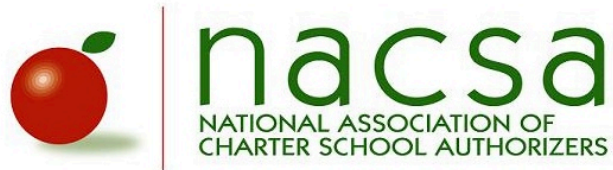


RESOURCE TOOLKIT

FOR WORKING WITH

EDUCATION SERVICE PROVIDERS

July 2005



105 W. Adams St., Suite 1430
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(312)376-2300 (tel.)
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TABLE OF CONTENTS

SECTION 1. Roles, Responsibilities, and Relationships

“Purchasing Services from an Educational Management Organization,” excerpted from <i>The Charter School Administrative and Governance Guide</i> (Massachusetts Dept. of Education).....	2
ESP Agreement Process (Central Michigan University).....	3
Educational Service Provider Policies (Central Michigan University).....	5
Legal Opinion Template (Central Michigan University).....	10
Disclosure of Financial Interest Form (Massachusetts Dept. of Education).....	12
Annual Conflict of Interest Disclosure Form (Central Michigan University).....	14

SECTION 2. The Charter Application Stage

Selected Questions, <i>Charter Schools Application Kit</i> , 5 th ed. (State University of New York).....	17
Existing Design Applicant Evaluation (Mayor’s Office of Indianapolis).....	21
Excerpt, <i>Annotated Guide to the California State Board of Education Model Charter School Application</i>	24
Public School Academy Board Application (Central Michigan University).....	26
Questions for Prospective Charter School Board Members, <i>Charter Schools Application Kit</i> , 5 th ed. (State University of New York).....	32

Section 3. Reviewing School Management Contracts

Educational Service Provider Review Sheet (Central Michigan University).....	34
Excerpt, <i>The Charter School Administrative and Governance Guide</i> (Massachusetts Dept. of Education).....	38
Management Contract Review Checklist (Massachusetts Dept. of Education).....	42

Section 4. Additional Resources and Sample Documents

Comprehensive Management Services Contract Requirements (Chicago Board of Education).....	46
Charter Contract Provision Concerning Public Information (Ferris State University).....	50
ESP Quality and Performance Assessment (School Lane Charter School).....	53
Sample School Management Contract (Chicago).....	59

**Massachusetts Department of Education,
Charter School Administrative and Governance Guide (Draft, May 2005)
Excerpt***

2. Purchasing Services from an Educational Management Organization (“EMO”)

Perhaps the most important procurement decision that some Boards of Trustees will make is the decision to choose an EMO to provide educational and/or administrative services¹ to the school. This decision is critical to the success of a charter school and should be made with the utmost care. Boards should follow their normal procurement procedures, use sound business practices, and “shop around” to maximize competition when choosing an EMO.²

Once a Board of Trustees has decided with which EMO it plans to contract, the Department strongly recommends that the Board hire legal counsel to help draft the contract. Most Boards of Trustees have less experience with such contracts than EMOs and, absent the assistance of legal counsel, may be at a disadvantage during this process. Boards of Trustees should realize that the educational services field is highly competitive, that there are many options for them to choose from, and that they have a good deal of leverage. It is the school’s Board of Trustees that holds the charter granted by the state.

After a Board has chosen an EMO, it must continue to maintain its independence from the company. For example, it is very unwise for a representative of an EMO to serve on a Board of Trustees of a charter school. If such representatives do serve on the school’s Board, these individuals must take particular care to ensure that they do not violate the state’s conflict of interest law or breach their duty of loyalty to the school. See the sections covering **Duty of Loyalty** and **State Conflict of Interest Law**.

Resources

The Department **strongly encourages** Boards of Trustees of charter schools exploring contracting with EMOs to consult the resources listed below before drafting the contract.

- 1) *Charting a Clear Course*. See footnote 7.
- 2) *The Inspector General’s Report: A Management Review of Commonwealth Charter Schools*.³
- 3) EMO contracts executed by charter schools. Contact the Charter School Office for samples.

