



BILL HASLAM
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
NINTH FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

CANDICE MCQUEEN
COMMISSIONER

August 2, 2017

RE: Charter Agreement Amendments

Dear Operators:

Due to changes in the law and ASD policy it is necessary that we amend all charter agreements. All charter operators are receiving this amendment. While the amendment effectively deletes the prior agreement in its entirety, you will find that a majority of the changes were not material. This sweeping amendment was prepared to clarify language in the agreements and to ensure uniformity in terms for all charter operators. The amendment does not change the initial term of the agreement and it should be noted that the substantive changes would have been included in any amendment we proposed this year. Please execute the amendment and return to the ASD prior to the first day of the 2017-2018 school year. If you have any questions regarding the amendment please feel free to contact my office.

Sincerely,

A handwritten signature in blue ink that reads "Lee N. Danley".

Lee N. Danley, Esq.
Deputy General Counsel
Lee.Danley@tn.gov
615-253-1550



Tennessee Achievement School District Charter Agreement

AMENDMENT NUMBER 2

This Amendment is made and entered into by and between the Tennessee Department of Education's organizational unit of the **Tennessee Achievement School District**, hereinafter referred to as the "**ASD**" and **Capstone Education Group**, hereinafter referred to as the "**Operator**." The ASD and Operator are collectively referred to as the "**Parties**" to this Amendment. The Amendment revises the Agreement signed and effective **July 2, 2015**, between ASD and Operator for the operation of **Cornerstone Prep - Denver Campus (SCHOOL ID #8115)**, hereinafter referred to as the "**Agreement**." This Amendment supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral and is subject to T.C.A. § 49-1-614 and the Tennessee Public Charter Schools Act, T.C.A. § 49-13-101 et. seq.

For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned Parties that the subject Agreement is hereby amended as follows:

The Agreement is deleted in its entirety and replaced with the following:

This Charter Agreement (Agreement) is entered into by and between the Tennessee Department of Education's organizational unit of the Achievement School District (hereinafter referred to as "the ASD") and **Capstone Education Group** (hereinafter referred to as "the Operator") in accordance with T.C.A. § 49-1-614 and the Tennessee Public Charter Schools Act of 2002 (TPCSA). The ASD and the Operator are collectively referred to as "the Parties" in this Agreement.

Definitions

The following are definitions of terms used in this Agreement.

Achievement School District (ASD) – An organizational unit of the department of education, established by the commissioner for the purpose of providing oversight for the operation of the total program for individual schools or LEAs.

Application – The document submitted by the Operator in response to a request for proposals or qualifications to operate a school to serve students eligible to attend ASD schools.



Local Education Agency (LEA) – Any county, city or special school district, unified school district, school district of any metropolitan form of government or any other school system established by law.

Operator – In this Agreement, “operator” refers to either the sponsor of an application to receive a charter from the ASD; the governing body of an approved charter school or charter management organization (CMO); or an individual, governmental entity or non-profit entity entering a contract with the ASD to “manage the day-to-day operations of a school or schools within the ASD.”

1. Grant of Charter

The ASD hereby grants a charter to the Operator for the management of Cornerstone Prep - Denver Campus for ten (10) consecutive school years, beginning with the 2015-16 school year. In accordance with the terms of the Operator’s Application, the Operator will operate grade(s) PK - 5 during the 2015-16 academic year.

The Operator shall serve students who are eligible to attend Cornerstone Prep - Denver Campus in the applicable grades for which there is zoned attendance in any given year. Operator shall only serve grades that the school (ID #8115) served at the time the Commissioner assigned the school to the ASD, and subject to Section 3.5 of the Agreement below. Per these requirements, the Operator shall serve, at a maximum, grades PK - 5 at Cornerstone Prep - Denver Campus. However, Operator may apply to the LEA that oversaw the school prior to its placement in the ASD to expand the grades the school serves as provided in state law.

The ASD shall remain the chartering authority through the duration of the charter agreement and the school shall remain under the authority of the ASD. Upon expiration of the charter agreement, or sooner, provided the conditions for transfer set forth in state law are met, the school shall return to the LEA that operated the school prior to its inclusion in the ASD, subject to the applicable state statutes. The Agreement may be renewed upon submission of an application by the governing body of the charter school to the LEA.

Pursuant to the TPCSA, a charter agreement shall be effective upon approval of the charter application by the chartering authority. The charter shall expire ten (10) years after the first day of instruction.

2. Roles and Responsibilities



The ASD shall ensure that the charter school is governed and operated as set forth in the Application and in accordance with this Agreement and all other applicable laws and regulations. The Operator shall be accountable to the ASD for ensuring the implementation of the terms and conditions of this Agreement.

During the term of the charter, the ASD shall retain the right to review the academic, operational and financial performance of the Operator.

The Operator will use reasonable, good faith efforts to educate children and demonstrate progress in achieving the goals outlined for all ASD schools and those goals the Operator established in its application.

3. General Terms and Conditions

3.1 The Application

The application in response to the Request for Proposal (Application), submitted **September 15, 2011**, attached as **(Exhibit 1)**, sets forth the goals, standards, and general operational policies relating to the management of the Operator's charter school. The Application is incorporated by reference into this Agreement. To the extent that the Operator desires to implement specific policies, procedures, or other specific terms of operation that supplement those set forth in the Application, they shall be permitted to implement such policies, procedures, and specific terms of operation, provided that such policies, procedures, and terms of operation (i) are not otherwise prohibited or circumscribed by applicable law or this Agreement, and (ii) are not materially different from those set forth in the Application.

To the extent there is a conflict between the terms of this Agreement and the Application, the terms of this Agreement shall govern.

