

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE OFFICE OF THE CHIEF FINANCIAL OFFICER  
AND  
DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

**I. INTRODUCTION**

This Memorandum of Understanding (“MOU”) is entered into between the District of Columbia Office of the Chief Financial Officer (“OCFO”) and the District of Columbia Public Schools (DCPS), collectively referred to herein as the “Parties.”

**II. PROGRAM GOALS AND OBJECTIVES**

The Omnibus Appropriations Act, 2009 (H.R. 1105, Pub.L. 111–8) requires that attorneys who provide legal services in special education cases brought under the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”), certify their services in writing and disclose potential conflicts of interest, as a condition of receiving payment for their services from the District of Columbia. In order for these IDEA attorney fee payments to be processed, and pursuant to D.C. Code § 1-204.24d(28), the OCFO shall: (A) obtain written certification that the attorney or his/her representative rendered any and all services for which the attorney will receive payment, including attorneys’ fees awards received under a settlement agreement, or as part of an administrative proceeding, from the District of Columbia; (B) require attorneys to disclose any conflicts of interest; and (C) prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to such attorneys. The purpose of this MOU is to delineate the duties and responsibilities of the Parties as it relates to the recordkeeping of IDEA attorney fee payments for special education services.

**III. SCOPE OF SERVICES**

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree to the following:

**A. RESPONSIBILITIES OF DISTRICT OF COLUMBIA PUBLIC SCHOOLS, OFFICE OF GENERAL COUNSEL (DCPS/OGC)**

DCPS/OGC’s responsibilities include:

1. DCPS/OGC will collect the executed “Certification of Fees and Conflict of Interest Disclosure Form,” which includes the written certifications of services and conflict of interest disclosures, as described in Section II(A) and (B), from

attorneys who invoice DC Public Schools for IDEA attorney fee payments pursuant to the D.C. Code § 1-204.24d(28).

2. DCPS/OGC will ensure that all documents, collectively referred to as the "Attorney Fee Packet," received from attorneys in support of their invoice for IDEA attorney fee payments, includes:
  - a. Application for Payment of Attorney Fees and Costs Cover Sheet/Form;
  - b. Executed Certification of Fees and Conflict of Interest Disclosure Form;
  - c. Itemized Invoice or Attorney Fee Worksheet;
  - d. Receipt(s) for Out-of-Pocket Costs and Expenses;
  - e. Executed Settlement Agreement (SA) or Hearing Officer Decision (HOD);
  - f. Any additional documentation necessary to support invoice;
3. DCPS/OGC will ensure that every executed settlement agreement received from the District of Columbia Office of the Attorney General for payment of IDEA attorney fee payments contains an executed Certification of Fees and Conflict of Interest Disclosure form pursuant to the D.C. Code § 1-204.24d(28).
4. DCPS/OGC will retain copies of all Attorney Fee Packets submitted to the OCFO for processing and payment.
5. DCPS/OGC will provide to attorneys, who invoice DC Public Schools for IDEA attorney fee payments, an annual notice pursuant to D.C. Code § 1-204.24d(28), describing the District of Columbia's obligation to secure, as a condition of payment, the Certification of Fees and Conflict of Interest Disclosure Form.

## **B. RESPONSIBILITIES OF THE OFFICE OF THE CHIEF FINANCIAL OFFICER (OCFO)**

OCFO's responsibilities include:

1. OCFO shall develop a streamlined process for the processing of IDEA attorney fee payments to include:
  - a. Confirm that the Attorney Fee Packet submitted by DCPS/OGC includes an executed Certification of Fees and Conflict of Interest Disclosure Form;
  - b. Process the Attorney Fee Packet for payment;
  - c. Monitor, review and reconcile payments made pursuant to this MOU; and
  - d. Submit quarterly reports to Congress of IDEA attorneys fee payments and authorized pursuant to this MOU.
2. OCFO shall create a checklist of required documents to be used when reviewing the Attorney Fee Packets to process IDEA attorney fee payments:
  - a. Attorney-submitted Itemized Invoice for Services or Attorney Fee Worksheet;
  - b. Executed Certification of Fees and Conflict of Interest Form;
  - c. Settlement agreement or Hearing Officer Decision (HOD);
3. OCFO shall perform a reconciliation of all special education attorney

payments from October 1, 2016 to June 30, 2017 (FY 17).

4. OCFO shall obtain from DCPS/OGC a list of individuals authorized to certify and approve IDEA attorney fee payments and copies of their signatures.
5. OCFO shall review expenditure details on a monthly basis to ensure that only attorney payments are made.
6. OCFO shall complete the compilation and review of the reports to Congress by the 20th of the month following the end of the calendar quarter and transmit it to the OCFO Office of General Counsel requesting approval, review and submission to Congress no later than the 30th day of the month.

#### **IV. DURATION OF MOU**

The period of this MOU shall be from October 1, 2017 through September 30, 2018 unless terminated in writing by the Parties prior to the expiration.

#### **V. AUTHORITY FOR MOU**

D.C. Official Code § 1-301.01(k).

#### **VI. FUNDING PROVISIONS**

There are no costs associated with this MOU.

#### **VII. COMPLIANCE AND MONITORING**

DCPS/OCFO will be subject to scheduled and unscheduled monitoring reviews by the District of Columbia to ensure compliance with all applicable requirements.

#### **VIII. RECORDS AND REPORTS**

DCPS/OCFO shall maintain records and receipts for a period of no less than three years from the date of expiration or termination of the MOU and, upon the District of Columbia's request, make these documents available for inspection by duly authorized representatives of OCFO and other officials as may be specified by the District of Columbia at its sole discretion.

#### **IX. PROCUREMENT PRACTICES REFORM ACT**

If a District of Columbia agency or instrumentality plans to utilize the goods or services of an agent or third party (e.g., contractor, consultant) to provide any of the goods or services specified under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-351.01 *et seq.*) to procure the goods or services of the agent or third party.

**X. CONFIDENTIAL INFORMATION**

Both Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU, including any information developed through an investigation or prosecution of a case, in accordance with all relevant federal and local statutes, regulations, policies, and the relevant provisions of the Internal Revenue Code. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of OCFO.

**XI. NOTICE**

The following individuals are contact points for each Party under this MOU:

**OFFICE OF THE CHIEF FINANCIAL OFFICER**

Munetsi Tim Musara, Controller, Education Cluster  
1200 First Street, NW, 11th Floor  
Washington, DC 20002

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

Scott Barash, General Counsel  
Quinne Harris-Lindsey, Deputy General Counsel  
1200 First Street, NE  
Washington, DC 20002

**XII. MODIFICATIONS**

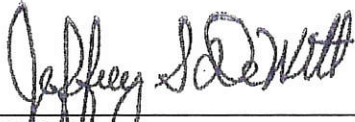
The terms and conditions of this MOU may be modified only upon prior written agreement by the Parties.

**XIII. MISCELLANEOUS**

The Parties shall comply with all applicable laws, rules and regulations whether now in force or hereafter enacted or promulgated.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

**OFFICE OF THE CHIEF FINANCIAL OFFICER:**

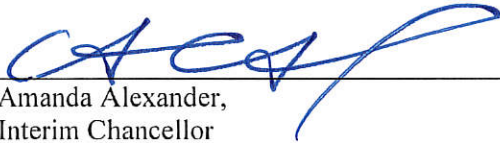


\_\_\_\_\_  
Jeffrey S. DeWitt,  
Chief Financial Officer

MAR 20 2018

Date: \_\_\_\_\_

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS:**



\_\_\_\_\_  
Amanda Alexander,  
Interim Chancellor

Date: 4/2/18

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**U.S. OFFICE OF PERSONNEL MANAGEMENT**  
**NATIONAL BACKGROUND INVESTIGATIONS BUREAU**  
**and**  
**DISTRICT OF COLUMBIA PUBLIC SCHOOLS**  
**for**  
**SUBMISSION OF ELECTRONIC FINGERPRINTS**  
**to**  
**THE FINGERPRINT TRANSACTION SYSTEM (FTS)**

**I. PURPOSE**

This Memorandum of Understanding (MOU) is entered into between the District of Columbia Public Schools, the buyer agency, ("DCPS" or "Buyer"), and the U.S. Office of Personnel Management (OPM), National Background Investigations Bureau, the seller agency, ("NBIB" or "Seller"), individually referred to as the "Party" or collectively referred to herein as the "Parties".

The purpose of this MOU is to outline the requirements that must be in place in order to allow DCPS to submit fingerprint checks to the Fingerprint Transaction System ("FTS") in order to ascertain employment suitability of employees or applicants for District of Columbia employment, consultants, volunteers and/or contractor personnel in positions requiring a background check pursuant to the Criminal Background Checks for the Protection of Children Act of 2004 (DC Code § 4-1501.01 et seq.) ("Child Care Positions").

This MOU addresses two processes through which DCPS may submit fingerprints to NBIB's FTS. DCPS will utilize one or a combination of the following methods:

1. DCPS may utilize its own fingerprinting equipment to submit fingerprints directly to NBIB's FTS; or,
2. DCPS may submit fingerprints to NBIB's FTS via the General Service Administration's Shared Service Solution (GSA-SSS).

**II. AUTHORITIES**

- EO 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information; as amended, 30 June 2008
- 31 USC Section 1537
- Criminal Background Checks for the Protection of Children Act 2004 (DC Code § 4-1501.01 et seq.)
- DC Official Code § 1-301.01(j)

### III. INTERCONNECTION SECURITY AGREEMENT

An Interconnection Security Agreement (ISA) will be required between OPM and DCPS, or if appropriate, DCPS's parent agency, for each connection to the FTS. The technical details required to provide overall security safeguards for the system being interconnected will be documented in an ISA. The parties agree to work together to develop an ISA for all FTS connections, which must be signed by all parties before the interconnection is activated. Proposed changes to either system or the interconnecting medium will be reviewed and evaluated to determine the potential impact on the interconnection. The ISA will be renegotiated before changes are implemented and can be negotiated separately from this MOU. Signatories to the ISA shall be the Chief Information Security Officer (CISO) of OPM and the DCPS Chief of Data Systems and Strategy.

### IV. SECURITY

Both parties agree to work together to ensure the joint security of the connected systems and the data they store, process, and transmit, as specified in the ISA. Each party certifies that its respective system is designed, managed, and operated in compliance with all relevant federal laws, regulations, and policies. In order to comply with the provisions of the Privacy Act, information captured by FTS, which includes Personally Identifiable Information (PII), will be secured in compliance with the Federal Information Security Management Act (FISMA) and not subject to unauthorized distribution.