¹ Examples of administrative services that Boards of Trustees may choose to contract for include:

- Payroll and accounting services;
- Preparation of reports for the Department and other state entities;
- Selection and procurement of instructional materials, equipment or supplies; and
- Operation and/or maintenance of school facilities.

² Refer to page 8 of *Charting a Clear Course*, a resource guide for charter schools, for more information about the steps charter school Boards should take *before* choosing an EMO. Free copies of the guide may be obtained from the Charter Friends National Network at 651-649-5479. The resource guide is also available on the Charter Friends web site at <http://www.charterfriends.org/publications.html>.

³ *The Inspector General’s Report, A Management Review of Commonwealth Charter Schools*, published in November 1999, is available on-line at <http://www.state.ma.us/ig/igpubl.htm>

* The complete *Charter School Administrative and Governance Guide* is available at www.doe.mass.edu/charter/governance.



CHARTER SCHOOLS OFFICE

Process Number: 24
Process Name: ESP Agreement Process

Goal of Process

The Educational Service Provider (“ESP”) Agreement (“Agreement”) must be an arms-length, negotiated agreement between an informed Academy Board and the ESP. The Academy Board and its authorized designee(s) shall be responsible for negotiating an Agreement that is in the best interests of the Academy. When selecting an ESP, the Academy Board must perform sufficient due diligence to establish that the ESP has the appropriate financial resources, educational expertise and services, and managerial experience to provide the contracted services.

In negotiating the Agreement, the Academy Board must ensure the Board retains adequate resources to fulfill its obligations, including, but not limited to: oversight of the Agreement, negotiation of the Charter Contract and any amendments, payment of Academy Board staff costs, insurance required under the Academy's lease, ESP agreement and the Contract; facility payments, annual financial audit, the Academy Board’s legal counsel, consultants, and any other such costs necessary for Academy Board operations.

The Academy Board must retain independent legal counsel to provide consultation during the negotiation process and review the ESP agreement. Legal counsel for the Academy must not represent the ESP or principals thereof.

The Academy Board shall ensure that the negotiated ESP agreement complies with CMU-CSO ESP Policies, dated July 15, 1999.

Description of Process

According to the CMU-CSO ESP Policies, dated July 15, 1999, proposed ESP agreements must be submitted to the CSO not later than thirty (30) days prior to the proposed date of execution. Earlier submission is strongly encouraged and may accelerate the review process.

The ESP Agreement is received by CMUCSO and routed to the Assistant Director for Finance for review and determination as to whether the agreement is in Compliance. If the agreement received is a first copy then the Assistant Director for Finance faxes it to the External Legal Counsel for review as well. If the agreement is a revised draft received then it is up to the Assistant Director for Finance if it goes to External Legal Counsel for review.

If the ESP Agreement needs revisions the Assistant Director for Finance will contact the Board President and Legal Counsel to discuss the needed revisions.

They discuss and setup a timeline for submitting an updated ESP Agreement. The revised version of the ESP Agreement will be received and the Assistant Director for Finance will review and determine actions to be taken to assure that the final ESP Agreement is in Compliance with policies.

If the ESP Agreement does not need revisions the Assistant Director for Finance notifies the Board President that the ESP Agreement is in Compliance with CMUCSO ESP Policies. Then continues to explain that upon Board approval and execution of the agreement that CMUCSO needs to receive

Upon receipt of the Executed ESP Agreement the Assistant Director for Finance verifies that it is an accurate copy of the agreement and forwards it to the CMUCSO Receptionist for routing to Scanning. An acknowledgement letter is prepared for the Associate Director's signature and is sent to the Academy Board President.

Unless the University Charter Schools Office Director extends the review period, within thirty (30) days of receiving the proposed ESP agreement, the University Charter Schools Office shall notify the Academy if the agreement is disapproved. The University Charter Schools Office reserves the right to disapprove an ESP agreement if the Academy Board submits an ESP agreement that does not comply with the Contract, Applicable Law and University Policies.