Material changes to the approved Application must be approved by the ASD prior to implementation. The ASD agrees to provide a written response to the Operator within fourteen (14) calendar days of notification of material changes by the Operator. Changes that are almost always material and which require review and approval include but are not limited to:

- increased or decreased enrollment constituting 15% of the school's student population or 50 students, *whichever is less*;
- changes to curriculum or pedagogical approach that are inconsistent with the Application; or
- changes to operational specifications in the Application including but not limited to transportation or facility plans.



3.2 Governance

- a. General Requirements. The Operator shall include parent participation in governance through membership on the board of directors or establishment of a school advisory council pursuant to the TPCSA.

The Operator shall comply with all applicable provisions of the Tennessee Open Meetings Act, including with regard to the scheduling of Governing Body meetings, meeting agendas, public notice of meetings, and records of those meetings. At the start of each school year, the Operator shall provide to the ASD a schedule of Board of Directors meetings for that school year.

Operator's Board of Director/Trustees must sign and submit a signed conflict of interest form annually in compliance with TPCSA.

- b. Grievances. The Operator shall be the first avenue for response in case of any complaints or grievances filed against the school or its employees and volunteers. The Operator will ensure policies and procedures are established for receiving and addressing complaints or grievances directed toward the Operator or its employees and will make those policies available to students, parents/guardians, employees, and any other persons who request it. If grievances persist following the actions of the Operator, complaints regarding alleged violations of law or the Agreement may be investigated by the ASD. Grievances that are not resolved by the Operator, or a pattern of serious grievances, may be considered in any application for renewal of this Agreement or any action to revoke the charter.

The Operator shall notify the ASD immediately if at any time the Operator receives notice or is informed that it is a party to a lawsuit.

- c. Reporting of Corporate Status. The Operator shall report any change to the Operator's corporate legal status or any change in its standing with the Tennessee Secretary of State's Office to the ASD within five (5) days of change. Any change to the Operator's corporate legal status as a not-for profit organization shall constitute grounds for immediate revocation unless, during the term of this Agreement, the law is amended to allow charter schools to be operated by organizations other than not-for-profit organizations.

3.3 Funding

3.3.1 State and Local Funds

- a. Distribution of Funds. The ASD shall allocate and pay an amount equal to the per student state and local funds (Basic Education Program or BEP) received by the ASD from the Tennessee Department



of Education (TDOE), to the Operator in August, September, October, November, December, January, February, March, April, and June. Payments will be based on the schedule published by the ASD prior to the start of each fiscal year. The final payment will not be released until the Average Daily Membership (ADM) for the year has been reconciled.

- i. Allocation of Funds Based on ADM. All BEP payments will follow the schedule published by the ASD prior to the start of each fiscal year. Initial payments will be based on estimates of enrollment determined by the ASD and reflected in the Operator's Board-approved budget for the upcoming fiscal year by June 1 each year.
 - ii. Special Education Funding. The ASD may implement the special education tiered funding model (included as **Exhibit 2**) and distribute said funds based on the model in lieu of funding based on the full state and local per pupil allocation provided in the TPCSA. The tiered funding model is designed to reallocate funds for providing special education services to students with Individualized Education Programs (IEPs). The model will have five (5) tiers based on disability types and service minutes that are determined annually by the ASD. The funding model will prioritize tiers 3-5 first, then tier 2, followed by tier 1. The ASD will provide projected allocations by May 15 every year. The true up of the distribution of the allocation based on this model will align with BEP true up and be implemented in accordance with the protocol that will be shared with all operators by May 15 of each year. For the ASD to implement the model, all ASD operators must consent in writing annually to participate in the model. A separate consent form must be submitted for each school each year. For operators to agree to participate in the model, they must waive the right to receive the full per student allocated portion of the BEP funding provided under state law and federal funding provided under the Individuals with Disabilities Education Act (IDEA) for the sole purpose of participating and contributing to the special education tiered funding model in **Exhibit 2**. Operator understands that by agreeing to this funding model, it may receive less BEP funding. Operator agrees to contribute up to 3% of allocated BEP funding and up to 100% of IDEA funding to the tiered funding model fund.
- b. Authorizer fee. Pursuant to the TPCSA, the ASD shall receive an annual authorizer fee of up to three percent (3%) of the charter school's per student state and local funding as allocated under the TPCSA, even if the special education funding model is implemented. The authorizer fee for the upcoming academic year will be set no later than May 1.
 - c. Use of Funds. All BEP funds distributed to the Operator shall be used for the School authorized under this Agreement subject to all applicable laws and regulations. In compliance with state law, the



Operator shall not charge tuition for any student for any and all activities that are required for school credit or that take place during the official school day. The Operator may charge for preschool and/or before-and-after-school programs, unless prohibited under applicable law.

- d. Fees for Services. Any educational or operational services the ASD provides for a fee shall be specified in a separate agreement between the charter school and the ASD. Fees for services provided to the Operator by the ASD or the originating LEA may be deducted from the BEP payments provided to the Operator.

3.3.2 Grant Funds

- a. Eligibility. Each year, the ASD shall provide to the Operator the school's appropriate share of applicable federal, state, and other grants received by the ASD for which the Operator's school is eligible. Schools are eligible for such funds upon approval of their plans for such funds either by the ASD and/or the TDOE as required.
- b. Fund Distribution & Reporting. Funds shall be distributed on a documented expenditure reimbursement basis with the required documentation in compliance with 34 C.F.R. § 80.21. The Operator shall submit grant reimbursement reports to the ASD at least quarterly and no more frequently than monthly.
- c. Use of Funds. The Operator shall comply with all federal and state laws and regulations regarding such grant funds.