- A. **Authorization:** If DCPS's FTS connection is coming through a DCPS system (more than a stand-alone fingerprinting machine), DCPS's system must have an Authorization to Operate (ATO). NBIB will also provide DCPS an active ATO, if requested. The DCPS protection requirements will be documented in the ISA.
- B. **Authentication:** Before DCPS is allowed to submit fingerprints to FTS, DCPS must successfully test its hardware/software against the Virtual Private Network (VPN) Test System and establish/have established a Submitting Office Number (SON), Submitting Office Identifier (SOI) and Intra-governmental Payment and Collection (IPAC). Detailed instructions for testing, authenticating, creating a properly formatted fingerprint file, and sending electronic fingerprints submissions to NBIB via VPN mechanisms are outlined in the OPM ISA.
- C. **Secure Data Storage and Transmission:** All data transmission to and from FTS must be encrypted via software or VPN tunnels. All data at rest must be encrypted at the database level with FIPS PUB 140-2 approved algorithms and cryptographic modules. Encryption will protect the confidentiality and integrity of the data during transmission and storage, and it may be used for authentication and nonrepudiation.

## V. MATERIAL CHANGES TO SYSTEM CONFIGURATION

Planned technical changes to the system architecture that directly affect DCPS will be reported to DCPS via the high-level Points of Contact already established with NBIB External Liaison before such changes are implemented. The parties will modify and re-sign the ISA within one (1) month of implementation if the system architecture change has a significant impact to DCPS.

FTS configuration changes from DCPS should be reported to NBIB's Systems Liaison at [FTS@nbib.gov](mailto:FTS@nbib.gov).

## VI. RESPONSIBILITIES

*The National Background Investigations Bureau (NBIB) shall:*

1. Provide a secure Fingerprint Transaction System (FTS) that will receive demographic and biometric information (subject/agency identifying information and digitized fingerprints) from DCPS.
2. Provide secure connectivity between the FTS and the FBI CJIS via the CJIS Wide Area Network (WAN) for the submission of fingerprint classification requests and the return of search results.
3. Provide agency limited technical assistance with the connectivity between DCPS and FTS. NBIB will not work directly with individuals being fingerprinted.
4. Work with DCPS personnel to reconcile data discrepancies with subject information that does not correlate with subject information already on file at NBIB. If NBIB needs to call or email the Submitting Office (SON) for subject information that is discrepant, the SON has 5 business days to respond until fingerprint is scheduled with the given subject information.
5. Work with DCPS personnel to reconcile data discrepancies concerning the Security Office Identifier (SOI), SON and Intra-governmental Payment and Collection Code (IPAC). NBIB will call or email the SON for correct billing information, the SON has 30 business days to respond until the fingerprint is purged.
6. Notify DCPS via telephone or email if an electronic fingerprint submission does not pass basic image quality validation checks in order to be processed. DCPS will transmit a new set of fingerprints for that subject when requested as the FBI will not process fingerprints that do not meet image quality specifications.
7. Provide DCPS information concerning when and from where a fingerprint was physically submitted to the best of NBIB's ability. This is the extent of NBIB's ability to assist an agency if DCPS is resolving billing disputes within their agency or with the GSA-SSS.



***The District of Columbia Public Schools (DCPS) shall:***

1. Provide the necessary resources, equipment and telecommunications to support, capture and transmit demographic and biometric information to FTS.
2. Provide the necessary training and functional support for DCPS personnel tasked with the capture and transmission of electronic fingerprint submissions.
3. Provide the subjects with NBIB's Privacy Act Notice, provided as Appendix B of this MOU before fingerprinting the subject in order to comply with the requirements of the Privacy Act found in 5 USC 552a(e)(3).
4. Provide the subjects with FBI's Privacy Act Notice and Privacy Rights, provided as Appendix C and D of this MOU before fingerprinting the subject in order to comply with the requirements of the Privacy Act found in 5 USC 552a(e)(3) and FBI's requirement to present the fingerprint subject with Privacy Rights.
5. Only submit requests to support investigative requirements for individuals in positions requiring a background check pursuant to the Criminal Background Checks for the Protection of Children Act of 2004 (DC Code § 4-1501.01 et seq.), including for suitability or fitness for District employment, contract work or volunteer work, or any other covered position under the law.
6. Not request fingerprint checks for any other reason than those explained in the bullet above unless a Special Agreement for Special Agreement Checks (SACs) has been signed by both parties, identifying and authorizing the additional non-routine requirements.
7. DCPS acknowledges that it will comply with the authorities and guidelines outlined in the "CJIS IT Security Responsibility for OPM and Non-Criminal Justice Agencies," attached to this MOU as Appendix A.

**VII. CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS) IT SECURITY RESPONSIBILITY**

NBIB is designated as a Non-Criminal Justice Agency and has been informed by the FBI of the responsibility for ensuring that Criminal Justice Information Services (CJIS) data is protected within the NBIB environment. Subsequently, all other federal agencies that receive such data, CJIS or Criminal History Record Information (CHRI), are mutually responsible for the protection of the data as stated in the guidelines attached to this MOU as Appendix A. The FBI enforces CJIS security policy and requirements for the dissemination and protection of CJIS data. The FBI has the authority to audit recipients of CJIS data to ensure adherence to these guidelines.

**VIII. PRIVACY ACT AND USE OF INVESTIGATIVE INFORMATION**

- A. NBIB shall control the reports, information, and other investigative materials developed during the vetting process. These materials are maintained as part of the OPM Central-9 system of records. When NBIB discloses a record maintained as part of the Central-9 system of records to DCPS, the disclosed record shall be considered a "decentralized copy". The decentralized copy remains a part of the OPM/Central-9 system of records

even while the copy is in DCPS' custody; under 5 CFR 297.104(b), all records in Central systems of records are established and maintained by OPM, and under sections 1.1(e) and 1.3(q) of E.O. 13467, as amended by E.O. 13764, OPM investigative records "developed during the vetting process," including for "ongoing assessments," are subject to OPM controls while in use by recipient departments and agencies.

B. **Internal Dissemination of a Decentralized Copy:** DCPS may retain and use the decentralized copy (which includes the received reports, information, and other investigative material) within that recipient agency for authorized purposes (including, but not limited to, adjudications, hearings and appeals, continuous evaluation (CE), inspector general functions, counterintelligence, research, and insider threat programs), in accordance with subsection (b)(1) of the Privacy Act of 1974, as amended (section 552a of title 5, United States Code).

C. **External Dissemination of a Decentralized Copy:**

a. DCPS shall not make any external releases of received information, other than to an investigative subject for the purpose of providing procedural rights or administrative due process, in accordance with E.O. 13467, section 1.1(e), as amended by E.O. 13764, and subsection (d) of the Privacy Act of 1974, as amended (section 552a of title 5, United States Code). DCPS shall direct any other requests for external releases of copies of the reports, information, or other investigative materials to the NBIB Freedom of Information and Privacy Act (FOI/PA) office. NBIB's FOI/PA office will make a release determination by applying the routine uses described in Central 9 or other uses permitted in 5 U.S.C. 552a(b); or, in the case of a Freedom of Information Act (FOIA) referral, by applying the FOIA.

i. The received investigative information may include other government agency data that was disclosed to NBIB with additional re-disclosure limitations; DCPS must accordingly consult directly with that other government agency or work through NBIB'S FOI/PA office prior to disclosing these records to their subjects.

ii. While E.O. 13467 section 1.1(e), as amended by E.O. 13764, allows agencies to release records, any re-disclosure should be coordinated with the NBIB FOI/PA office to ensure that any re-disclosure "...does not violate statutory restrictions or result in unauthorized disclosure..."

iii. NBIB can, if the agency requests, prepare a sanitized version of the background investigation report for release to the subject as part of the adjudicative process. The request can be sent to NBIB at the following address:

Supervisory Government Information Specialist  
Freedom of Information/Privacy Act office  
PO Box 618  
1137 Branchton Road  
Boyers, PA 16018-0618

- b. In the event re-disclosure by DCPS is required by compulsory legal process, DCPS must consult with the NBIB's FOI/PA office.
- D. Retention of a Decentralized Copy: Decentralized copies shall be retained consistent with the guidance defined in applicable NARA General Records Schedules. Under NARA General Records Schedule 18, Part 22 (b), investigative reports and related documents furnished to an agency by NBIB should be destroyed in accordance with NBIB's instructions. NBIB instructs that the records may be maintained only so long as the subject of the report remains of interest to the agency for the purposes defined in the Central 9 SORN (e.g. suitability, security, credentialing purposes). Upon separation or when the subject is no longer of interest to the agency, the agency must dispose of any/all background investigation records.
- E. Privacy Act Access or Amendment Requests: Under 5 CFR 297.105(c), only NBIB responds to initial Privacy Act requests for records in an OPM Central system of records. If DCPS receives, from the subject of investigation, a request for access or amendment, DCPS should contact the NBIB Freedom of Information and Privacy Act (FOI/PA) office and refer that request to NBIB's FOI/PA office accordingly.
  - a. Release of the following items may be made to the subject of investigation without first requesting permission from the NBIB FOI/PA:
    - i. the individual's credit report;
    - ii. the individual's fingerprint results (fingerprint results only, not any name-based search results from the FBI);
    - iii. the individual's copy of their completed Standard Form, if DCPS is the agency that initiated the individual within the electronic Questionnaires for Investigations Processing (e-QIP) system.
- F. Any DCPS personnel or contractor personnel with access to the investigative materials and information provided by NBIB for purposes of this MOU must have the appropriate level of background investigation as determined by 5 CFR parts 731 and 1400; the Position Designation System; and any additional guidance given by the Suitability, Credentialing and Security Executive Agent(s).
- G. The information protection requirements in this agreement should not be construed to alter or diminish protections provided under the Privacy Act or any other applicable authorities.
- H. If DCPS experiences a breach of OPM information as defined in OMB M-17-12:
  - a. DCPS must report information security incidents where the confidentiality, integrity or availability of a federal information system is potentially compromised to the United States Computer Emergency Readiness Team ("US-CERT") within one hour of being identified, consistent with US-CERT's notification guidelines. DCPS shall also immediately thereafter follow DCPS-specific incident reporting procedures and shall immediately notify the OPM Network Security at 844-377-6109 or

CyberSolutions@opm.gov of all information security incidents and data breaches. In addition, DCPS will notify the other party's Points of Contact named in this agreement.

- b. DCPS will provide OPM or its designate with all information and status updates discovered during the investigation of the cyber incident. DCPS will follow the District of Columbia Government's Office of the Chief Technology Officer Cyber Security Incident Response Team Policy. DCPS may request assistance from or turn over the cyber incident investigation to DHS and the FBI.
  - c. When reporting a breach to the OPM Network Security Operations Center by email, DCPS must:
    - i. Not include any PII or sensitive information in the subject or body of any email;
    - ii. Use FIPS 140-2 compliant encryption methods to protect PII or sensitive information to be included as an email attachment, and not include passwords in the same email as the encrypted attachment; and
    - iii. Provide any supplementary information or reports related to a previously reported incident directly to the OPM Network Security Operations Center with the following text in the subject line of the email: "Supplementary Information / Report related to previously reported incident # [insert number]."
  - d. DCPS will provide external notification and appropriate mitigation in accordance with OMB M-17-12 and as coordinated and approved by OPM.
- I. Specific system connectivity requirements are set forth in the accompanying Interconnectivity Service Agreement (ISA).

