210 and rounding to the nearest two decimal places. For July through August, if applicable, such pupil will be enrolled for days for a total tentative tuition charge of \$ (two decimal places), and/or for September through June, if applicable, such pupil will be enrolled for 180 days for a total tentative tuition charge of \$26,348.40 (two decimal places). The July through June total tentative tuition charge will be \$ (two decimal places). For audit purposes, the number of days the APPROVED PRIVATE SCHOOL was actually in session from July through June will be used to determine the per diem rate.
  - C. PAYMENT OPTIONS - In accordance with N.J.A.C. 6A:23A-18.2(h), the APPROVED PRIVATE SCHOOL has the option of billing in accordance with N.J.A.C. 6A:23A-18.2(h)2i or N.J.A.C.

6A:23A-18.2(h)2ii. The APPROVED PRIVATE SCHOOL shall use the same option for all students enrolled in the APPROVED PRIVATE SCHOOL. The option chosen is marked with an "X":

X Option 1. In accordance with N.J.A.C. 6A:23A-18.2(h)2i, the SENDING DISTRICT board of education shall pay the APPROVED PRIVATE SCHOOL for the disabled the tentative tuition charge no later than the first of each month prior to the services being rendered. For a student already enrolled in the APPROVED PRIVATE SCHOOL, the SENDING DISTRICT board of education shall pay the tentative tuition charge by the first day of the second month after services begin. A SENDING DISTRICT board of education that fails to pay tuition by the 30<sup>th</sup> day after services begin may be charged interest by the APPROVED PRIVATE SCHOOL calculated at the rate of one percent per month on the unpaid balance.

For a student enrolled after the first of the month, the SENDING DISTRICT board of education shall pay the tentative tuition charge for the first two months of enrollment no later than 60 days after the first day services begin. Payment in subsequent months is due by the first of each month prior to the services being rendered. A SENDING DISTRICT board of education that fails to pay tuition by the 30<sup>th</sup> day after services begin may be charged interest by the APPROVED PRIVATE SCHOOL calculated at the rate of one percent per month on the unpaid balance.

\_\_\_ Option 2. In accordance with N.J.A.C. 6A:23A-18.2(h)2ii, the SENDING DISTRICT board of education shall pay the APPROVED PRIVATE SCHOOL the tentative tuition charge no later than 60 days after the last day of each month in which services were rendered. The SENDING DISTRICT board of education that fails to pay tuition by the 60<sup>th</sup> day after the last day of a month in which services were rendered may be charged interest by the APPROVED PRIVATE SCHOOL calculated at the rate of one percent per month on the unpaid balance.

5. The APPROVED PRIVATE SCHOOL agrees to provide the SENDING DISTRICT with a monthly tuition bill based on a per diem rate times the number of enrolled days, and a monthly report showing this pupil's attendance. Monthly tuition bills shall include appropriate pupil identification and the total number of days each pupil was enrolled during the month.
6. The APPROVED PRIVATE SCHOOL agrees to record this pupil's attendance in a public school register as required by the rules and regulations of the State Board of Education.
7. In order to verify the certified actual cost per pupil and final tuition rate charged per pupil, the APPROVED PRIVATE SCHOOL agrees to have filed with the Department of Education postmarked on or before November 1 the school's certified audited financial statements prepared in the required form by a registered municipal accountant of New Jersey or a certified public accountant of New Jersey who shall hold an uncanceled registration license as a public school accountant for New Jersey. The school's certified audited financial statements shall be based on the July 1 to June 30 school year regardless of the fiscal year of the school. (N.J.A.C. 6A:23A-18.9)
8. The annual certified audited financial statements shall reflect a certified actual cost per pupil and a final tuition rate charged per pupil for the July through June school year in accordance with N.J.A.C. 6A:23A-18.1 et seq. If applicable, the school's certified audited financial statements shall also reflect the certified actual cost for the extraordinary service and the final tuition rate charged for the extraordinary service. The certified actual cost per pupil and a final tuition rate charged per pupil may be based on one tuition rate per school location for the school year or separate tuition rates by class type by school location for the school year in accordance with N.J.A.C. 6A:23A-18.2(b). In accordance with N.J.A.C. 6A:23A-18.2(a)2, if the APPROVED PRIVATE SCHOOL proposes to charge a final tuition rate in excess of 10 percent of the tentative tuition rate charged, the APPROVED PRIVATE SCHOOL shall notify each SENDING DISTRICT and the Assistant Commissioner of Finance, Division of Finance that such increase will be charged and the reason for the increase on or before the applicable dates. If the APPROVED PRIVATE SCHOOL fails to comply, the school may only charge a 10 percent increase.
9. If the tentative tuition rate established by this contractual agreement is greater than the final tuition rate charged, the APPROVED PRIVATE SCHOOL shall return to the SENDING DISTRICT the amount by which the tentative tuition charged for this pupil exceeded the final tuition rate charged multiplied by this pupil's actual average daily enrollment for the July through June school year and, if applicable, for the extraordinary services, in accordance with N.J.A.C. 6A:23A-18.2(l). Average daily enrollment means the sum of the days present and absent divided by the number of days the school was actually in session.