3.3.3 Financial Management & Operations

- a. Fiscal Year. The fiscal year for the Operator's school shall begin on July 1 of each year and end on June 30 of the subsequent year.
- b. Financial Management & Records. The Operator shall control and be responsible for financial management and performance of the school, including budgeting, expenditures, controls, and reporting. At the end of the fiscal year, the Operator shall prepare the school's annual financial statements in accordance with accounting principles generally accepted in the United States of America for not-for-profit organizations (GAAP). During the fiscal year, the Operator shall operate the school in accordance with GAAP, the cash basis of accounting, or any other basis of accounting, provided that the school's accounting methods allow it to prepare reports required by the ASD, the TDOE, and any other grantors.



- c. Records. The Operator shall record and report the school's financial information during the fiscal year and at the end of the year using the Tennessee Uniform Chart of Accounts (TN COA) and appropriate use of account codes and functional codes, including grant codes using templates provided by the ASD. The Operator shall record all financial transactions in general, appropriations, and revenue and expenditures records. Appropriate entries from the adopted budgets shall be made in the records for the respective funds. Separate accounts shall be maintained for each of the funds. All financial records pertaining to the management and operation of the school are subject to inspection and productions as required for fulfillment of the ASD's fiduciary responsibilities.

- d. Audit. The Operator shall undergo an independent financial audit annually in compliance with the TPCSA. The audit shall be furnished to the ASD, the Commissioner of Education, and the Comptroller of the Treasury, as approved by the Operator's governing board by December 31 of each year. Each school operated under the ASD is required to have both a network level and a school level audit. The school level audit may be included in a combined network level (or consolidated) audit report, including school level balance sheet, statement of activities and changes in net assets, and a schedule of functional expenses. In addition, the Operator shall transmit the final trial balance to the ASD using the TN COA with the submission of the annual independent financial audit. The Operator will pay for the audit. If such audit is not received by December 31 of each year, it shall be considered a material breach of this Agreement, which the Operator shall have fifteen (15) days, or such other time as the Parties may agree, to cure. The financial audit shall include, without limitation:
 - i. An opinion on the financial statements (and Supplementary Schedule of Expenditures of Federal Awards, if applicable)
 - ii. A report on compliance and on internal control over financial reporting based on an audit of financial statements performed in accordance with Government Auditing Standards
 - iii. An independent auditor's report on compliance with requirements that could have a direct and material effect on each major program and on internal control over compliance in accordance with OMB Circular A-133, if applicable.

- e. Interim Expense Reports. The Operator shall prepare or cause to be prepared quarterly expense reports, in accordance with ASD instructions, which shall be submitted to the ASD no later than forty-five (45) calendar days after each of the first three quarters, and no later than ninety (90) days after the end of the fiscal year.

- f. Charter Management Organization (CMO) Fees. Operators must include in their financial reports a description of fees paid to charter management or other non-profit organizations, showing the name of the organization, amount of fees paid, and the purpose for which the fees were paid.



- g. Budget. The Operator shall prepare and provide to the ASD a draft of the school’s annual budget for the upcoming fiscal year by no later than May 1. The Operator shall adopt and provide a copy of its final annual budget for the upcoming fiscal year by no later than June 1.
- h. Financial Policies. The Operator shall use and follow a written set of financial policies and procedures, the Tennessee Uniform Chart of Accounts, and appropriate use of account codes and functional codes, including grant codes using templates provided by the ASD.
- i. Fund Compliance. In the event that the Operator accepts state or federal funds, the Operator shall adhere to state and federal guidelines and regulations regarding the appropriate budgeting, expenditure, accounting and reporting for such funds.
- j. Dissolution. Upon termination of this Agreement for any reason by the ASD, upon expiration of the Agreement, or if the school should be closed or cease operations or otherwise dissolve, the ASD shall meet with the school’s governing body and leadership to establish a transition team composed of staff from the charter school, staff from the ASD, and anyone else the ASD deems necessary who shall attend to the closure, including: (a) the submission of financial statements to the ASD or department; (b) the disposition of school funds; (c) the disposition of school assets; and (d) a school audit pursuant to the TPCSA.
- k. Disposition of School’s Assets upon Termination or Dissolution. Upon termination of this Agreement for any reason or if the school should be closed or cease operations or otherwise dissolve, then, at the sole discretion of the ASD, any assets fully funded through the ASD and owned by the Operator on behalf of the ASD-authorized school that will no longer be operated by the Operator, including tangible, intangible, and real property, remaining after paying the Operator’s debts and obligations directly related to the operation of the School during the Agreement period and not requiring return or transfer to donors or grantors, will become the property of the ASD.
- l. Insurance. Operator will be required to maintain Directors and Officers insurance and professional liability insurance for combined single-limit coverage of not less than \$5,000,000.00 per occurrence.
 - i. Crime exposures to be covered include:
 - 1. Employee theft
 - 2. Money and securities while on premises or in transit
 - 3. Forgery



4. Funds transfer fraud
 5. Computer fraud
 6. Money order and counterfeit currency fraud
 7. Credit card fraud
 8. Optional client coverage
 9. Coverage for investigative costs for covered losses
- ii. Such other insurance on the Premises in such amounts and against such other insurable hazards which at the time are commonly obtained in the case of property similar to the Premises.
 - iii. If not covered by the insurance coverages listed above, charter or contract operators shall maintain a fidelity or surety bond to cover all of the operator's employees that handle, process, or otherwise have responsibility for school funds, supplies, equipment, or other assets in amounts of not less than \$50,000.00 per occurrences.

State of TN shall be named as an additional insured on the charter school insurance policy.

Certificates of insurance, in a form satisfactory to the ASD, evidencing coverage shall be provided to the ASD prior to commencement of performance of this Agreement. Throughout the term of this Agreement, Operator shall provide updated certificates of insurance upon expiration of current certificates.

- m. Charter School Debt. The Operator is solely responsible for all debt it incurs, and the ASD shall not be contractually bound on the Operator's account to any third (3rd) party. The ASD shall not be liable in any instance for the Operator's unpaid debts if the Operator does not have sufficient funds to pay all of its debts.