## **IX. PROCESSING FINGERPRINT CHECK REQUESTS**

- A. Fingerprint check requests must be submitted using the Integrated Automated Fingerprint Identification System (IAFIS) and NBIB certified and tested hardware and software components.
  - 1) Electronic fingerprinting hardware must be certified as compliant with the FBI's IAFIS Image Quality Specifications.
  - 2) Systems must employ NBIB-approved software.
  - 3) All systems must be tested and authorized by NBIB for compliance prior to DCPS being authorized to submit fingerprints.
- B. Fingerprint check requests must indicate the value "Y" (Retain) in the Retention Field (EFTS Field 2.0005 labeled "RET") for all federal employees, applicants, members of the military, contractor and volunteer personnel.
- C. It is the responsibility of DCPS to ensure that the appropriate SON, SOI, and IPAC codes are assigned to each fingerprint request. Requests submitted with an incorrect SON/SOI/IPAC combination will be returned to DCPS for resolution.

- D. Results of the fingerprint checks will be provided by NBIB to the appropriate Security Office identified by the SOI in the same format as previously provided; by mail, eDelivery or stand-alone terminal. The results will not be returned via the FTS connection.

## **X. COST**

The current cost for each fingerprint, including all applicable fees and FBI User fees are listed each year is published on the NBIB.OPM.GOV website in a Federal Investigations Notice (FIN). NBIB's current pricing FIN is labeled, "FY 2019 Investigations Reimbursable Billing Rates, effective October 1, 2018".

## **XI. PAYMENT**

- A. DCPS agrees to establish a Purchase Order in the amount of \$230,000 for investigative services covering the current fiscal year. Total cost for goods and services under the MOU shall not exceed the advance of \$230,000 unless the Parties increase the amount by entering into a modification of the MOU. The balance of the Purchase Order will be reduced by the invoices generated monthly by NBIB, and provided monthly to DCPS, describing the investigation activities it is billing against. DCPS shall not request investigation services where the costs are in excess of the amount provided on the Purchase Order. Should the funds on the Purchase Order be completely liquidated, the Parties shall enter into a modification of the MOU increasing the amount on the Purchase Order and DCPS shall provide the additional funds prior to requesting further investigation services.
- B. OPM shall notify DCPS within forty-five (45) days of the current fiscal year end if it has reason to believe that all of the advance will not be billed during the current fiscal year. OPM shall return any excess advance to DCPS by September 30 of the current fiscal year.
- C. In the event of termination of the MOU, payment to the Seller shall be held in abeyance until all required fiscal reconciliation, but not longer than September 30 of the current fiscal year.

## **XII. ANTI-DEFICIENCY CONSIDERATIONS**

The Parties acknowledge and agree that their respective obligations to fulfill financial obligations of any kind pursuant to any and all provisions of this MOU, or any subsequent agreement entered into by the parties pursuant to any and all provisions of the MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to provisions of (i) the Federal Anti-Deficiency Act, 31 USC § 1341, 1342, 1349, and 1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code § 47-355.01-355.08 (2001); (iii) D.C. Official Code § 47-105 (2001); and (iv) D.C. Official Code § 1-204.46 (2006 Supp.), as the

foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

### **XIII. EFFECTIVE DATE AND DURATION OF AGREEMENT**

- A. This MOU will become effective upon the last date of signing by the parties below (the "Effective Date"). It shall remain in effect from the Effective Date through September 30, 2019, unless terminated in writing by the Parties prior to expiration, or by one Party providing 60 days written notification of the termination to the other Party. This MOU can be modified through mutual written agreement between the Parties, and shall remain in effect until modified or terminated by either Party, or as terminated for the other reasons described in this MOU.
- B. The Parties may renew the term of this MOU by exercising a maximum of five (5) one-year option periods. Option periods may consist of a year, a fraction thereof, or multiple successive fractions of a year. Buyer shall provide notice of its intent to renew an option period prior to the expiration of the MOU. The exercise of an option period is subject to the availability of funds at the time of the exercise of the option.
- C. Nothing in this MOU shall be interpreted as limiting, superseding or otherwise affecting either agency's normal operations or decisions in carrying out its statutory or regulatory duties. This MOU does not limit or restrict DCPS from participating in arrangements with other entities. This MOU does not in and of itself authorize the expenditure or reimbursement of any funds. Nothing in this MOU obligates DCPS to expend appropriations or enter into any contract or other obligations.
- D. This MOU supersedes all other MOUs between OPM and DCPS for submission of fingerprint checks to NBIB, including the MOU dated December 11, 2017.

### **XIV. RESOLUTION PROCESS**

In the event of disagreement arising in the interpretation of the provisions of this MOU, or amendments and/or addenda thereto, that cannot be resolved at the operating level, the area(s) or disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement is not reached within 30 days, the parties shall forward the written presentation of the disagreement to their respective higher level officials for appropriate resolution.

### **XV. POINTS OF CONTACT**

Any inquiries under this MOU shall be directed to the parties listed below. Any notices required under this MOU shall be in writing sent by any recognized form of communication and by any recognized delivery method to the same parties.

**National Background Investigations Bureau (NBIB):**

Jack Jibilian  
Chief  
Office of Finance and Performance  
National Background Investigations Bureau (NBIB)  
U.S. Office of Personnel Management (OPM)  
1900 E St. NW  
Washington, D.C. 20415  
Telephone Number: (202) 606-0410  
[Jack.Jibilian@opm.gov](mailto:Jack.Jibilian@opm.gov)

**District of Columbia Public Schools (DCPS):**

Frances Perdomo  
DCPS Field Technician Tier 2  
OCTOHelps  
Office of the Chief of Technology Officer  
1200 First Street, NE  
Washington, DC 20002  
Telephone Number: (202) 704-9640  
[Frances.perdomo@dc.gov](mailto:Frances.perdomo@dc.gov)

The individuals above are responsible for the management and coordination of the duties and obligations for each respective Party under this MOU. Copies of correspondence related to the modification, amendment, extension or termination of this MOU, or any other legal matter pertaining to this MOU, shall be furnished to these individuals with additional copies to:

**District of Columbia Public Schools (DCPS):**

Scott Barash  
General Counsel  
Office of the General Counsel  
1200 First Street, NE  
Washington, DC 20202  
Telephone Number: (202) 442-5000

**XVI. COMPLIANCE AND MONITORING**

As this MOU is funded by District of Columbia funds, NBIB will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

**XVII. RECORDS AND REPORTS**

NBIB shall maintain records and receipts for the expenditure of all funds provided for a period of no less than three years from the date of expiration or termination of the MOU and, upon the District of Columbia’s request, make these documents available for inspection by duly authorized representatives of DCPS and other officials as may be specified by the District of Columbia at its sole discretion.

**XVIII. SIGNATURES**

The undersigned agree to the terms and conditions of this MOU:

District of Columbia Public Schools

U.S. Office of Personnel Management  
National Background Investigations Bureau

 9/9/2019  9/11/19  
(Signature) (Date) (Signature) (Date)

Dr. Lewis Ferebee  
Chancellor

Mark Pekrul  
Deputy Assistant Director  
Customer Service, Communications &  
Engagements

**Attachments**

- Appendix A – CJIS IT Security Responsibility for NBIB and Non-Criminal Justice Agencies
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# Appendix A

## CJIS IT Security Responsibility for NBIB and non-Criminal Justice Agencies

(The following is a notice from the FBI for all agencies receiving CJIS data.)

### Non-Criminal Justice Agencies

#### Authorities

The non-criminal justice use of Criminal History Record Information (CHRI) audit is based on the following guidelines, where applicable: Title 5, United States Code (U.S.C.), Section 552, the Freedom of Information Act, requires the records be accurate, complete, timely, and relevant.

- Title 28, U.S.C., § 534, authorizes dissemination of CHRI, and provides that access to CHRI is subject to cancellation if dissemination is made outside of the authorized recipient.
- Title 5, U.S.C., § 552a, the Privacy Act, requires that agencies maintain a system of records which establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records.
- Title 42, U.S.C., Chapter 140, Subchapter II, § 14616, the National Crime Prevention and Privacy Compact, established the Compact Council, which is authorized to establish rules, procedures, and standards for the use of Interstate Identification Index (III) for non-criminal justice purposes. Determining compliance includes, but is not limited to: assessing participation requirements; the continual maintenance; and security of CHRI.
- Title 28, Code of Federal Regulations (CFR), 20.3(b), cites the administration of criminal justice shall include criminal identification activities, and the collection, storage and dissemination of CHRI.
- Title 28, CFR, 20.33 (a) (2), authorizes the dissemination of CHRI contained in the III to federal agencies authorized to receive it pursuant to federal statute or Executive Order.
- Title 28, CFR, 20.33 (a) (3), authorizes the dissemination of CHRI contained in the III for use in connection with licensing or employment, pursuant to Public Law (Pub. L.) 92-544, 86 Stat. 1115, or other federal legislation, and for other uses for which dissemination is authorized by federal law.
- Title 28, CFR, 50.12 (b), references the exchange of FBI identification records obtained under this authority may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.

- Title 28, CFR, Part 906, Outsourcing of Non-criminal Justice Administrative Functions, amends the dissemination restrictions of 28 CFR 50.12 (b), by permitting the outsourcing of non-criminal justice criminal history record checks to either another governmental agency or a private contractor acting as an agent for the authorized receiving agency. Published as a final rule on December 15, 2005, this rule also established the standards, entitled the Security and Management Control Outsourcing Standard (Outsourcing Standard) that must be followed for an agency to outsource these functions.
- Title 28, CFR, Part 906, the Outsourcing Standard, requires contractors to maintain a security program consistent with federal and state laws, regulations, and standards, as well as, with rules, procedures, and standards established by the Compact Council and the United States Attorney General. The Outsourcing Standard identifies the duties and responsibilities with respect to adequate internal controls within the contractual relationship so that the security and integrity of the III System and criminal history information are not compromised. The security program shall include consideration of site security, dissemination restrictions, personnel security, system security, and data security.

### **Related Agency Doctrine**

The *CJIS Security Policy* defines “Related Agency Doctrine” as “a legal principle providing for the re-dissemination of CHRI by an authorized recipient. Agencies that have a commonality of purpose and (typically) congruent responsibility, authorized by federal statute or executive order, or approved state statute pursuant to Pub. L. 92-544, can receive CHRI and exchange that information with each other for the authorized purpose originally requested.” The agencies must have a unity of purpose and typically, concurrent regulatory responsibility.

