

MEMORANDUM OF AGREEMENT

This Agreement is entered into this 1st day of July, 2017 by and between the Board of Education of the Guilderland Central School District located at PO Box 18, 8 School Road, Guilderland Center, New York 12085-0018, (hereinafter "Local Education Agency" or "LEA"), and located at _____ (hereinafter "Approved Special Education Program" or "ASEP") with respect to the LEA's allocation of the ASEP's share of federal IDEA Flow-Through Funds and the ASEP's expenditure and record keeping obligations with respect to said funds.

The LEA and the ASEP agree as follows:

- I. **Term:** The term of this Agreement shall be July 1, 2017 through June 30, 2018 (the "Term"). If the LEA and ASEP currently have different start and end dates for their grant years, both parties agree to coordinate the term of their grant years for 2017-2018 and subsequent years to run from July 1 to June 30.

- II. **Application for and Payment of Funds:**

2017-18 Grant Year

- A. For the 2017-2018 grant year, the parties shall adhere to the following procedures:
 1. The ASEP shall complete and submit the SEDCAR-1 form to the LEA no later than February 1, 2017, unless the State Education Department sets a later deadline for submission. The student information contained therein shall be subject to verification and reconciliation by the LEA.
 2. The LEA shall sub-allocate Section 611 and 619 flow-through funds on a per student basis, based upon its base allocation of IDEA funds.
 3. Upon calculating the per student amount to be sub-allocated, the LEA shall promptly provide written notice to each ASEP of the amount of IDEA funds to be sub-allocated to that ASEP. The calculation shall be in the form annexed hereto as Attachment "A".
 4. The ASEP will report the first ninety percent (90%) of its actual expenditures of IDEA grant monies by submitting to the LEA at the times listed below verified Statement of Expenditures/Request for Payment ("SERP") which shall reflect as accurate and appropriate expenditure of said funds, as authorized under the IDEA. The SERP shall be in the form annexed hereto as Attachment "B".

The dates on which such SERP forms shall be due are:

December 31, 2017

March 1, 2018

June 28, 2018

August 30, 2018

5. The LEA shall make sub-allocation payments to the ASEP in the same proportion as such funds are paid to the LEA by the State Education Department within thirty (30) calendar days after the later of the following:
 - (a) The LEA receives any portion of its allocation of funds for the current year pursuant to IDEA Section 611 or 619;
 - (b) The LEA receives an application for sub-allocation from the ASEP.
6. The ASEP shall submit to the LEA a Final Statement of Expenditures/Request for Payment (FS-10F or F-SERP) documenting the ASEP's actual expenditures for eligible purposes and requesting payment of that portion (up to 100%) of the ASEP's remaining grant balance.
7. Within thirty (30) calendar days of receipt of the FS-10F long form or F-SERP, the LEA will process the final payment for the 2017-2018 grant year to the ASEP.

III. Record Keeping and Audits:

- A. The ASEP shall maintain their books, records and accounts pertaining to the use of these funds in accordance with the requirements of applicable generally accepted accounting principles. The LEA or their authorized representative(s) shall have the right to conduct a fiscal audit of the program supported by these funds, provided, however, that nothing in this Agreement will diminish or modify the audit procedures required in any other contract which the ASEP may have with the LEA for the provision of special education or other services. Access to property and personnel related to the ASEP's use of these funds shall be provided during an audit, including all records maintained by the ASEP necessary to substantiate the information submitted by the ASEP to the LEA.
- B. Except as otherwise directed by the LEA, the ASEP shall, until seven (7) years after the end of the Term, or until seven (7) years after the termination of the Agreement, retain all books and records required hereunder, including, without limitation, all cost and accounting records, employee certifications, staff (pedagogical and non-pedagogical) attendance, service and time records pertaining to the use of these funds. The ASEP shall make all books and records available to the LEA, or their authorized representatives, for review and audit at such times during business hours as they may request.
- C. The ASEP shall furnish upon request any additional data and reports as the LEA deems to be related to the performance of the Agreement. The ASEP shall be given a reasonable time to respond to such requests.

IV. Assurances:

- A. The ASEP warrants that as a provider of special education services approved by the Commissioner of Education it is aware of and shall comply with all applicable federal, state, and local laws and regulations governing the expenditure of funds allocated to the ASEP under this Agreement. In addition, the ASEP shall sign and comply with the Statement of Assurances annexed hereto as Attachment "B". The parties acknowledge that non-public ASEP's are bound only by Section 1.3 of the Statement of Assurances.