In the event it becomes necessary the APPROVED PRIVATE SCHOOL shall pay the SENDING DISTRICT the full amount owed as a result of the school's certified audited financial statements no later than June 30 of the school year in which the audit is received or no later than 30 days after an appeal on an audit is finally resolved, whichever is applicable in accordance with N.J.A.C. 6A:23A-18.2(l). The APPROVED PRIVATE SCHOOL has the option to pay such amount or credit such amount in a subsequent tuition bill.

10. If the tentative tuition rate established by this contractual agreement is less than the final tuition rate charged the APPROVED PRIVATE SCHOOL may charge the SENDING DISTRICT all or part of the

amount by which the final tuition rate charged multiplied by this pupil's actual average daily enrollment for the July through June school year, and if applicable for the extraordinary services exceeded the tentative tuition charged for this pupil, in accordance with N.J.A.C. 6A:23A-18.2(m). Average daily enrollment means the sum of the days present and absent divided by the number of days the school was actually in session.

In the event it becomes necessary the SENDING DISTRICT agrees to pay the APPROVED PRIVATE SCHOOL the amount owed as a result of an adjustment based upon the school's certified audited financial statements in accordance with the payment schedule shown below in 10a. Full payment must be made on a mutually agreed upon date during the second school year (in FY 2013-2014) following the year for which the actual cost per student is certified in accordance with N.J.A.C. 6A:23A-18.2(m).

- 10a. The amount owed is to be paid as follows (insert a date between July 1, 2013 and June 30, 2014):
11. This AGREEMENT may be terminated by the APPROVED PRIVATE SCHOOL in accordance with N.J.A.C. 6A:14-7.7(a) or by the SENDING DISTRICT in accordance with N.J.A.C. 6A:14-7.7(b). The SENDING DISTRICT shall convene an IEP meeting according to N.J.A.C. 6A:14-2.3. Written notice shall be provided to the parent and/or guardian of the affected student pursuant to N.J.A.C. 6A:14-2.3. The student may be terminated from the current placement after the SENDING DISTRICT has provided written notice to the parents according to N.J.A.C. 6A:14-2.3. At or upon the conclusion of the IEP meeting, the SENDING DISTRICT and the APPROVED PRIVATE SCHOOL shall mutually agree to a termination date. If the parties cannot mutually agree to a termination date, the contract shall terminate on the 16<sup>th</sup> day after written notice of termination was provided to the parents pursuant to N.J.A.C. 6A:14-2.3 provided, however, that the parents have not exercised their rights to disapprove the termination of the services at the APPROVED PRIVATE SCHOOL. If the parent(s) and/or guardian(s) exercise their right to disapprove the termination of services at the APPROVED PRIVATE SCHOOL by requesting mediation or a due process hearing, then the terms and conditions of the contract shall remain in full force and effect, unless the parties otherwise agree or the matter is resolved. The APPROVED PRIVATE SCHOOL may bill the SENDING DISTRICT for the number of enrolled days the student is enrolled after the date of the IEP meeting up to and including the date of termination.

The APPROVED PRIVATE SCHOOL upon five consecutive daily absences by this pupil agrees to notify the SENDING DISTRICT in writing, so that the SENDING DISTRICT may investigate the enrollment status of this pupil. If the SENDING DISTRICT or the APPROVED PRIVATE SCHOOL discovers enrollment has ceased due to the actions of the parent(s)/guardian(s) or pupil other than in accordance with N.J.A.C. 6A:14-7.7, the SENDING DISTRICT shall be responsible for tuition for the number of enrolled days within the fifteen calendar day notification period after written notification of termination has been given to the APPROVED PRIVATE SCHOOL and the parent(s)/guardian(s) pursuant to N.J.A.C. 6A:14-2.3. If the APPROVED PRIVATE SCHOOL does not notify the SENDING DISTRICT upon five consecutive daily absences by this pupil, the APPROVED PRIVATE SCHOOL waives their right to tuition beyond the five consecutive daily absences, if the pupil does not return.

12. In the event that any dispute arises out of the AGREEMENT the parties will seek to resolve the dispute as expeditiously as possible. Except as may be set forth herein, the interests of this pupil shall be of the foremost concern in resolving such disputes.
13. In the event the approved status of the APPROVED PRIVATE SCHOOL is discontinued by the Department of Education this AGREEMENT shall be terminated. The SENDING DISTRICT shall be responsible for tuition for the days the pupil is enrolled.
14. The APPROVED PRIVATE SCHOOL agrees not to assign the services to be provided under this contract or any portion thereof to any other entity. The language contained in section #16 which is required in accordance with N.J.S.A. 10:5-31 and N.J.A.C. 17:27-5.2 which includes the term "subcontractor" does not allow the APPROVED PRIVATE SCHOOL to assign the services.
15. The APPROVED PRIVATE SCHOOL as signatory to this contract agrees to operate in accordance with applicable federal and state laws, and rules and regulations including but not limited to N.J.A.C. 6A:14-7.
16. During the performance of this contract, the contractor agrees as follows:
- A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places,

available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

- B. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
- C. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment;
- D. The contractor or subcontractor where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act;
- E. The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2;
- F. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
- G. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions;
- H. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions;
- I. The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents: 1) Letter of Federal Affirmative Action Plan Approval, 2) Certificate of Employee Information Report, and 3) Employee Information Report Form AA302; and
- J. The contractor and its subcontractor shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed as of this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Director, Approved Private Schools

\_\_\_\_\_  
President of the Board of Education

\_\_\_\_\_  
Secretary of the Board of Education