If a board or association for the state has approved statutory authority to receive information for licensing/employment and an additional entity is part of the licensing/employment process, that entity is allowed access to the CHRI for adjudication and/or final decision. Authorized Recipients (state and local governmental agencies and their governmental subunits that review FBI identification records to make employment and licensing suitability determinations) cannot share CHRI across state lines. There is no related agency or commonality of purpose across state lines. The term “related agencies” does not apply to out-of-state governmental agencies.

### **Penalties for Unauthorized Disclosure of CHRI**

Title 28, U.S.C., § 534, Pub. L. 92-544 and Title 28, CFR, 20.33(b), provide that the exchange of records and information is subject to CANCELLATION if dissemination is made outside the receiving departments or related agencies. Furthermore, depending upon the nature of the offense and the identity of the offender, federal or state crimes may be charged for the willful, unauthorized disclosure of CHRI. Depending on the authority to which the CHRI was authorized for dissemination, penalties may be different according to the authority.

## **Audit Cycle**

The CJIS Division began auditing the use of CHRI by non-criminal justice agencies in October 2004. The audits are conducted in conjunction with the National Crime Information Center triennial audit schedule. The purpose of the audit is to assess compliance with non-criminal justice use and the appropriate rules pertaining to the security, maintenance, and dissemination of CHRI. The first audit is an informational audit for the purpose of educating nontraditional users and should be used to establish proper procedures and policies for the access, use, and dissemination of CHRI. The CJIS Division has established a tracking method or audit cycle. The first audit is considered informational or cycle zero. Subsequent audits are cycle one, two, etc.

## **Interface Agency**

The *CJIS Security Policy* also applies to other types of authorized user agencies, organizations, entities, and public law applications, which for the application of this policy and within the confines of this policy, shall be referred to as an Interface Agency.

## **Use and Dissemination Questions**

The use and dissemination questions can be asked to determine compliance with Pub. L. 92-544, and Title 28, CFR, 50.12 (b). CHRI must be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities. If passing CHRI to a third party contractor, for the administrative of non-criminal justice, the Outsourcing Standard identifies the duties and responsibilities with respect to adequate internal controls within the contractual relationship so that the security and integrity of the III System and CHRI are not compromised.

- Does the agency grant access to CHRI to another agency?
- Does the agency disseminate the disposal of CHRI to another agency?
- Does the agency archive CHRI through another agency?
- How does the agency ensure record disclosure is only to authorized persons?
- Does the agency receive CHRI for subsequent promotions, transfers, or hiring decisions?
- Does the agency grant access to CHRI to another agency?
- Does the agency disseminate CHRI outside of the receiving agency?
- Does the agency insure that CHRI is disclosed only to authorized personnel?

What is the agency's authority for use and dissemination of CHRI?

- If a state statute, has the authority been approved by the OGC, AIU? Obtain copy.
- Confirm the Originating Agency Identifier (ORI) the agency uses for fingerprint submission.
- Identify the specific reason(s) for which the agency is authorized to receive CHRI.
- Does the agency ensure CHRI is used only for the official purpose for which requested?
- After the initial determination is made, is CHRI reused for any purpose? If yes, explain.
- Is CHRI used for any other purpose other than determining suitability of the applicant?
- Is CHRI given to the applicant?
- How does the agency receive the results of the CHRI?

- Does the agency grant access to CHRI to another agency?
- Does the agency disseminate the disposal of CHRI to another agency?
- Does the agency archive CHRI through another agency?
- How does the agency ensure record disclosure is only to authorized persons?
- Does the agency receive CHRI for subsequent promotions, transfers, or hiring decisions?
- Does the agency grant access to CHRI to another agency?
- Does the agency disseminate CHRI outside of the receiving agency?
- Does the agency insure that CHRI is disclosed only to authorized personnel?

### **Retention and Physical Security Questions**

The retention and physical security questions can be asked to determine compliance with Title 5, U.S.C., § 552a. The agencies must maintain a system of records which establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records.

- Does the agency have procedures regarding record storage of CHRI? If so, review.
- Does the agency have procedures regarding record retention of CHRI? If so, review.
- Does the agency have procedures regarding record destruction of CHRI? If so, review.
- Who is responsible for the physical security of CHRI?
- How is physical access to the CHRI controlled?
- Does the agency maintain CHRI in an electronic format/database?
- If so, who has access to the database that maintains CHRI?
- Is the database, password protected, standalone, etc.?
- Does the contractor(s) have access to the database for maintenance or other means?
- Does the agency allow visitors to be unaccompanied in the building where CHRI is stored?
- Is access to CHRI granted on a “need to know” basis?
- What type of personnel screening is conducted prior to access to CHRI?
- Does the agency have written policies regarding disciplinary action taken for the misuse of CHRI?

# Appendix B

## OPM Privacy Act Notice

### PURPOSE AUTHORITY and PRIVACY STATEMENT

Solicitation of this information is authorized by sections 3301, 3302, and 9101 of title 5 of the U.S. Code; Executive Orders 8781, 13467, 10577 and 12968. This information will be used to search the Federal Bureau of Investigation's fingerprint files in determining your fitness for Federal employment or a security clearance. It may also be used for searches of other law enforcement agencies' fingerprint files for the same purpose. The information on this form, and information collected during an investigation, may be disclosed without your consent, as permitted by the Privacy Act (5 U.S.C. 552a(b)) and the applicable routine uses, including disclosure to government agencies for determining qualifications, suitability, and security access.

Your Social Security Number (SSN) is being requested under the authority of Executive Order 9397. Furnishing the requested information is voluntary; however, your failure to provide requested information may delay or prevent your eligibility for employment, a clearance or a credential. An intentional misstatement or omission will negatively affect your employment, up to and including removal and debarment. In addition, knowingly providing false information may be punishable by law (title 18, U.S. Code, section 1001).

### ROUTINE USES

The information collected from you may be disclosed without your consent as permitted by the Privacy Act (5 USC 522a (b)). OPM's routine uses are as follows:

- a. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, are having a need to evaluate qualifications, suitability, and loyalty to the United States Government and/or a security clearance or access determination.
- b. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, when such agency, office, or establishment conducts an investigation of the individual for purposes of granting a security clearance, or for the purpose of making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas.
- c. To designated officers and employees of agencies, offices, and other establishments in the executive, judicial, or legislative branches of the Federal Government, having the responsibility to grant clearances to make a determination regarding access to classified information or restricted areas, or to evaluate qualifications, suitability, or loyalty to the United States Government, in connection with performance of a service to the Federal Government under a contract or other agreement.

- d. To the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence activities.
- e. To any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.
- f. To the appropriate Federal, State, local, tribal, foreign, or other public authority responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
- g. To an agency, office, or other establishment in the executive, legislative, or judicial branches of the Federal Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
- h. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. However, the investigative file, or parts thereof, will only be released to a congressional office if OPM receives a notarized authorization or signed statement under 28 U.S.C. 1746 from the subject of the investigation.
- i. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.
- j. To disclose information to contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, or job for the Federal Government.
- k. For agencies that use adjudicative support services of another agency, at the request of the original agency, the results will be furnished to the agency providing the adjudicative support.
- l. To provide criminal history record information to the FBI, to help ensure the accuracy and completeness of FBI and OPM records." to the end of this section.

## Appendix C

### FBI Privacy Act Statement

**Authority:** The FBI's acquisition, preservation, and exchange of fingerprints and associated information are generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

**Social Security Account Number (SSAN):** Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

**Principal Purpose:** Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

**Routine Uses:** During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

**Additional Information:** The requesting agency and/or the agency conducting the application-investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any

systems(s) of records in which that agency may also maintain your records, including the authorities, purposes, and routine uses for the system(s).



## Appendix D

### Noncriminal Justice Applicant's Privacy Rights

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for a job or license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification<sup>1</sup> that your fingerprints will be used to check the criminal history records of the FBI.
- If you have a criminal history record, the officials making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the job, license, or other benefit based on information in the criminal history record.<sup>2</sup>

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.<sup>3</sup>

If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks>.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.

<sup>1</sup> Written notification includes electronic notification, but excludes oral notification.

<sup>2</sup> See 28 CFR 50.12(b).

<sup>3</sup> See 5 U.S.C. 552a (b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

## Appendix E

### Glossary: Definitions for purposes of this agreement.

**Information:** This term is synonymous with the term Data. Both terms refer to single or multiple instances of any recorded or communicated fact or opinion being stored or transferred in any digital or analog format or medium. (OPM's definition for purposes of this agreement.)

**Information Security Incident (ISI):** This term refers to any event that includes the known, potential, or suspected exposure, loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or unauthorized access of any Contractor or Government Information or Information Systems.

**Information Technology (IT):** Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where such services or equipment are 'used by an agency' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.

The term "information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.

The term "information technology" does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment. (OMB Memorandum M-15-14, Management and Oversight of Federal Information Technology, 10 June 2015)

**Personally Identifiable Information (PII):** Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. (Memorandum M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, 22 May 2007)

**Record:** For the purpose of Records Management, this term refers to all recorded Information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transactions of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the US Government or because of the informational value of the data in them. (44 USC §3301, Public Printing and Documents, Disposal of Records: Pub. L. 113–187, §5(a), Nov. 26, 2014, 128 Stat. 2009)

For the purpose of the Privacy Act, this term refers to any item, collection, or grouping of Information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, or criminal or employment history, and that contains the person's name, or the identifying number, symbol, or other identifier assigned to the individual, such as a fingerprint, voiceprint, or a photograph. (5 U.S.C. § 552a, The Privacy Act of 1974, 31 December 1974)

## Appendix F

### Revision Sheet: Substantive Changes to this MOU template since [insert approval date of MOU template here]

Substantive changes to the language in this MOU template which was approved by NBIB for use on February 7, 2017 whether necessitated by NBIB or another agency, shall be recorded in the below table.

Change in Language and Reason for Change	Individual Requesting Change	NBIB Individual Authorizing Change	Date of Change Approval
Section I was updated to reflect the unique purpose for which DCPS is requesting fingerprinting services from NBIB.			
Section II was updated to reflect the direct operating authorities of each agency, the childcare authority for which DCPS is required to satisfy, and the Economy Act which is the act that allows NBIB to provide services to DCPS.			
Section III was updated to reflect only the Executive Branch requirements that apply to the group of individual DCPS will be fingerprinting as a non-Executive Branch agency.			
Section X, XI and XII were added to detail the payment method because DCPS does not pay via IPAC.			
Section XIII was modified to reflect the fiscal year and option years for the purposes of applying payments and renewing the agreement.			
Section XVI and XVII were added by DCPS to detail the DCPS records oversight practices.			