- B. If, upon an audit or review of programs or funds expended by the ASEP pursuant to this Agreement by any federal or state regulatory authority (including, but not limited to, the U.S. Department of Education or the New York State Education Department) or by the LEA which results in any demand, action or proceeding to recover funds allocated pursuant to this Agreement deemed to be improperly expended or accounted for by the ASEP, the ASEP shall return all such funds immediately to the regulatory authority or to the LEA as appropriate. Any penalty incurred in connection with such repayment, including but not limited to fines and interest on any funds deemed to have been improperly expended or accounted for, shall be borne entirely by the ASEP.
- C. In the event the ASEP fails to accurately and/or timely submit the forms and notices required hereunder or fails to accurately and/or timely submit such other forms and notices as the LEA may reasonably require, the LEA shall not be required to request any further flow through funds for the ASEP from SED until the reporting period (as per the schedule set forth in Paragraph II.A.4 herein) immediately following the correction of said deficiency. If the ASEP fails to accurately and/or timely submit a final accounting (F-SERP) as required herein, said failure shall be considered a breach of this Agreement. In the event of such a breach, the LEA may close its project and submit to SED its own final account (FS-10F) without including those ASEP funds for which a final accounting has not been received. The LEA shall then be entitled to recover from the ASEP all pass-through funds for the applicable grant year which have been paid by the LEA to the ASEP for which the ASEP has not accurately or timely provided final accounting.
- D. In the event of a breach by the ASEP as described herein, this Agreement, together with all forms and notices required or promulgated hereunder shall be collectively considered an instrument for the payment of money only and may serve as the basis for summary judgment in lieu of complaint pursuant to Section 3213 of the Civil Practice Rules and Procedure of the State of New York. The parties specifically agree that the only and proper venue for any action to recover such funds or to enforce this Agreement shall be the Supreme Court of the State of New York of and for the county in which the LEA's principal offices reside.
- E. The parties to this Agreement will maintain their independent and separate identities, each having exclusive control of its own management, assets and affairs. Neither party will, by virtue of this Agreement, assume any liability or obligation of the other party.

V. Miscellaneous:

- A. The parties shall amend this Agreement, as may be necessary, in order to comply with any change in applicable laws, regulations and guidelines governing the operation of this Agreement. The LEA and the ASEP specifically agree that if state laws or regulations are amended during the Term to provide for the flow-through to the ASEP of funds from prior years known as "carryover funds" this Agreement shall be amended by letter agreement to allow for expeditious distribution of such funds in accordance with the amendments.
- B. This Agreement supersedes all prior agreements, written or oral, between the LEA and the ASEP and may only be modified or amended by mutual agreement of the parties, in writing.
- C. "Days" shall mean calendar days.

D. All notices and forms required to be submitted pursuant to this Agreement shall be sent to the following persons and addresses:

LEA Contact: Norma Henness Phone: (518) 456-6200, ext. 3112

LEA Address: PO Box 18, 8 School Road, Guilderland Center, New York 12085

ASEP Contact: _____ Phone: _____

ASEP Address: _____

So Agreed:

For: GUILDERLAND CENTRAL SCHOOL DISTRICT (LEA)

LEA Authorized Signature/Title

Date

For: Early Childhood Education Center (ASEP)

ASEP Authorized Signature/Title

Date

Item 1.0 Assurances/Certifications Given by Signature of the Chief School Officer.
All applicants must complete the signature section on page 8. Item 1.1 and 1.2 apply to public school districts and State agencies, while Item 1.3 applies to all applicants.

Item 1.1 Local Educational Agency General Assurance Pertaining to the Use of Federal Funds SEDCAR Section 76.301 (c).

- The local educational agency (LEA) will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications [20 U.S.C. 1232e(b)(2)].
- The control of funds provided to the LEA under each program and title to property acquired with those funds will be in a public agency and a public agency will administer those funds and property [20 U.S.C. 1232e(b)(2)].
- The LEA will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, federal funds paid to that agency under each program [20 U.S.C. 1232e(b)(3)].
- The LEA will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties. The LEA will also maintain records required under Section 1232f of GEPA, and provide access to those records which the State agency or board or the Secretary determines are necessary to perform their duties [20 U.S.C. 1232e(b)(4)].
- The LEA will provide reasonable opportunities for the participation by teachers, parents and other interested agencies, organizations and individuals in the planning for and operation of each program [20 U.S.C. 1232e(b)(5)].
- Any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public [20 U.S.C. 1232e(b)(6)].
- In the case of any project involving construction, the project is not inconsistent with overall State plans for the construction of school facilities; and in developing plans for construction, due consideration will be given to excellence of architecture and to design and to compliance with standards prescribed by the Secretary under Section 504 of the Rehabilitation Act of 1973, as amended, in order to ensure that facilities constructed with the use of federal funds are accessible to, and useable by, individuals with disabilities [20 U.S.C. 1232e(b)(7)].
- The LEA has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program, significant information from education research, demonstrations, and similar projects; and adopts, if

appropriate, promising education practices developed through those projects [20 U.S.C. 1232e(b)(8)].