The Operator shall notify the ASD immediately of a default on any obligation owed to the ASD, which shall include debts for which payments are past due by sixty (60) days or more. If debts are incurred in the provision of employee benefits pursuant to state law, including the TPCSA, the ASD may withhold the amount owed from the monthly payment until such debts are satisfied. Any other debts owed to the ASD must be satisfied prior to release of the last annual payment.

3.4 Academic Program and Assessment

- a. The Operator shall implement the academic program in accordance with this Agreement, the Application, and applicable state and federal law, rules, and policies of the State Board of Education



(SBE). SBE policies include the Special Education Guidelines and Standards regarding evaluations for Specific Learning disabilities (SLD), which is the RTI² model.

- b. The Operator shall have the autonomy to devise its own student assessment programs, beyond the following requirements:
 - i. Administer all TDOE-required student assessments, including but not limited to TNReady, TCAP, End of Course Assessments, ACT, and EL Assessments for the required grades and testing windows.
 - ii. Administer ASD-required student assessments, as defined by ASD policy.
- c. The Operator shall comply with all TDOE- and ASD- required assessment administration, security and reporting requirements.

3.5 Student Population and Enrollment

- a. The Operator may only serve eligible students, as defined by T.C.A. §§ 49-1-614 and the TPCSA. The Operator is required to offer priority to students zoned to the School during the initial student application period, reserving the building's program capacity (85% of the building capacity) or 130% of the prior year's average daily membership (ADM), whichever is smaller.
- b. The Operator shall conduct an initial student application period of at least thirty (30) days. During this period, all students zoned to attend or currently enrolled in a school that is eligible to be placed in the ASD may enroll. If, at the end of the initial student enrollment period, the number of eligible students seeking to be enrolled does not exceed the school's capacity, then the school may enroll additional students outlined in the TPCSA; provided, however, that no school's total enrollment of such students shall exceed twenty-five percent (25%) of the total school enrollment.

3.6 Serving Students with Disabilities

3.6.1 Authorities. Special education services, related services, and accommodations for students who are eligible under the IDEA, Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act (ADA), or any applicable provisions of State law, shall be provided in accordance with applicable State and federal law and this Agreement. The ASD is the LEA responsible for ensuring compliance with the IDEA and State special education law and regulations.

3.6.2 Roles and Responsibilities of the Parties.



ACHIEVEMENT
SCHOOL DISTRICT

- a. The Operator assumes responsibility for the identification of students in need of special education services, provision of services, development and implementation of IEPs, etc. for students identified as eligible for special education services. The Operator shall have a qualified special education coordinator who will be responsible for monitoring individual case management of all special education students and for arranging the provision of services required by their IEPs. The Operator shall maintain a file documenting Operator's compliance with special education requirements.
- b. As the LEA, the ASD retains the authority to oversee and require that the Operator take corrective measures with regard to special education. The Operator is responsible for the management of its special education budgets, personnel, programs and services. The ASD reserves the right to audit the use of special education funds provided to the Operator to ensure compliance with the law and program and fiscal requirements.
- c. The Operator shall ensure that its special education personnel or contracted personnel are appropriately licensed and endorsed consistent with federal requirements and State laws and regulations. The Operator shall implement the programs and services, including providing related services, required by the IEPs of the students enrolled at the School(s). The Operator shall rely on its discretion to determine whether or not to contract with outside entities, such as consultants or local districts, for the provision of any mandated special education or related services. Upon request by the ASD, the Operator shall provide all requested or appropriate documentation to demonstrate the licensure status of School personnel providing special education or related services and of independent contractors providing special education or related services, the training received by said personnel, and the steps taken by the Operator to comply with applicable credentialing the requirements. The Operator shall promptly provide the ASD with documentation that updates this information during the course of the school year to the extent that it has changes in its personnel, independent contractors, or training for staff.
- d. The Operator shall promptly report to the ASD any and all alleged infractions, filed due process complaints, administrative complaints, and other non-compliance issues relating to IDEA for special education and Office of Civil Rights complaints for disability accommodations within two business days of the Operator's notification of such occurrences.
- e. The Operator will meet the needs of the students who enroll. In the rare instance that the Operator believes itself unable to provide an appropriate placement or services for a student with special needs, the Operator shall contact the ASD to discuss placement and service alternatives. The IEP team convened at the school shall have the authority to make offers of a free appropriate public



education (FAPE) and decisions regarding the staffing and methodology used to provide special education and related services at the school pursuant to an IEP.

- f. The Operator shall indemnify the ASD for any costs, attorney fees, and/or financial penalties imposed on the ASD by state and/or federal authorities arising out of actions or omissions of the Operator relating to special education.

3.6.3. Costs for Special Education.

All costs associated with student identification, providing services, and evaluations and assessments to enrolled students with disabilities are the responsibility of the Operator.

3.7 English Learners.

The Operator shall address the needs of English learner (EL) students pursuant to applicable federal and state laws and regulations (including Title III of the Every Student Succeeds Act (ESSA) and Title VI of the Civil Rights Act of 1964 (Title VI)). In addition, the Operator shall ensure that Limited English Proficiency (LEP) parents and guardians have meaningful access to school-related information.

3.8 Student Discipline/Due Process.

The Operator is responsible for administering its discipline policy in a manner that ensures students' due process rights are satisfied, including the provision of appropriate informal or formal hearings. The Operator shall promptly notify the ASD and the LEA in which the student resides of students expelled. If the LEA in which the student resides determines that the expelled student is eligible for its Alternative School program, the ASD shall work with the LEA in which the student resides to provide an expelled student access to the LEA's alternative school programs.