**MEMORANDUM OF AGREEMENT**  
BETWEEN THE  
**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**  
AND THE  
**DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

This Memorandum of Agreement (MOA or Agreement) is entered into by and between the Office of the State Superintendent of Education (OSSE) and the District of Columbia Public Schools (DCPS), (individually referred to as a Party or collectively as the Parties), by their duly authorized representatives in accordance with the terms and conditions set forth herein.

**RECITALS**

**WHEREAS**, pursuant to 5-E DCMR § 2107.1, a student may not be involuntarily transferred without receiving an opportunity for a hearing before an impartial hearing officer;

**WHEREAS**, DCPS seeks to engage OSSE to provide impartial hearing officers for involuntary hearings as set forth below; and

**WHEREAS**, OSSE has personnel who possess the skill required to adjudicate the proceedings referred to above and described within this MOU.

**NOW THEREFORE**, the Parties agree to the following obligations, terms and conditions:

**A. OSSE DUTIES AND OBLIGATIONS**

1. OSSE shall provide hearing officers to preside over involuntary transfer hearings pursuant to 5-E DCMR § 2107.1 and the general requirements for hearings as explained in 5-B DCMR §§ 2506 and 2507. DCPS estimates that up to 10 of such hearings will be conducted per school year.
2. OSSE shall ensure that all parties are afforded applicable due process rights under the law.

3. OSSE and DCPS shall jointly develop forms for use in relation to these matters.
4. OSSE shall develop standard operating procedures for conducting involuntary transfer hearings in coordination with DCPS.
5. All hearings shall be conducted in accordance with OSSE policies and procedures, as well as any applicable law or regulation, including 5-E DCMR § 2107.1 and the general requirements for hearings as explained in 5-B DCMR §§ 2506 and 2507.
6. OSSE will not conduct hearings on days that D.C. Public Schools are closed.
7. OSSE shall contact the requesting parent or adult student to obtain available hearing dates upon receiving notification of a hearing request. OSSE and DCPS shall jointly take all reasonable measures to schedule the hearing within one (1) calendar week of the date of the initial request.
8. OSSE shall be responsible for notifying parents of the scheduled hearing date.
9. The impartial hearing officer shall issue a written recommendation within three (3) in-session school days of the hearing. The written recommendation shall be provided to both DCPS and the parent.
10. At the conclusion of each hearing, OSSE shall return by certified mail all original, non-electronic educational records provided by DCPS in order to assist with the preparation and conduct of the hearing within two (2) in-session school days to the Student Placement Office. In addition, at the conclusion of each hearing, OSSE shall immediately destroy all photocopied and electronic educational records provided by DCPS in order to assist with the preparation and conduct of the hearing.
11. OSSE and DCPS shall jointly schedule trainings for relevant OSSE staff to understand procedures and requirements pertaining to involuntary transfer hearings.

## **B. DCPS DUTIES AND OBLIGATIONS**

1. DCPS may appoint attorneys or other DCPS representatives to represent its position in an involuntary transfer hearing.
2. DCPS shall provide timely written submissions to OSSE including, without limitation, all appropriate documentation describing the conditions leading to the transfer, why involuntary

transfer is justified, and the reasons for selecting the proposed new school for the student. Documentation will include, among other relevant documents, the Notice of Proposed Involuntary Transfer Form and the final recommendation of the Instructional Superintendent.

3. As required by 5-E DCMR § 2107.5, DCPS shall notify parents/guardians/adult students of their right to seek a hearing when an involuntary transfer has been proposed.
4. DCPS will notify OSSE of all involuntary transfer hearing requests within two (2) in-session school days of receipt of the request.
5. DCPS will allow students to remain in their current school pending the completion of an involuntary transfer hearing. However, if the proposed involuntary transfer is due in any part to the student being charged with or otherwise accused of committing a crime, DCPS may carry out the involuntary transfer immediately and prior to the hearing if DCPS determines, in its sole discretion, that maintaining the student's placement in his or her current school may disturb the peace, health, safety or welfare of DCPS students or staff.
6. DCPS shall develop standard operating procedures for conducting involuntary transfer hearings in coordination with OSSE.
7. DCPS shall provide training to OSSE on relevant procedures and requirements pertaining to involuntary transfer hearings.

### **C. DURATION OF AGREEMENT AND EARLY TERMINATION**

1. This Agreement shall take effect as of the last date of signing by both Parties below, and shall continue in effect for five (5) years thereafter. The Parties shall have the option to renew this Agreement for successive five year terms, or any fraction thereof, by jointly signing a statement confirming this intent.
2. This Agreement may be terminated by either Party upon thirty (30) calendar days prior written notice to the other Party, and may be terminated immediately as specified in this Agreement. Moreover, either Party may immediately terminate this MOA in the event that such Party reasonably believes doing so would be in the best interest of the District of Columbia. To be effective, notice of termination under this Agreement shall be in writing and shall be delivered either by mail, by hand-delivery, or by overnight courier to the address of the relevant Party or to any other address later designated in writing by a Party. The current

addresses of the Parties are identified under their representatives' signatures in this Agreement.

3. If this Agreement is terminated or not renewed, OSSE shall cease to accept for adjudication DCPS matters, as described herein, and shall promptly transfer all pending cases and case files to the DCPS General Counsel or a designee.

#### **D. AUDITING AND DOCUMENTATION**

1. OSSE shall ensure that all hearing officer notes, and any other records or documents pertaining to hearing officer recommendations issued following an involuntary transfer hearing, are made available to DCPS for inspection upon request for a period of no less than three (3) years after the issuance of the relevant hearing officer recommendation.
2. OSSE shall retain all records and any other documents relevant to this Agreement, for a period of no less than three (3) years after the latest relevant action or event, including the issuance or satisfaction of any administrative, trial or appellate order, or the performance or non-performance of any action required by this Agreement. If an audit, litigation, or other action involving the records is started before the end of the three (3) year period, the records shall be maintained until all issues arising out of the action are resolved or until the end of the three (3) year period, whichever is later.
3. Upon receipt of reasonable notice, OSSE shall afford full access and the right to examine and copy any materials relating to this Agreement to DCPS staff and any other person authorized by DCPS, including, but not limited to, federal and local officials who have substantiated in writing a need for such access in the performance of their official duties.
4. OSSE shall cooperate fully with any data collection and evaluation activities carried on by DCPS in connection with services performed under this Agreement.
5. Pursuant to this Agreement, the Parties shall comply with all applicable federal and local laws, regulations, and policies. DCPS shall monitor OSSE's compliance with these requirements and the requirements set forth in this Agreement and any noncompliance shall be grounds for DCPS to terminate this Agreement immediately.



## E. GENERAL PROVISIONS

1. This Agreement shall not relieve either DCPS or OSSE of its duty to fulfill any of its existing statutory obligations.
2. This instrument constitutes the entire agreement between the Parties, and all oral or written agreements between the Parties relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained herein.
3. The Parties agree that the sole intended beneficiary of this Agreement is the District of Columbia Government, including its agencies and other organizational sub-units. No entity or individual is intended as a third-party beneficiary, and this Agreement creates no rights for such entities or individuals.
4. This Agreement may be executed in multiple counterparts.
5. Both Parties to this Agreement shall use, restrict, safeguard and dispose of information received pursuant to this Agreement, including any information developed through the investigation or prosecution of a case, in accordance with all relevant federal and local statutes, regulations, and policies.
6. OSSE's ability to provide services under this Agreement requires DCPS to share personally identifiable information from education records with OSSE. Such records must be safeguarded in accordance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) (FERPA). In accordance with 34 CFR § 99.31(a)(1)(i)(B), OSSE therefore acknowledges that (i) it is considered a "school official" for purposes of sharing education records under this Agreement; (ii) it is under the direct control of DCPS with respect to the use and maintenance of the education records it will have access to under this Agreement; and (iii) it is subject to the requirements of 34 CFR § 99.33(a) with respect to the use and disclosure of personally identifiable information from such education records. According to 34 CFR § 99.33(a), OSSE must (a) not disclose any personally identifiable information from education records it may have access to under this Agreement to another party without first obtaining prior consent from the affected parent (or student if the student has reached the age of 18); and (b) ensure that its officers, employees and agents receiving education records under this Agreement only use such records for purposes of providing the

services covered by this Agreement. OSSE agrees that, as soon as is reasonably practical following the final resolution of any involuntary transfer hearing pursuant to the services provided under this MOA, it will return any and all educational records provided by DCPS related to the student for which the hearing was conducted in accordance with the procedures referenced in Section A, Paragraph 10 of this Agreement. OSSE further agrees that it will destroy any and all copies made of any educational records received on behalf of any DCPS student immediately following the final resolution of any involuntary transfer hearing held on behalf of that student.

7. The Parties shall mutually agree upon all changes to this Agreement and reduce them to writing in an amendment executed by the signatories of this Agreement, or their successors. Unless otherwise agreed to by the Parties in writing or stipulated by applicable laws or regulations, no change to this Agreement shall take effect until the amendment has been fully executed.
8. The following individuals are the contact points for each Party under this Agreement:

Dr. Arthur Fields  
Deputy Chief, Office of Youth Engagement  
District of Columbia Public Schools  
1200 First Street, NE  
11<sup>th</sup> Floor  
Washington DC 20002

Jamai A. Deuberry  
Legal Administrative Specialist  
Office of the General Counsel  
Office of the State Superintendent of Education  
810 First St, NE, 9th Flr.  
Washington, DC 20002  
(202) 724-7756 / (202) 299-2134 FAX  
Alternate fax: (202) 727-2019  
[jamai.deuberry2@dc.gov](mailto:jamai.deuberry2@dc.gov)

The individuals above are responsible for the management and coordination of the duties and obligations for each respective party under this MOA. Copies of correspondence related to the modification, amendment, extension or termination of this MOA, or any other legal matter pertaining to this MOA, shall be furnished to these individuals with additional copies to

Sarah Jane Forman  
Associate Director  
Mayor's Office of Legal Counsel (MOLC)  
Executive Office of the Mayor  
(202) 727-5449 Office  
(202) 417-0522 Mobile  
[Sarahjane.forman@dc.gov](mailto:Sarahjane.forman@dc.gov)

D. Scott Barash  
Office of the General Counsel for D.C. Public  
1200 First Street, N.E., 10<sup>th</sup> Floor Schools  
Washington, D.C. 20002  
(202) 442-5000

IN WITNESS WHEREOF, the signatories to this Agreement represent that they have the authority to bind their respective agencies to this Agreement and hereby execute this Agreement on the dates indicated.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Hanseul Kang  
State Superintendent  
Office of the State Superintendent of Education  
810 First St NE, 9th floor  
Washington, DC 20002

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Kaya Henderson  
CHANCELLOR  
District of Columbia Public Schools  
1200 First Street, NE, 12<sup>th</sup> Floor  
Washington, DC 20002

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
DISTRICT OF COLUMBIA PUBLIC SCHOOLS  
AND  
DISTRICT OF COLUMBIA PUBLIC LIBRARY**

**I. INTRODUCTION**

This Memorandum of Understanding (“MOU”) is entered into from date of last signature through September 30, 2019 between the District of Columbia Public Library (“DCPL and/or Seller”) and the District of Columbia Public Schools (“DCPS and/or Buyer”), (collectively, the “Parties”) to pay the actual costs that are charged to DCPL for the purchase of school library books and digital materials for DCPS schools.