**CHARTER SCHOOLS OFFICE*****EDUCATIONAL SERVICE PROVIDER POLICIES***
JULY 15, 1999

Pursuant to the Additional Terms and Conditions of the Contract ("Contract") issued by the Central Michigan University Board of Trustees ("University Board"), these Policies for Public School Academy Agreements with Educational Service Providers ("Policies") have been prepared by the Charter Schools Office. They now become part of the Contract and apply immediately to all schools being issued or re-issued Contracts by the University Board, and prospectively to any existing school that enters into an agreement with an Educational Service Provider ("ESP")¹ on or after the date set forth above. Failure by the Academy Board to comply with these Policies may result in the non-issuance of a Contract, or for existing Academies, the initiation of revocation proceedings under the Contract.

A. Academy Board Due Diligence

1. Prior to executing an agreement with an ESP, the Academy Board must perform sufficient due diligence to establish that the ESP has the appropriate financial resources, educational services, and managerial experience to provide the contracted services. Prior to contracting with an ESP, the Academy Board must obtain sufficient information to conclude that the ESP agreement, on the terms to be approved, is in the best financial and educational interest of the Academy. At a minimum, and prior to the execution of an ESP agreement, the Academy Board shall provide the following information to the University Charter Schools Office:
 - List of all ESP owner(s), directors and officers.
 - Type or form of entity (for-profit corporation, non-profit corporation, limited liability company, etc.).
 - Name of ESP's primary banking institution.
 - Legal counsel for the ESP. Name, address, and telephone number of firm and name of contact person.
 - Accounting firm for the ESP. Name, address, and telephone number of firm and name of contact person.
 - A written statement regarding the ESP's experience in providing educational services, the types of educational service to be provided to the Academy, and the ESP's educational philosophy.

¹ / "Educational Service Provider" or "ESP" means a Provider that manages or operates an academy or provides administrative, managerial or instructional staff to the academy.

2. Academy Board members, employees, and their respective spouses or immediate family members may not have any direct or indirect ownership, employment, contractual or management interest in any ESP that contracts with the Academy. The Charter Schools Office may formally waive this condition for persons who have an ownership interest in an ESP that contracts with the Academy if it concludes that the ownership interest is minimal.
3. Any proposed ESP agreement must be submitted to the University Charter Schools Office, not later than thirty (30) days prior to the proposed date of execution. Earlier submission is strongly encouraged and may accelerate the review process. The ESP agreement must include the Academy Board's legal counsel opinion, certifying to the University that the Academy Board has fulfilled its obligations described in the Policies. Unless the University Charter Schools Office Director extends the review period, within thirty (30) days of receiving the proposed ESP agreement, the University Charter Schools Office shall notify the Academy if the agreement is disapproved. The University Charter Schools Office reserves the right to disapprove an ESP agreement if the Academy Board submits an ESP agreement that does not comply with the Contract, Applicable Law and University Policies. By not disapproving an ESP agreement, the University Charter Schools Office is in no way giving approval of the ESP, the fee arrangement, or any other provisions contained in the ESP agreement.
4. The Academy Board must retain independent legal counsel to review and negotiate the ESP agreement. Legal counsel for the Academy must not represent the ESP or principals thereof. The ESP agreement must be an arms-length, negotiated agreement between an informed Academy Board and the ESP. Prior to the Academy Board's approval of the ESP agreement, the Academy Board must obtain a legal opinion from its legal counsel, in a form and manner as set forth in Exhibit A, and submit a copy of the legal opinion to the University Charter Schools Office.
5. The Academy Board shall not approve an ESP agreement until all board members have been given the opportunity to review the proposed ESP agreement with the Academy's legal counsel.
6. The Academy Board shall approve an ESP agreement with a formal vote at a public board meeting. Prior to Academy Board's vote on the ESP agreement, the Academy Board shall provide an opportunity for public comment on the proposed ESP agreement.