3.9 Hiring and Contracting Practices.

- a. **TBI/FBI Criminal History Records Checks** - Operator shall maintain documentation that all current employees of the Operator working at charter school (ID #8115) who have or who will have contact with children at the Charter School within the scope of the individuals' employment or will be on school grounds when children are present, and employees of contractors or sub-contractors of the Charter School (ID #8115) who have contact with children within the scope of the individuals' employment or will be on school grounds when children are present, have undergone a complete criminal history records check as required by state law using the originating agency identifier (ORI) assigned by the TBI to the Operator, the ORI number of the ASD, or the ORI number of the LEA where the school is located. Operator shall hold all entities it contracts with accountable for maintaining compliance with the state law regarding criminal history records checks.



- b. **Background Check by the Department of Children’s Services** - Operator shall meet the requirements of state law for ensuring that no individual is hired or retained that has been found by the Department of Children’s Service (DCS) to have committed child abuse, severe child abuse, child sexual abuse, or child neglect, or poses an immediate threat to the health, safety, or welfare of children.

- c. **Pre-Hiring Screening Practices**- Operator shall never make hiring decisions based solely on a resume, TBI/FBI criminal history records check and/or DCS background check. Multiple measures should be utilized to perform pre-hiring screening. Reference checking should be conducted to include previous employers and should not be limited to references provided by the applicant. Operator shall implement and document pre-screening protocols prior to hiring employees or contracting with individuals that include, at a minimum, answering the following questions:
 - i. Is the applicant or contractor who she says she is?
 - ii. Has the applicant been convicted of a felony
 - iii. Has the applicant been convicted of a crime of dishonesty?
 - iv. Is the applicant’s employment history accurate?
 - v. Are the stated academic and professional qualifications true?
 - vi. Has an applicant who claims military service provided a DD214?
 - vii. Have at least 2 verbal or in person reference checks been conducted?

- d. **Teachers.** The Operator shall ensure that teachers are licensed and endorsed in accordance with state law, rules, and policies of the SBE, and ASD policies.

3.10 Facility

The school shall be located at **1940 Frayser Boulevard, Memphis, Tennessee 38127**. The Operator may use the school building and all facilities and property otherwise part of the school and recognized as part of the facilities or assets of the school prior to its placement in the ASD and shall have access to such additional facilities as are typically available to the school, its students, faculty and staff prior to its placement in the ASD. The Operator shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and properties are maintained in as good order as when the right of use was acquired.

3.11 Transportation

Transportation, if provided by the Operator, shall be free of charge to and from the School on regularly scheduled school days for all zoned students:

- a. residing outside of the LEA’s defined Parent Responsibility Zone;
- b. required to cross hazard zones between home and school; and/or



- c. with transportation requirements included in their Individualized Education Programs (IEPs).

Operator must also comply with all state and federal laws and State Board of Education rules and policies regarding student transportation regardless of whether Operator employs drivers and owns school buses or contracts for school transportation services. Transporting students in buses that have not been approved for operation by the department of safety or employing or contracting with drivers who do not meet the legal qualifications to drive a school bus may be grounds for non-renewal or revocation of this agreement. Operator shall conduct regular audits of school buses and drivers, used to transport students, to ensure all requirements are met by employees and contractors regarding the transportation of students.

3.12 Student Information Systems.

- a. Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act.

The Operator shall comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) (“FERPA”). The Operator warrants that the Operator is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Agreement. The Operator agrees to cooperate with the ASD when requested, to ensure compliance of FERPA, in the performance of its duties under this Agreement. The Operator agrees to maintain the confidentiality of all education records and student information. The Operator shall only use such records and information for the exclusive purpose of performing its duties under this Agreement.

The Operator shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the “Data Accessibility, Transparency and Accountability Act,” and any accompanying administrative rules or regulations (collectively “DATAA”). The Contractor agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the ASD or TDOE has granted the Operator access, and to only use such data for the exclusive purpose of performing its duties under this Agreement.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Operator shall be reported to the ASD within twenty-four (24) hours. Operator shall indemnify and hold harmless the ASD and TDOE its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Operator’s failure to comply with this section.



b. Data Protection, Privacy and Information Technology Security

Pursuant to the Operator's obligations to the ASD with respect to FERPA and data privacy, the Operator shall furnish the ASD with a copy of their most recent Information Systems Policy (ISP) document. The ISP shall apply to all hardware, infrastructure and information systems, regardless of physical location, that manage student data of any kind or personally identifiable information of any kind related to students, staff and parents. The ISP shall include at a minimum a description of the Operator's policies and procedures related to:

- i. Acceptable Use, Best Practices and Training for all staff and students related to safe and secure use of information systems and devices, including; email, Internet access, student management systems and other line of business applications and data sources.
 - ii. Directory Services and Management, including; authentication, user management, password complexity and group policy.
 - iii. Access Controls and Authorization, including; granting and revoking access to information systems by staff and student, including access to; networks, email and communication systems, on premise applications, data sources, information technology resources and applications provided by a third party, including storage, email and business applications, with emphasis on on-boarding and off-boarding.
 - iv. Physical access controls to data centers and on premise infrastructure.
 - v. Device Patching, including operating system and installed application updates and service packs.
 - vi. Administrator Rights to Devices, including; approved applications and configuration changes.
 - vii. Data Retention and Data Disposition, including; data stored locally, data stored with a cloud provider or data stored as part of a managed service by a third party.
 - viii. End Point Protection, including; anti-virus and anti-malware, detection of out of date signatures and other safeguards.
 - ix. Own Devices (BYOD) by staff or students, specifically; network policy and controls
 - x. Mobile Device Management (MDM).
 - xi. Off Premise Access to Information Systems, including; systems and data located on premise or in cloud-based resources.
 - xii. Content Filtering, White- and Black-listing of Web Content, with emphasis on student access.
 - xiii. Backup, Business Continuity and Disaster Recovery.
 - xiv. Firewalls, Network Monitoring and Security.
 - xv. Contractual Obligations Conferred to Third Parties, including; cloud and software as a service (SaaS) providers.
- c. The ISP shall be provided to the ASD no less than 30 days from the signing of this Agreement and not less than thirty (30) days prior to the transfer of any data that contains any personally identifiable



information (PII) or otherwise sensitive content from the TDOE or ASD to the Operator in subsequent school years if changes to the ISP are made.