**II. PROGRAM GOALS AND OBJECTIVES**

DCPS and DCPL would like to take advantage of opportunities that two District agencies have to collaborate and share expertise to accomplish a shared goal of providing students access to library books and digital materials that support academic needs and instill the lifelong love of reading.

The overall purpose of the agreement is to:

- Promote improvement in school library services in all DCPS libraries in order to better serve the people of the District of Columbia;
- Facilitate access to books and digital materials in DCPS libraries for the purpose of cultivating a love of reading and supporting academic programming;
- Pursue economical and efficient access to library books and resources for students; and,
- Strengthen DCPL and DCPS collaboration.

DCPS allocates funds to support and purchase library books and digital materials.

The purpose of this MOU is to establish a mechanism for DCPS to pay actual costs incurred by DCPL for the purchase of school library books and digital materials and costs associated with making those books and digital materials available in school libraries.

**III. DEFINITIONS**

**A. Project funds:** refers to the funds appropriated for the purchase of school library books and digital materials.

**IV. SCOPE OF SERVICES**

Pursuant to the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties do hereby agree:

## **A. RESPONSIBILITIES OF DCPS**

1. DCPS shall transfer six hundred sixty-eight thousand two hundred seventeen dollars and no cents (\$668,217.00) to DCPL to pay the actual costs incurred by DCPL for the project.
2. DCPS Director of Library Programs, or designee, shall provide purchasing guidelines and approvals as requested by DCPL.
3. DCPS must track and document all deliveries and, on a timely basis, review, approve and submit packing slips and receiving reports to DCPL for payment, including but not limited to, providing a receiver to approve the receipt of all invoices in DCPL's PASS approval path, if needed. DCPS must retain copies of all invoices related to this agreement up to the amount of this MOU.
4. DCPS shall provide support to the process of procuring books and digital materials including, but not limited to, drafting requests for proposals and evaluating proposals as requested by DCPL.
5. DCPS shall be responsible for the allocation of project funds, library books, and digital materials for each school.
6. DCPS shall be responsible for tracking project funding, expenditures and balances.
7. DCPS must provide to DCPL a listing of book titles approved by DCPS, Director of Library Programs or designee that DCPL is to purchase throughout FY-19, pursuant to this MOU. However the last DCPS approved listing for FY-19 shall be forwarded to DCPL on or before May 1st in order to ensure receipt of books and process of invoices in a timely manner.
8. DCPS shall work with DCPL to promote collaboration between agencies, including, but not limited to, between individual schools and neighborhood branch libraries.
9. DCPS staff may be asked to assist DCPL with selecting books and digital materials insofar as those resources may complement and support the needs of students and educators.
10. DCPS staff shall participate in the development of a business model and plans for expanding the partnership to include additional components in the future which may include delivery of DCPL materials to DCPS locations and a shared operations center.

## **B. RESPONSIBILITIES OF DCPL**

1. DCPL shall make sure that the revenues for this project are reflected in the budget entry budget line item detail screen with the appropriate accumulators.
2. DCPL must establish an agency intra-District project with corresponding index that ties to the fund and agency organization structure for no more than the amount of the MOU.
3. DCPL shall pay all approved invoices within 30 days of receipt of the (1) invoice from the vendor, (2) packing slip from DCPS and (3) approved receiving report from DCPS. All three items must be received before payment can be made.

## **V. DURATION OF MOU**

**A.** The period of this MOU shall be from date of last signature through September 30, 2019, unless terminated in writing by the Parties prior to the expiration.

**B. Relevant Dates:**

- Date of last signature, through September 30<sup>th</sup>, 2019 will represent the period in which funds may be spent.
- May 15th, 2019 will represent the date that all funds must be encumbered, unless agreed upon in writing by both parties.
- July 15th, 2019 will represent the date that any un-encumbered funds shall be returned DCPS, provided that all invoices have been received by DCPL from vendors, unless otherwise agreed upon in writing by both parties. If it is determined by DCPL that there are outstanding invoices, DCPL will return monies within thirty (30) days of last invoice received or during year end closing, whichever occurs first.

## **VI. AUTHORITY FOR MOU**

D.C. Official Code § 1-301.01(k).

## **VII. FUNDING PROVISIONS**

### **A. COST OF SERVICES**

1. Total and actual cost for services under this MOU shall not exceed six hundred sixty-eight thousand two hundred seventeen dollars and no cents (\$668,217) for Fiscal Year 2019, based on the amount set aside for the purchase of school library books and digital materials in the DCPS Library Programs budget for Fiscal Year 2019. Funding for the goods and services shall not exceed the actual cost as agreed to in this MOU.
2. In the event of termination of the MOU, payment to DCPS shall be held in abeyance until all required fiscal reconciliations are complete, but no more than 30 days after reconciliation of the invoices.

### **B. PAYMENT**

1. Payment for all of the goods and services shall be made through an Intra- District transfer of funds by DCPS to DCPL based on the total amount of this MOU.
2. DCPL must submit to DCPS a payment report of invoices paid including the purchase order number, purchase order amount, purchase order balance, vendor name, amount of invoice, and date paid (effective date), which shall explain the amounts expended against the advance upon request, at every intra-District billing and no later than 30 days following expiration of this MOU.
3. Advances to DCPL for services to be performed/goods to be provided shall not exceed the amount of this MOU.

4. The Parties' Directors or their designees shall use their best efforts to resolve all adjustments and disputes arising from services performed under this MOU. In the event that the Parties are unable to resolve a financial issue, the matter shall be referred to the D.C. Office of Financial Operations and Systems.
5. All funds received pursuant to this MOU must be obligated by May 15th, 2019 and expended by July 1<sup>st</sup>, 2019. DCPL will receive the advance and bill DCPS through the Intra-District process only for those goods or services actually provided pursuant to the terms of this MOU. In the event that funds are remaining, those funds shall be returned to DCPS within thirty (30) days of the last invoice received or during year end closing, whichever occurs first, unless otherwise agreed upon in writing by both parties.

### **C. DISALLOWED COSTS**

"Disallowed costs" are costs charged to the funds (received by DCPL) that are not approved by DCPS or allowable by District of Columbia laws and regulations. If DCPS determines that any disbursements made from these funds are disallowed costs, DCPL shall be given the opportunity to justify the questioned costs prior to DCPS's final determination of disallowed costs. If DCPS ultimately determines the costs are disallowed, reimbursement in full to DCPS of said amounts must be made by DCPL within forty-five (45) calendar days. If the reimbursement is not received in full after forty-five calendar days, DCPL shall make no further expenditures until such time as the reimbursement is made in full and the MOU may be terminated by DCPS immediately. If the MOU is terminated for disallowable cost, remaining funds must be returned to DCPS within forty-five (45) calendar days of the termination date.

### **D. ANTI-DEFICIENCY CONSIDERATIONS**

The Parties acknowledge and agree that their respective obligations to fulfill financial obligations of any kind pursuant to any and all provisions of this MOU, or any subsequent agreement entered into by the parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08 (2001), (iii) D.C. Official Code § 47-105 (2001), and (iv) D.C. Official Code § 1-204.46 (2006 Supp.), as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

## **VIII. COMPLIANCE AND MONITORING**

DCPL will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

## **IX. AUDITING**

DCPL may be audited in connection with the close-out of the issued funds.

## **X. RECORDS AND REPORTS**

DCPL shall maintain records and receipts for the expenditure of all funds provided for a period of no less than three years from the date of expiration or termination of the MOU and, upon the DCPS' request, make these documents available for inspection by duly authorized representatives of DCPS and other officials as may be specified by the District of Columbia at its sole discretion

**XI. CONFIDENTIAL INFORMATION**

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU, in accordance with all relevant federal and local statutes, regulations, policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the buyer agency.

**XII. TERMINATION**

Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party. If termination is requested by either party any funds that have been encumbered and/or expended prior to the notice termination date shall be processed pursuant to this MOU.

**XIII. NOTICE/CONTACT PERSON**

**District of Columbia Public Schools:**

Dr. Karen Cole  
Deputy Chief, Curricular Innovations  
Office of Teaching and Learning  
Social Emotional Academic Development  
District of Columbia Public Schools  
1200 First Street, NE  
Washington, DC 20002  
Tele: (202) 299-2171  
Email: [karen.cole@dc.gov](mailto:karen.cole@dc.gov)

**District of Columbia Public Library:**

Judi Greenberg  
Director of Strategic Planning  
Executive Office  
1990 K St. NW, Suite500  
Washington, DC 20006  
Tele: (202) 727-4919  
Email: [Judi.Greenberg@dc.gov](mailto:Judi.Greenberg@dc.gov)

**XIV. MODIFICATIONS**

The terms and conditions of this MOU may be modified only upon prior written agreement by the Parties.

**XV. MISCELLANEOUS**

The Parties shall comply with all applicable laws, rules and regulations whether now in force or hereafter enacted or promulgated.

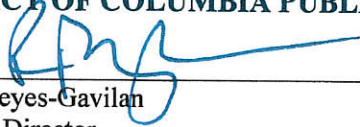
*[signatures follow on next page]*



**XVI. SIGNATURES**


IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

**DISTRICT OF COLUMBIA PUBLIC LIBRARY**

  
\_\_\_\_\_  
Richard Reyes-Gavilan  
Executive Director

Date: 11/26/18

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

  
\_\_\_\_\_  
Amanda Alexander  
Interim Chancellor

Date: 12/20/18



## MEMORANDUM OF UNDERSTANDING

between the

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

and the

**HOWARD COUNTY PUBLIC SCHOOLS**

This Memorandum of Understanding (MOU) as of this 28<sup>th</sup> day of September 2018, by and between District of Columbia Public Schools (DCPS) and Howard County Public Schools (HCPS), hereafter collectively referred to as the "Parties".

WHEREAS, the Parties enter this MOU dated September 28, 2018, for DCPS to provide Title I services to eligible students attending private school in the District of Columbia who reside in Howard County, Maryland; and HCPS to provide Title I services to eligible students attending private school in Howard County, Maryland who reside in the District of Columbia.

WHEREAS, the Parties wish to enter the conditions, responsibilities, and provisions of the MOU effective September 28, 2018, and ending June 14, 2019.