B. Academy Board Administrative and Fiduciary Responsibilities

1. In negotiating the ESP agreement, the Academy Board must budget adequate resources to fulfill its Contract requirements which may include, but are not limited to: oversight of ESP, Provider of the Academy, negotiation of the Contract and any amendments, payment of staff costs, insurance required under the Academy's lease, ESP agreement and the Contract, annual financial audit, the Academy Board's legal counsel, consultants, recording secretary and any other such cost necessary for Academy Board operations.

2. The Academy Board shall be responsible for determining the budget reserve amount included as part of the Academy's annual budget. In addition, the Academy Board is responsible for implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount.
3. The ESP shall present to the Academy Board, on a frequency established by the Academy Board, a detail of budget to actual revenues and expenditures with an explanation of variances. The ESP shall present to the Academy Board, on a frequency determined by the Academy Board, a detailed schedule of expenditures at object level for review and approval by the Academy Board.
4. The Academy Board must be informed of the level of compensation and fringe benefits provided to employees of the ESP assigned to the Academy.

C. ESP Agreement Provisions

1. No provision of the ESP agreement shall interfere with the Academy Board's constitutional duty to exercise its statutory, contractual and fiduciary responsibilities governing the operation of the Academy. No provision of the ESP agreement shall prohibit the Academy Board from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act.
2. An ESP agreement shall not restrict an Academy Board from waiving its governmental immunity or require an Academy Board to assert, waive or not waive its governmental immunity.
3. No provision of an ESP agreement shall alter the Academy Board treasurer's legal obligation to direct that the deposit of all funds received by the Academy be placed in the Academy's depository account as required by law. The signatories on the depository account shall solely be Academy Board members or properly designated Academy Board employee(s). Interest income earned on Academy depository accounts shall accrue to the Academy.
4. ESP agreements must contain at least one of the following methods for paying fees or expenses: (i) the Academy Board may either pay or reimburse the ESP for approved fees or expenses upon properly presented documentation and approval by the Academy Board; or (ii) the Academy Board may advance funds to the ESP for the fees or expenses associated with the Academy's operation provided that documentation for the fees and expenses are provided for Academy Board ratification.
5. ESP agreements shall provide that the financial, educational and student records pertaining to the Academy are Academy property, and that such records are subject to the provisions of the Michigan Freedom of Information Act. All Academy records shall be physically or electronically available, upon request, at the Academy's physical facilities. Except as permitted under the Contract and Applicable Law, no ESP agreement shall restrict the University's or the public's access to the Academy's records.

6. ESP agreements must contain a provision that all finance and other records of the ESP related to the Academy will be made available to the Academy's independent auditor.
7. The ESP agreement must not permit the ESP to select and retain the independent auditor for the Academy.
8. If an ESP purchases equipment, materials and supplies on behalf of or as the agent of the Academy, the ESP agreement shall provide that such equipment, materials and supplies shall be and remain the property of the Academy. The ESP will comply with section 1274 of the Revised School Code as if the Academy were making these purchases directly from a third party supplier.
9. ESP agreements shall contain a provision that if the ESP procures equipment, materials and supplies at the request of or on behalf of the Academy, the ESP shall not include any added fees or charges with the cost of equipment, materials and supplies purchased from third parties.
10. ESP agreements must contain a provision that clearly allocates the respective proprietary rights of the Academy Board and the ESP to curriculum or educational materials. At a minimum, ESP agreements shall provide that the Academy owns all proprietary rights to curriculum or educational materials that (i) are both directly developed and paid for by the Academy; or (ii) were developed by the ESP at the direction of the Academy Board with Academy funds dedicated for the specific purpose of developing such curriculum or materials. ESP agreements may also include a provision that restricts the Academy's proprietary rights over curriculum or educational materials previously developed or copyrighted by the ESP, or curriculum or educational materials that are developed by the ESP from funds from the Academy or that are not otherwise dedicated for the specific purpose of developing Academy curriculum or educational materials. All ESP agreements shall recognize that the ESP's educational materials and teaching techniques used by the Academy are subject to disclosure under the Revised School Code and the Freedom of Information Act.
11. ESP agreements involving employees must be clear about which persons or positions are employees of the ESP, and which persons or positions are employees of the Academy. If the ESP leases employees to the Academy, the ESP agreement must provide that the leasing company accepts full liability for benefits, salaries, worker's compensation, unemployment compensation and liability insurance for its employees leased to the Academy or working on Academy operations. If the Academy is staffed through an employee leasing agreement, legal confirmation must be provided to the Academy Board that the employment structure qualifies as employee leasing.
12. ESP agreements must contain insurance and indemnification provisions outlining the coverages the ESP will obtain. The ESP's insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract.
13. Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to the Academy program, and shall not include any costs for the marketing and development of the ESP.