- None of the funds expended under this program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization [20 U.S.C. 1232e(b)(9)].
- The LEA shall comply with any federal health or safety requirements that apply to the facilities that the LEA uses for its Part B Project [20 U.S.C. 1221e-3(a)(1)].
- A general application submitted under this section shall remain in effect for the duration of the programs it covers [20 U.S.C. 1232e(c)].

Item 1.2 Additional Assurances Required Under Part B of the Individuals with Disabilities Education Act (IDEA)

In making application for funds available under IDEA, Part B, the applicant assures that the following conditions are being met as required by the implementing regulations for Part B of the IDEA:

- The board of education has established and implemented policies and procedures in accordance with Part 200 of the Regulations of the Commissioner of Education, which guarantee all students procedural safeguards, as provided under State law and regulations (8NYCRR 200.5).
- The funds received under IDEA, Part B will be used solely for excess costs for special education for students with disabilities.
- (IDEA, Part B, Section 613(a)(2)(A)(I))*
- The LEA will use funds received under IDEA to supplement State, local, and other federal funds and not to supplant such funds.
- (IDEA, Part B, Section 613(a)(2)(A)(ii))*
- The LEA will not use IDEA funds to reduce its level of expenditure of local funds for the education of children with disabilities below the level of such expenditures for the preceding fiscal year. (IDEA, Part B, Section 613(a)(2)(A)(iii))*

* The LEA will fully comply with the three above assurances, which culminate with asterisks (*), except as provided in 34 CFR §300.232 which may permit a reduction of expenditures by LEAs based on departure by higher-salaried staff, decrease in numbers of students with disabilities, termination/reduction of obligations associated with costly programs, or the termination of costly expenditures for long-term purchases; and in 34

CFR §300.233 which may permit LEAs to treat as local funds up to 20 percent of the amount of funds it receives under IDEA, Part B that exceeds the amount of such funds received for the previous fiscal year, upon a national appropriation for Section 611 of the IDEA which exceeds \$4.1 billion. More information regarding these two sections of federal regulations is presented in pages 3 and 4 of the Overview of New York State's Federal Sub-Grant Programs for the Education of Students with Disabilities (included in Application materials).

- The LEA has provided students with disabilities who are voluntarily enrolled by their parents in non-public schools located within the geographic area served by the applicant, the opportunity to receive special education and related services in accordance with Section 3602-c of the Education Law (dual enrollment) and, for those so served, to benefit from IDEA, Part B funded programs and projects. (IDEA, Part B, Section 612(a)(10)(A))
- The LEA will keep on file documents, which demonstrate that the LEA abides by these assurances and, if requested, will submit such documents to the State Education Department as part of this application.

Item 1.3 Required Federal Certifications

Section I. Required Federal Certification Regarding Debarment and Suspension

This certification covers all federal programs in this application and is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' Responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the office to which this proposal is submitted.

Instructions for Certification

- (1) By signing and submitting this proposal, the prospective lower-tier participant is providing the certification set out below:
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- (3) The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- (4) The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower-tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of such regulations.
- (5) The prospective lower-tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- (6) The prospective lower-tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the non-procurement List.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Section II. Certifying Statement

The prospective lower-tier participant certifies, by submission of this proposal, that neither it nor debarment/its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or suspension voluntarily excluded from participation in this transaction by any federal department or agency.

Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 for such failure.

Section III. Required Federal Certification Regarding Lobbying

- (1) Submission of this certification covers all federal programs in this application and is required by the U.S. Department of Education and Section 1352, Title 31 of the United States Code and is a prerequisite for making or entering into a sub-grant or subcontract over \$100,000 with any organization.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (2) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (3) If any funds other than federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the awarded documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

Section IV. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

- A. The applicant certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an on-going drug-free awareness program to inform employees about-
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

- A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and
- B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

Section V. Non Discrimination Certification

Personnel in this program are selected for employment without regard for race, color, national origin, gender, age or disability.

Section VI. GEPA Section 427

Pursuant to Section 427 of the General Education Provisions Act (GEPA), this local education agency assures that steps have been taken to ensure equitable access to, and equitable participation in all federally-assisted programs by addressing the special needs of students, teachers, and the other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, age, national origin, color or disability.

School or Federal Fiscal Year 2017-18 Federal Program(s) _____

I, the undersigned Chief School Officer, have read, understand and hereby give the assurances contained in Items 1.1, 1.2, and 1.3 above, on behalf of the governing board of this agency.

Name of Applicant Agency

Typed Name of Chief School Officer

Chief School Officer Signature

Date Signed