The Operator shall permit authorized ASD or TDOE personnel appropriate access to information systems utilized by the Operator in the delivery of the Service, including those located in schools and head office locations as needed to audit the policies and processes outlined in the ISP.

The ASD shall notify the Operator in writing of any concerns related to the ISP or a subsequent audit and the Operator shall have thirty (30) days from the date of such notice in which to remediate any concerns identified.

3.13 Asset and Inventory Control

The Operator shall, upon receipt of assets on record from the local LEA, complete a physical inventory of the acquired assets and reconcile with the local LEA to ensure matching records. In coordination with the ASD, the Operator shall provide to the local LEA written documentation of the assets physically counted and received, identifying the assets not counted for which the Operator would not be responsible. The Operator must also complete an annual inventory of the assets received from the local LEA, as well as assets purchased with State, local and federal funds, and provide documentation of a completed inventory to the ASD indicating the source of the assets (local LEA, Title I, BEP, etc.), year acquired and inventory/asset tag numbers. Additionally, the Operator shall follow state and federal regulations and ASD policies regarding disposing of public or federally-funded assets, maintain records of damaged, stolen and/or disposed assets and provide documentation to the ASD upon request.

3.14 Compliance with Applicable Laws, Regulations and State, Federal and ASD Policies, Reporting Requirements and Grant Commitments

By signing this Agreement, the Operator warrants that it has specific knowledge of:

- a. Its obligations to comply with all federal, state and local laws, reporting and record retention requirements applicable to the provision of public education in a charter school in the ASD. Further assurances are provided in the Application. The Operator acknowledges that the waiver of education statutes and rules of the SBE or TDOE, granted by the Commissioner, does not include a waiver of any of the regulatory or statutory requirements listed in T.C.A. § 49-13-105(b) or any of the provisions of the TPCSA, including the requirement that all teachers in public charter schools must have a current valid Tennessee teaching license prior to serving as a teacher in a charter school. The Operator further acknowledges that all waiver requests must specifically list the statute or rule that Operator is requesting to be waived and shall include a description of how the SBE rule or statute currently inhibits



or hinders the Operator's charter school's ability to meet its goals or comply with its mission statement.

- b. Its state and federal grant obligations and that it will comply with all grant assurances to which the Operator has agreed.

3.15 School Performance Framework

The school's performance will be monitored and evaluated on the following components:

- a. Academics: Academic achievement and improvement will be evaluated, at a minimum, to determine if the school's performance is in compliance with the state's current accountability model.
- b. Finance: School financial reports will be evaluated for stability in budgeting and actual revenues/expenses.
- c. Compliance: School compliance will be evaluated to determine if the school is complying with all relevant federal, state, and local laws and regulations. Compliance will be monitored, both via desktop audits and onsite visits.

Measures for each of these components will be monitored regularly, discussed during performance cycles, and reported annually in publicly available information.

The ASD shall have broad oversight authority over the School and may take all reasonable steps necessary to oversee compliance with this Agreement and applicable laws, rules, and policies. This oversight authority includes, but is not limited to, the right to visit, examine, and inspect the School and its records during the pre-opening year, during the annual monitoring visit, and when there is a material complaint. The ASD may interview Operator employees, Board members, students, and families as necessary to resolve complaints and grievances. With respect to complaints and grievances, all of the foregoing is subject to Section 3.2.b.

3.16 Hold Harmless

The Operator agrees to indemnify and hold harmless the ASD and the TDOE and the local government entity which owns any building in which the school is located, as well as their officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a



result of acts, omissions, or negligence on the part of the Operator, its employees, or any person acting for or on its or their behalf relating to this Agreement.

In the event of any such suit or claim, the Operator shall give the ASD immediate notice thereof and shall provide all assistance required by the ASD or TDOE for its defense. Nothing contained herein shall be deemed to accord to the Operator, through its attorney(s), the right to represent the ASD or the TDOE in any legal matter, such rights being governed by T.C.A. § 8-6-106.

3.17 Notification of Closure and Dissolution

In the event that the Operator is required to close charter school (ID #8115) for any reason, including but not limited to closure, non-renewal, revocation, or voluntary surrender of the charter, the Operator shall cooperate with the ASD to ensure orderly closure of the charter school in compliance with the TPCSA (ID #8115) including, but not limited to:

- a. Providing the ASD with 30 days written notice prior to making a public announcement that Operator is initiating the closure of charter school (ID #8115)
- b. Collaborating with the ASD to provide timely notification of parents and teachers of the closure decision;
- c. Securing student records and transferring them to the LEA in which the charter school (ID #8115) is located;
- d. Assisting in placing students in appropriate schools;
- e. Managing all financial records consistent with the ASD's school closure requirements and policies;
- f. Disposing of school assets in accordance with the state and federal law and this Agreement; and
- g. Complying with any closure policies or protocols established by the ASD.

3.18 Termination.

This Agreement may be revoked pursuant to the TPCSA if the ASD determines that the Operator did any of the following:

- a. Committed a material violation of any of the conditions, standards, or procedures set forth in this Agreement;
- b. Failed to meet generally accepted standards of fiscal management; or
- c. Performed any of the acts that are conditions for non-approval of a charter school under the TPCSA.
- d. Receives identification as a priority school as defined by the state's accountability system pursuant to state law at T.C.A § 49-1-602 for two (2) consecutive cycles.