14. The maximum term of an ESP agreement must not exceed five academic years.

D. Lease and Loan Agreement Provisions

1. If the Academy intends to enter into a lease, execute promissory notes or other negotiable instruments, or enter into a lease-purchase agreement or other financing relationships with the ESP, then such agreements must be separately documented and not be a part of or incorporated into the ESP agreement.

[Date]

Central Michigan University Board of Trustees
Mt. Pleasant, Michigan

[Name of Public School Academy]
[Name of City], Michigan

Re: [Name of Public School Academy] Agreement with [Name of ESP]

Ladies & Gentlemen:

In my capacity as legal counsel to [Name of Public School Academy] (the "Academy"), I have represented the Academy in connection with the proposed Educational Service Provider agreement between the Academy and [Name of ESP]. As Academy legal counsel, I have reviewed copies of the following documents:

2. The Central Michigan University Charter Schools Office Educational Service Provider Agreement Policies ("Policies").
3. The Contract to Charter a Public School Academy and Related Documents, dated [Month, Day, Year], (the "Contract"), issued by the Central Michigan University Board of Trustees to the Academy.

I have also reviewed other documents, instruments and Academy Board minutes related to the Provider of the Academy that are required or have been requested by the University Board prior to the issuance of the Contract. I have also reviewed the articles of incorporation and bylaws of the Academy, and originals and copies of such other documents, records, and statements of facts as I deemed relevant, and I have made such other investigations and inquiries, as I have determined necessary for the purpose of rendering the opinions set forth herein.

Based upon the foregoing, I am of the opinion that:

1. The Academy is a Michigan nonprofit corporation duly organized, validly existing
and in good standing under the laws of the State of Michigan and has full power and authority to enter into the Agreement.
2. The Academy's execution, delivery and performance of the Agreement does not violate any term or provision in the Policies and, to the best of my knowledge after due inquiry, the Academy Board has complied with all terms and provisions in the Policies.

© Central Michigan University – Charter Schools Office

3. The Academy's execution, delivery and performance of the Agreement does not permit or require an improper delegation of the Academy Board's:

- a) statutory and fiduciary responsibilities under applicable law; or
- b) obligations and duties under the Contract.

In addition, the Agreement does not conflict with any of the provisions of the Contract.

Very truly yours,

[Name of Academy Legal Counsel]

*Massachusetts Department of Education***DISCLOSURE OF FINANCIAL INTEREST
BY A CHARTER SCHOOL TRUSTEE
AS REQUIRED BY G.L. c. 71, § 89(v)****FILING FOR CALENDAR
YEAR:**

Date Received: _____

G.L. c. 71 § 89(v) provides that: "Members of boards of trustees of charter schools operating under the provisions of this section shall file a disclosure annually with the state ethics commission, the department of education, and the city or town clerk wherein such charter school is located. The form of the disclosure shall be prescribed by the ethics commission and shall be signed under penalty of perjury. Such form shall be limited to a statement in which members of the board of trustees shall disclose any financial interest that they or a member of the immediate families, as defined by section one of chapter 268A,¹ have in any charter school located in the commonwealth or in any other state or with any person² doing business with any charter school.