NOW THEREFORE, the Parties hereby set forth this MOU as follows:

### **Purpose**

This MOU creates a process for the provision of Title I educational instructional services and additional supports to certain eligible private school children who meet established eligibility and residency criteria. This agreement describes the services to be provided, the roles and responsibilities of each Party, and funding procedures. The determination of aforementioned Title I funds is pursuant to the requirements of the *Every Student Succeeds Act of 2015*.

### **Term**

The initial term of this MOU will be for the 2018-2019 school year, with an effective date of September 28, 2018 through June 14, 2019. Thereafter, the MOU may be renewed for additional one-year terms, or any fraction thereof, if both parties agree to the renewal in writing. To propose a renewal of this MOU, one party must provide notice to the other of a request for renewal at least sixty (60) days prior to the end of the current term.

#### **1. Consultation: Description of Services**

- A. Decisions will be made regarding the delivery of services during the consultation meetings between the two Parties and will include the following components:
  - a. Identifying funding for student-related services based on the per pupil allocation

- b. Develop eligibility requirements for selecting students eligible to participate in the Title I program
- c. Select service delivery site
- B. The scope of services will include the following components:
  - a. The Parties will collaborate on the service delivery model adopted by each respective Local Education Agency (LEA)
  - b. The Parties will collaborate on the frequency and duration of weekly service instructional time

## 2. Assessment

- A. The assessment of services will be performed by the LEA providing and include documentation of the following:
  - a. Pre and post tests
  - b. Student progress
  - c. Attendance

## 3. Additional Support Services

- A. The support services will include the following components:
  - a. Parent involvement activities and identification available funding under Title I for this purpose
  - b. Professional development for teachers for eligible students if the school system reserves funds from the Title I allocation for the Title I professional development activities
  - c. Title I counseling, mentoring, and/or one on one services for eligible Title I students if the school system reserves funds from the Title I allocation for the additional Title I student supports

## 4. Responsibilities

- A. The Parties respective Title I offices will provide services as follows:
  - a. Designate a contact person for Title I services for eligible students attending private school(s)
  - b. Determine participating public-school attendance areas and certify the number of eligible private school students
  - c. Provide, to the extent allowable under the Family Educational Rights and Privacy Act or any other applicable law, and review annual data regarding eligible students who attend private schools in the other Party's jurisdiction
  - d. Provide sufficient and reliable data concerning the amount of Title I funding that is generated for services to eligible students
  - e. Reserve the required amount of Title I funds for instructional services for identified students, parent involvement activities, and professional development activities, if applicable.
  - f. Annually consult with the designated contact person to determine the scope and nature of Title I services to eligible students who attend private schools in one local school system and reside in another
  - g. Provide, to the extent allowable under the Family Educational Rights and Privacy Act or any other applicable law, assessment data for eligible students receiving Title I services

## 5. Transfer of Funds

By November 15<sup>th</sup>, of the current school year, the amount of Title I funding that is owed to the other Party of Title I services will be determined. An invoice for the full amount shall be submitted, accompanied by appropriate documentation for payment (listed below). This invoice must be paid within 30 days of receipt, but no later than December 15<sup>th</sup>.

- Total number of students served
- List of students by grade level and school name
- Schedule of services provided
- Name(s) of service provider(s)
- Service delivery model
- Service to students and parent involvement activities

## 6. Audit

Each party shall retain and upon request make available to the other Party, all accounts and records relating to this Agreement during the term of this Agreement and for five years after this Agreement ends. Each party has the right, upon reasonable prior written notification, to audit and inspect all accounts and records maintained by the other Party in connection with this Agreement and may do so at the other Party's normal business hours.

## 7. Civil Rights and Equal Employment Opportunity

Each party agrees that it shall not discriminate on the basis of race, religion, age, ancestry or national origin, gender, physical or mental disability, marital status, or veteran's status with respect to employment opportunity or access to the program pursuant to this Agreement.

## 8. Notices and Contact Persons

Any inquiries under this MOU shall be directed to the Parties listed below. Any notices required under this MOU shall be in writing, sent by a recognized form of communication and by any recognized delivery method agreed to by the Parties.

TO DCPS:

Yiesha Thompson, Ph.D.  
Director, Monitoring and Program Support  
District of Columbia Public Schools  
1200 First Street NE, 12<sup>th</sup> Floor  
Washington, D.C. 20002  
(202) 442-6025  
(202) 535-2256  
[Yiesha.Thompson@dc.gov](mailto:Yiesha.Thompson@dc.gov)

TO CCPS:

Amy Tieperman  
Title I Support Teacher  
Howard County Public Schools  
10910 Rt. 108  
Ellicott City, Maryland 21042  
(410) 313-6806  
[Amy.Tieperman@hcpss.org](mailto:Amy.Tieperman@hcpss.org)

These individuals are responsible for the management and coordination of the requirements for each Party under this MOU. Copies of correspondence related to modification, extension or termination of this MOU, any legal matters concerning this MOU or any other transactions stemming from this MOU shall be furnished to these individuals with additional copies to:

Office of the General Counsel  
District of Columbia Public Schools  
1200 First Street NE, 10<sup>th</sup> Floor  
Washington, D.C. 20002  
T: (202) 442-5000  
F: (202) 442-5098

## **9. Anti-Deficiency Considerations**

DCPS's duty to fulfill financial obligations to any kind pursuant to any and all provisions of this MOU, or any subsequent agreement entered into pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08 (2001); (iii) D.C. Official Code § 47-105 (2001); as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned. Pursuant to the Anti-Deficiency Acts, nothing in this MOU shall create an obligation on DCPS in anticipation of an appropriation by Congress for such purpose, and DCPS's legal liability for any obligations under this MOU shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress.

## **10. Modifications**

Modifications to this Agreement may be made only in writing signed by authorized representatives of both Parties.

## **11. Counterparts**

This Agreement may be executed on one or more counterparts; each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument.

**12. Approvals**

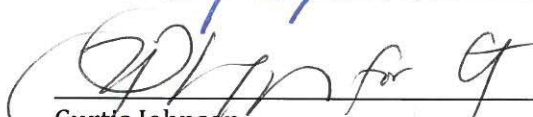
The individuals designated below, by signing this Agreement, so indicate that they possess the necessary authority to bind the Parties to the obligations described herein

**DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS**



Amanda Alexander, Ph.D.  
Interim Chancellor

Date: 10/22/18



Curtis Johnson  
Deputy Chief, Federal Programs & Grants

Date: 10/10/18

**HOWARD COUNTY  
PUBLIC SCHOOLS**



Michael J. Martirano, Ed.D.  
Superintendent

Date: 10/31/18

\_\_\_\_\_

Date: \_\_\_\_\_

**Sacred Heart**

Last Name	First Name	Grade	Address	City	State	Zip	County	School	Title I
		K	6312 Early Red Ct	Columbia	MD	21045-4490	Howard	Talbot Springs Elementary	Yes

**St. Augustine**

Last Name	First Name	Grade	Address	City	State	Zip	County	School	Title I
		5	4936 Columbia Road #1	Columbia	MD	21046	Howard	Running Brook Elementary	Yes

	Number of Eligible Students	Instructional PPA	PFE PPA
	2	\$ 1,640.00	\$ 16.56
<b>Total for Title I Service</b>		<b>\$ 3,280.00</b>	<b>\$ 33.12</b>
<b>Grand Total for Title I Service</b>		<b>\$ 3,313.12</b>	

**RIDER NO. 1 TO THE SUMMIT LEARNING PROGRAM AGREEMENT**

This **RIDER NO. 1** ("Rider No. 1") to the **SUMMIT LEARNING PROGRAM AGREEMENT** amends and supplements that certain **PROGRAM AGREEMENT** (the "Original Program Agreement" and, together with Rider No. 1, the "Program Agreement"), by and between **SUMMIT PUBLIC SCHOOLS**, a California nonprofit public benefit corporation ("Summit"), and **DISTRICT OF COLUMBIA PUBLIC SCHOOLS** (the "Partner School"). The parties hereto do hereby agree as follows:

1. Section 6 (Indemnification) of the Original Program Agreement is deleted in its entirety and replaced with the following:

**6. [INTENTIONALLY OMITTED]**

2. Section 10 (Governing Law) of the Original Program Agreement is deleted in its entirety and replaced with the following:

**10. GOVERNING LAW**

This Program Agreement will be governed by and construed in accordance with the laws of the District of Columbia and such federal laws as are applicable to the Partner School.

3. Capitalized terms used herein and not otherwise defined shall have the meaning used in the Original Program Agreement unless otherwise noted.

4. All other provisions of the Original Program Agreement remain in full force and effect, other than nay provision that conflicts with the terms and spirit of this Rider No. 1, which shall be deemed to be amended appropriately in order to be consistent with this Rider No. 1.

IN WITNESS WHEREOF, the undersigned have duly authorized, executed and delivered this Rider No. 1 as of the date written below.

**SUMMIT PUBLIC SCHOOLS**

By (Signature):  
Name (Printed):  
Title:

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS,**  
as **PARTNER SCHOOL**

By (Signature):   
Name (Printed): Amanda Alexander  
Title: Interim Chancellor

**Dated:** July 11, **2018**



## SUMMIT LEARNING PROGRAM AGREEMENT

This **SUMMIT LEARNING PROGRAM AGREEMENT** (the “Program Agreement”), is effective June 25, 2018 (“Effective Date”), and is by and between **SUMMIT PUBLIC SCHOOLS**, a California nonprofit public benefit corporation (“Summit”), having an office at 780 Broadway Street, Redwood City, California, and District of Columbia PS (the “Partner School”) on behalf of itself and the schools listed on Schedule I hereto (each of Summit and the Partner School, a “Party” and together the “Parties”), and governs Summit’s provision of the Summit Learning Program (the “Program”) and the Summit Learning Platform (the “Platform”), and any other products and services that the Program may provide now or in the future (collectively, the “Service” or the “Services”) to the Partner School. Participation in the Program includes, among other things, the Base Curriculum (defined herein), professional development and training, ongoing support and mentorship, and access to the Services.

### 1. BACKGROUND

- 1.1 **Our Mission.** The mission of Summit Public Schools is to prepare a diverse student population for success in college, career and life, and to be thoughtful, contributing members of society. Inspired by the vision to equip every student to lead a fulfilled life, Summit developed its approach to teaching and learning - Summit Learning - over the course of 15 years. Today, Summit shares its work to have broader impact by helping schools bring Summit Learning to their classrooms for free, through the Summit Learning Program.
- 1.2 **Our History.** Established in 2003, today, Summit has 11 schools in California and Washington. Since 2015, Summit has supported an additional 330 schools across the nation through the Summit Learning Program, helping them bring Summit Learning to their classrooms, for free. Developed by teachers for teachers, the Summit Learning Program gives schools the tools, resources and professional development to implement and tailor Summit Learning for their communities.
- 1.3 **Our Organization.** Summit is a charter public school system, which a group of parents, teachers, and administrators founded in 2000. Summit was established as a California nonprofit public benefit corporation organized and operated for charitable and educational purposes as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- 1.4 **Selection & Agreement to Participate.** Summit has selected the Partner School to participate in the Program and invites the Partner School to take advantage of the grant of the Program. By signing this Program Agreement, an authorized representative of the Partner School agrees to the terms of this Program Agreement, and the Summit Learning Platform Terms of Service (the “Terms of Service”) and the Data Privacy Addendum (the “Data Privacy Addendum”), which are incorporated herein.
  - This Program Agreement establishes a collaboration between Summit and the Partner School and sets forth the legal terms governing the Program and the Services.