4. Contract Construction



4.1. Waiver.

The failure of either of the Parties to this Agreement to insist on strict performance of any term or condition of this Agreement shall not constitute a waiver of that term or condition, even if the Party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

4.2. Non-assignability.

No right or interest in this Agreement shall be assigned by anyone on behalf of the Operator, and delegation of any contractual duty of the Operation shall not be made without prior written approval of the ASD. A violation of this provision shall be grounds for immediate termination of this Agreement and revocation of the Agreement.

Should the Operator propose to enter into a contract with another non-profit entity to manage the school, the Operator agrees to submit all information requested by the ASD Authority regarding the management arrangement, including a copy of the proposed contract and a description of the management company, with identification of its principals and their backgrounds. The Operator shall not enter a management contract without written approval from the ASD.

4.3. Agreement.

The Parties intend this Agreement, including all attachments and exhibits hereto, to represent a final and complete expression of their agreement, which shall be considered the Agreement. All prior representations, understandings, and discussions are merged herein, and no course of prior dealings between the Parties shall supplement or explain any terms used in this document. The Parties recognize that amendments to this Agreement may be executed from time to time hereafter.

4.4. Survival of Representations and Warranties.

All representations and warranties hereunder shall be deemed to be material and relied upon by the Parties with or to whom the same were made, notwithstanding any investigation or inspection made by or on behalf of such Party or Parties. The representations and warranties covered in this Agreement will survive the termination or expiration of this Agreement.

4.5. Severability.

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition, and the remainder of the Agreement shall remain in effect unless otherwise terminated by one or both of the Parties.

4.6. Authority.



The individual officers, agents, and employees of the Parties hereto who execute this Agreement do hereby individually represent and warrant that they have full power and lawful authority to execute this Agreement.

4.7. Change of Law.

If, due to any change in applicable law, regulation, or interpretation thereof by any court of law or other governing body having jurisdiction subsequent to the date of this Agreement, performance of any provision of this Agreement or any transaction contemplated hereby shall become impracticable or impossible, the parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.

4.8 Notice.

Any notice required or permitted under this Agreement shall be in writing, sent via electronic or other means, and shall be effective immediately upon personal delivery, subject to verification of service or acknowledgment of receipt, or three (3) days after mailing when sent by certified mail, postage prepaid. Such notices shall be sent to:

If to the ASD:

Mailed to:

Tennessee Department of Education
Achievement School District
Attn: Malika Anderson, Superintendent
710 James Robertson Parkway
12th Floor
Nashville, TN 37243

and emailed to:

Malika.Anderson@tn-asd.gov

If to the Operator:

Mailed to:

Drew Sippel
Executive Director, Capstone Education Group, Capstone Education Group
PO Box 22569
Memphis, TN 38122

and emailed to:

dsippel@cornerstoneprepmemphis.org

Either party may change its address for notices under this Agreement by notice to the other party.



5. Effective Date

This Agreement shall not be binding upon the parties until it has been signed first by the Operator and then by the ASD.

6. Exhibits

- a. Exhibit 1: Application
- b. Exhibit 2: Special Education Tiered Funding Model



IN WITNESS WHEREOF,

OPERATOR:

Drew Sippel
Drew Sippel (Sep 13, 2017)

OPERATOR SIGNATURE

DATE

Drew Sippel Executive Director

PRINTED NAME AND TITLE OF OPERATOR SIGNATORY (above)

OPERATOR (ADDITIONAL SIGNATORY AS APPLICABLE):

OPERATOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF OPERATOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF EDUCATION

CANDICE MCQUEEN, COMMISSIONER

DATE

M. Wright Anderson

9/28/2017

MALIKA ANDERSON, SUPERINTENDENT, ACHIEVEMENT SCHOOL DISTRICT

DATE



ACHIEVEMENT
SCHOOL DISTRICT

EXHIBIT 1: APPLICATION

[INSERT APPROVED APPLICATION]



EXHIBIT 2: Special Education Tiered Funding Model

1. Special Education Tiered Pool

1.1. Background

The special education tiered model is a mechanism to redistribute BEP funds among school sites in the ASD. All operators must agree to the pool in writing annually, and participation is completely voluntary. Both funding amounts and tier definitions must be approved annually, including any changes, as part of the written authorization. If at any point a school opts not to participate, the ASD will not implement this model.

1.2. Calculation of Overall SPED Pool Need

To determine how much is needed to fund the overall special education tier pool, each tier amount is multiplied by the number of students categorized in each tier. Therefore:

$$\text{TOTAL SPED POOL} = (\text{TIER 5 AMOUNT} \times \text{TIER 5 STUDENTS}) + (\text{TIER 4 AMOUNT} \times \text{TIER 4 STUDENTS}) + (\text{TIER 3 AMOUNT} \times \text{TIER 3 STUDENTS}) + (\text{TIER 2 AMOUNT} \times \text{TIER 2 STUDENTS}) + (\text{TIER 1 AMOUNT} \times \text{TIER 1 STUDENTS})$$

1.3. Inclusion of IDEA, BEP Need, and initial per-pupil reductions

Since the district received IDEA funds, each school will contribute 100% of their IDEA funds to the overall pool. The individual school IDEA allocations will be held constant each year unless the district's overall IDEA allocation changes. The remainder will be funded from the BEP.

$$\text{TOTAL BEP SPED POOL} = \text{TOTAL SPED POOL} - \text{ASD IDEA ALLOCATION}$$

In order to contribute the appropriate amount to the Total BEP SPED Pool, each school must contribute an amount per pupil.

$$\text{BEP SPED PER PUPIL CONTRIBUTION} = \text{TOTAL BEP SPED POOL} - \text{DISTRICT ADM}$$

While the initial per pupil contribution is uniform, the application of the 3% safe harbor will cause variations in each school's contribution to the SPED pool.