- The Terms of Service, attached as Exhibit A hereto, set forth the requirements that the Partner School and its teachers, employees, officials, agents, and the parents and legal guardians of its currently enrolled students (collectively, “Licensed Users”) agree to follow in order to use the Services.
- The Data Privacy Addendum attached as Exhibit B hereto governs Student Data (as defined therein) transmitted to Summit from the Partner School pursuant to this Program Agreement and the Terms of Service.

**1.5 Collaboration.** By signing this Program Agreement, Summit and the Partner School agree to work together in good faith to implement personalized learning supported by the Program and the Services. In connection with the Partner School’s participation in the Program, Summit expects the Partner School to communicate regularly about needs, opportunities, and progress, as well as goals, priorities, and timelines for the ongoing evolution of the Program and the Services.

**1.6 Cost.** There is no cost to the Partner School, and Summit will not charge the Partner School or its Users (defined herein) to use the Program or the Services.

**1.7 Summit Learning.** Summit Learning (“Summit Learning”) combines Summit’s values, what science reveals about how students learn best, and cutting-edge research into a school experience that can be tailored to every community’s needs. As part of the Program, participating schools receive the grant of Summit Learning described in Section 2 below.

## 2. GRANT OF THE PROGRAM AND THE SERVICES

**2.1 Curriculum and Assessments.** Summit will provide access to the Base Curriculum (the “Base Curriculum”), which will include projects, playlists of content, and assessments from which the Partner School can build upon and modify in order to meet the needs of their communities, district and/or state. The Base Curriculum includes standards-based curricula and assessments for English, math, science, and social studies (grades 4–12) and a sampling of additional elective courses.

Subject to this Program Agreement and the Terms of Service, Summit grants permission to teachers, employees, officials, and agents at the Partner School to adapt or create new focus areas and projects. In connection therewith, Summit will provide to the Partner School (i) access to the curriculum team; (ii) access to support when building out resources and projects that are in line with Summit Learning; and (iii) the ability to submit resources for Summit to review and consider for addition to the Base Curriculum.

**2.2 Ongoing Support.** Summit shall provide ongoing support and coaching to the Partner School through the provision of a mentor (a “Summit Learning Mentor”) during the first four school years in which the Partner School participates in the Program. In connection therewith, Summit agrees to make available to the Partner School:

- A Summit Learning Mentor who will provide support through regular weekly or bi-weekly coaching calls, and to the extent the Partner School and Summit deem

necessary, school visits, in order to support the Partner School through the change management process as the Partner School implements Summit Learning;

- Access to a nationwide community of Summit Learning educators and an invitation to share best practices, challenges and more;
- Access to a library of resources (e.g. presentation templates for parent nights, Summit Learning classroom posters, etc.); and
- Access to webinars, on-demand training sessions, and in-person training sessions and workshops from a range of Summit Learning teams, including engineering and communications.

### 2.3 Professional Development.

**A. Professional Development in Year One, Year Two, and Year Three.** Pursuant to this Program Agreement, Summit shall provide professional development services for the teachers and administrators whom the Partner School designates to participate in the implementation and launch of Summit Learning at the Partner School (collectively, the “Implementation Team”). The Partner School shall ensure that members of the Implementation Team follow guidelines issued by Summit from time to time relating to the professional development services, including business rules and deadlines relating to Summer Trainings (defined herein) and Regional Convenings (defined herein), Summit shall provide the professional development services to members of the Implementation Team during the first school year (“Year One”), second school year (“Year Two”), and third school year (“Year Three”) of the Term of this Program Agreement as set forth below:

**(1) Year One of Program Implementation.** During Year One of the Partner School’s use of the Program:

- Summit agrees to provide professional development services to the Partner School’s Implementation Team during the Summer of Year One. Summit expects these professional development activities to help the Partner School set up the launch of Summit Learning in the new school year.
- Summit shall provide professional development services in the Fall and Spring of Year One through Regional Convenings.

**(2) Year Two of Program Implementation.** During Year Two of the Partner School’s use of the Program:

- Summit agrees to provide professional development services to selected teachers from the Partner School during the Summer of Year Two to assist preparations for the start of the upcoming school year.

- The Partner School shall select new grade level teams and up to three (3) teachers. The Partner School shall select only teachers who are entering Summit Learning classrooms and have not previously taught Summit Learning.
- Summit shall provide professional development services in the Fall and Spring of Year Two through Regional Convenings.
- (3) **Year Three of Program Implementation.** During Year Three of the Partner School's use of the Program:
  - Summit shall provide professional development services to selected teachers from Partner School during the Summer of Year Three to assist preparations for the start of the upcoming school year.
    - The Partner School shall select new grade level teams and, if any teachers trained in Summit Learning are no longer with the Partner School, the Partner School may select a replacement teacher for each departed teacher, but no more than six (6) replacement teachers. The Partner School shall only select teachers who are entering Summit Learning classrooms and have not previously taught Summit Learning.
  - Summit shall provide professional development in the Fall and Spring of Year Three through Regional Convenings.

**B. Professional Development in Year Four.** Summit shall provide professional development services to the Partner School during the fourth year ("Year Four") of the Term of this Program Agreement if Partner School is a member of Cohort 1, Cohort 2, or Cohort 3 (each as defined herein).

**C. Cohorts.**

- (1) **Cohort 1 and Cohort 2.** Summit will provide up to four (4) years of Professional Development support, inclusive of any and all prior years of support, through summer trainings (each, a "Summer Training") and regional convenings (each, a "Regional Convening") to partner schools that began student use of the Program during the 2015-16 school year ("Cohort 1") and the 2016-17 school year ("Cohort 2").
- (2) **Cohort 3.** Summit will provide Summer Trainings and Regional Convenings for up to three (3) years, inclusive of any and all prior years of support, through to partner schools that began student use of the Program during the 2017-18 school year; provided, however, that, Summit will provide one (1) additional year of support through Summer Trainings and Regional Convenings if such partner school adds a new

team of grade level teachers who teach the core classes and increases the number of students in the Program.

- (3) **Cohort 4.** Summit will provide Summer Trainings and Regional Convenings for up to (3) years for partner schools that commence student use of the Program during the 2018-19 school year (“Cohort 4”).

**D. Additional Schools.** If the Partner School is a school district and Summit approves the participation of additional schools within such school district in Summit Learning, then Summit and the Partner School agree to update Schedule I to this Program Agreement. Notwithstanding any update to Schedule I, both parties acknowledge the Effective Date of this Program Agreement will be the date originally set forth above.

### 3. GRANT REQUIREMENTS AND COMPLIANCE

**3.1 General.** In connection with its selection as a Partner School and in order to launch and implement Summit Learning in the Partner School, Partner School agrees to:

- Follow the program requirements posted on the Summit Learning Website under the caption “Program Requirements”, which are incorporated by reference into this Program Agreement;
- Follow the technical requirements posted on the Summit Learning Website under the caption “Technical Requirements”, which are incorporated by reference into this Program Agreement;
- Send new Summit Learning teachers and designated teachers and school administrators to Summer Trainings and Regional Convenings; and
- Communicate regularly with the Summit Learning Mentor (i.e. at least 30 minutes weekly or 60 minutes bi-weekly, in addition to regular email communication).

**3.2 Access to the Services.** Partner School agrees to limit access to the Program and the Services to students currently enrolled in the Partner School with an account on the Services (“Student Users”). In addition, Partner School agrees to limit access to the Program and the Services to the parents and legal guardians of Student Users, and the teachers, employees, officials, or agents (“Licensed Users”) who have accepted the Terms of Service. The Student Users and Licensed Users are, collectively, referred to herein as the “Users”.

**3.3 Compliance with Program Agreement, Data Privacy Addendum, and Terms of Service.** The Partner School’s use of the Services must be in compliance with this Program Agreement, the Data Privacy Addendum, and the Terms of Service. The Partner School will provide information and education, and where needed create policies and regulations, to ensure that all of its Users comply with the Terms of Service, and where applicable this Program Agreement and Data Privacy Addendum.

In the event a User violates this Program Agreement, Data Privacy Agreement, or Terms of Service, the Partner School shall promptly notify Summit and shall cooperate with Summit in taking reasonable steps to remediate such violations. Notwithstanding the foregoing, Summit reserves the right to immediately suspend any User or the Partner School in its sole discretion for any reason (with or without cause) and terminate the Partner School in accordance with Section 5 hereof.

#### 4. INTELLECTUAL PROPERTY

**4.1 Intellectual Property.** The Program and Services may contain material derived in whole or in part from material supplied by Summit as well as other sources, and such material is protected by United States copyright laws, international treaty provisions, trademarks, service marks and other intellectual property laws. All rights to the Program and the Services not expressly granted in this Program Agreement, Terms of Service, and Data Privacy Addendum are reserved by Summit. The Partner School and its Users shall abide by the intellectual property provisions set forth in the Terms of Service and all applicable copyright and other intellectual property laws.

#### 5. TERM AND TERMINATION

##### 5.1 Term.

- A. This Program Agreement shall commence on the Effective Date, and shall terminate in accordance with subsections 5.1.B or 5.1.C, as applicable, or on such earlier date as set forth in Section 5.2, Section 5.3, and Section 5.4 hereof.
- B. If the Partner School is an individual school, this Program Agreement will terminate on the date that is four (4) years after the date on which the Partner School's students first begin using the Services.
- C. If the Partner School is a school district, this Program Agreement will terminate on the date that is four (4) years after the date on which the students attending the last school to join Summit Learning first begin using the Services. Summit will provide the Summit Learning Services to each school within the Partner School school district for a period of four (4) years after the date on which the students in such school first begin using the Services.

**5.2 Notice of Intent to Terminate.** Either Party may terminate this Program Agreement for its convenience, by giving at least thirty (30) days' written notice to the other Party.

**5.3 Breach of Agreement.** Either Party (the "Non-breaching Party") may terminate this Program Agreement, effective immediately upon delivery of written notice to the other Party ("Breaching Party") if the Breaching Party materially breaches any provision of this Program Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from the Non-breaching Party.

**5.4 Compliance with Program Requirements.** To the extent Summit determines that Partner School is not substantially in compliance with the Program Requirements,