1.4. Initial School Level Allocations

Similar to the district level calculation, first, each school's pool is calculated.

$$\text{School SPED Pool} = (\text{TIER 5 AMOUNT} \times \text{TIER 5 STUDENTS}) + (\text{TIER 4 AMOUNT} \times \text{TIER 4 STUDENTS}) + (\text{TIER 3 AMOUNT} \times \text{TIER 3 STUDENTS}) + (\text{TIER 2 AMOUNT} \times \text{TIER 2 STUDENTS}) + (\text{TIER 1 AMOUNT} \times \text{TIER 1 STUDENTS})$$



Then the school's IDEA allocation is subtracted. Note, the IDEA allocations remain constant unless the district's overall IDEA allocation changes.

$$\text{TOTAL SCHOOL BEP SPED POOL} = \text{SCHOOL SPED POOL} - \text{SCHOOL IDEA ALLOCATION}$$

The school must also contribute to the overall BEP SPED Pool.

$$\text{SCHOOL BEP SPED CONTRIBUTION} = \text{BEP SPED PER PUPIL CONTRIBUTION} \times \text{SCHOOL ADM}$$

Making the net change in the school's BEP:

$$\text{SCHOOL SPED BEP ADJUSTMENT} = \text{TOTAL SCHOOL BEP SPED POOL} - \text{SCHOOL BEP SPED CONTRIBUTION}$$

It is possible for the School SPED BEP Adjustment to be negative. A negative adjustment indicates a school is a net contributor to the SPED pool. It is also possible that the Total School BEP SPED Pool will be negative, indicating that more IDEA was allocated than the tier model would have allocated. Rather than adjust IDEA, which begins a budget revision cycle, the difference is removed from BEP. However, any such reductions are subject to the 3% safe harbor.

1.5. 3% Safe Harbor

Within a fiscal year, no school can lose more than 3% of their BEP allocation (pre-authorizer fee). So the safe harbor is calculated as:

$$\text{SCHOOL SAFE HARBOR AMOUNT} = 3\% \times \text{ANNUAL SCHOOL ALLOCATION}$$

If the School SPED BEP Adjustment exceeds the Safe Harbor Amount, the adjustment is reduced to the Safe Harbor Amount. In this case, a remaining amount is established that must be funded.

$$\text{SCHOOL BEP REMAINDER} = \text{SCHOOL SPED BEP ADJUSTMENT} - \text{SCHOOL SAFE HARBOR AMOUNT}$$

The district then has an unmet need of all the school BEP remainders.

$$\text{DISTRICT BEP REMAINDER} = \sum(\text{SCHOOL BEP REMAINDER})$$

The district remainder must be split among all the schools that did not originally hit the 3% safe harbor amount.

$$\text{SCHOOL BEP SPED CONTRIBUTION ADDITION} = \text{DISTRICT BEP REMAINDER} \div \sum(\text{SCHOOL ADM OF SCHOOLS STILL WITHIN THE SAFE HARBOR})$$



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It is possible that the additional contribution will drive more schools below the safe harbor amounts. In that case, the above steps will be repeated until no schools fall outside of the 3% safe harbor.

School Year 2017-2018 Operator Consent to Participate in the Special Education Tiered Funding Model

We the undersigned operator agree to participate in the special education tiered funding model included as part of our agreement and with the terms described below:

1. Background

The special education tiered model is a mechanism to redistribute the state and local funds provided for in the Tennessee Public Charter Schools Act among school sites in the ASD based upon service minutes and disability classification. All operators must agree to the pool in writing annually, and participation is completely voluntary. Both funding amounts and tier definitions must be approved annually, including any changes, as part of the written authorization. If at any point a school opts not to participate, the ASD will not implement this model.

2. Tier Definitions

As provided in the included chart, disabilities are divided into various tiers based on type and number of service minutes. By signing, the undersigned operator is confirming these definitions as the basis for the tiers.

Disability Type	Tier				
	1	2	3	4	5
Autism	-	-	0-420	421-1260	1261+
Developmental Delay	-	-	0-420	421-1260	1261+
Emotional Disturbance	-	-	0-420	421-1260	1261+
Intellectual Disability	-	-	0-420	421-1260	1261+
Hearing Impairments	-	0-420	421-1260	1261-1680	1681+
Visual Impairments	-	0-420	421-1260	1261-1680	1681+
Multiple Disabilities	-	-	-	0-1260	1261+
Traumatic Brain Injury	-	-	-	0-1260	1261+
Other - Health Impairments	-	0-1260	1261+	-	-
Specific Learning Disability	-	0-1260	1261+	-	-
Functional Delay	-	All	-	-	-
Intellectually Gifted	-	All	-	-	-
Orthopedic Impairments	-	All	-	-	-
Language Impairments	All	-	-	-	-
Speech Impairments	All	-	-	-	-
Blind	-	-	-	-	All

3. Tier Funding Amounts

Each tier from the definitions chart is associated with a specific amount for purposes of calculating the pool amounts for each school, included here. By signing, the undersigned operator is confirming these amounts as the funding amounts per tier for the special education tiered model.

Tier	Amount
1	\$ -
2	\$ -
3	\$ 6,600.00
4	\$ 11,250.00
5	\$ 15,000.00

4. Safe Harbor

By signing, the undersigned operator is confirming that the safe harbor amount for fiscal year 2017-2018 is 3% of the original state and local funds allocation provided for in the Tennessee Public Charter Schools Act.

5. Potential for Loss

By signing, the undersigned operator understands that participation in the special education tiered funding model might result in a school receiving fewer state and local funds than it would have had it not participated.

6. Effective Dates

The model set forth herein shall be effective through the end of the 2017-2018 school year.

IN WITNESS WHEREOF,

Drew Sippel
Drew Sippel (Sep 13, 2017)

OPERATOR SIGNATURE

DATE

Drew Sippel

Executive Director

PRINTED NAME AND TITLE OF SIGNATORY (above)