Each member of a board of trustees of a charter school shall file such disclosure **for the preceding calendar year** with the commission within 30 days after becoming a member of such board of trustees, on or before September 1 of each year thereafter that such person is a member of such board and on or before September 1 of the year after such person ceases to be a member of such board; provided however, that no member of a board if he served less than 30 days in such year."

1. Trustee's name (print): _____

2. Position on board (i.e., chair, treasurer, committee chair, etc.): _____

Beginning Term: _____ Term Expires: _____

3. Home address: _____ Business Address: _____

4. Daytime phone: _____ 5. Email: _____

6. Name of charter school: _____

7. Address of charter school: _____ 8. Is Trustee an
employee of the school? _____

9. Identify each charter school located in the Commonwealth of Massachusetts in which, during the previous calendar year, you and/or immediate family member had a financial interest. If there was no financial interest, write none.

School Name	School Address	Financial Interest (describe)	Trustee and/or Immediate Family (name)

¹ G.L. c. 268A, § 1(e) defines "immediate family" as the employee and his spouse and their parents, children, brothers, and sisters.

² Pursuant to G.L. c. 4, § 7, cl. 23, the word, "person" includes corporations, societies, associations, and partnerships.

Massachusetts Department of Education

10. Identify each charter school located in any other state in the United States in which, during the previous calendar year, you and/or an immediate family member had a financial interest. If there was no financial interest, write none.

School Name	School Address	Financial Interest (describe)	Trustee and/or Immediate Family (name)

11. Identify each individual, business, corporation, union, association, firm, partnership, committee, proprietorship, franchise, holding company, joint stock company, business or real estate trust, non-profit organization, or other organization or group of people doing business with any charter school **and** in which, during the previous calendar year, you and/or your immediate family member had a financial interest. If there was no financial interest write none.

School Name	School Address	Financial Interest (describe)	Trustee and/or Immediate Family (name)

Signed under the penalties of perjury, for the preceding calendar year, ____, as specified in G.L. c. 71, § 89.

Signature

Date

*File **original** with:*
Department of Education
Charter School Office
350 Main Street
Malden, MA 02148

Also file copy with:
State Ethics Commission
One Ashburton Place, Room 619
Boston, MA 02108

And file copy with:
the clerk for the city or town in which the charter school is located.

CENTRAL MICHIGAN UNIVERISTY
Charter Schools Office
Annual Conflict of Interest Disclosure

*Prefix (Mr., Mrs., Ms., Dr., etc.)**First Name**Last Name**Public School Academy**Street Address**City**State**Postal Code**Home Telephone**Work Telephone**Cellular Telephone**Email Address***Instructions: Please complete the following questions.**

1. Are you a citizen of the United States? _____ Yes _____ No
 2. Are you a Michigan resident? _____ Yes _____ No

If you answer “yes” to any of the following questions, please give an explanation in the space provided below.

3. Are you a public employee¹? _____ Yes _____ No
 4. Do you have law enforcement authority²? _____ Yes _____ No
 5. Do you or any immediate family³ members have any contractual agreements with the Academy? _____ Yes _____ No
 6. Do or will you or any immediate family members have any ownership interest or derive any income or other consideration from the Academy, educational service provider, individual(s) or any other company contracting with, providing service to, or otherwise associated with the Academy? _____ Yes _____ No
 7. Have or will you or any member of your immediate family receive funds, gifts, loans, services or any other consideration for any purpose from the Academy or any other company contracting or providing service to the Academy? _____ Yes _____ No
 8. Do or will you or any immediate family members be leasing or selling any real property to the Academy? _____ Yes _____ No
 9. Have or will you or any immediate family members be guaranteeing or granting any loans or services—at no charge or for charge—to the Academy or any other company contracting or providing service to the Academy? _____ Yes _____ No

¹ Pursuant to MCL 15.181, Section 1(d), public employee is defined as an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

² Pursuant to MCL 28.602, Section 2(k), and for purposes of this disclosure law enforcement is defined as a regularly employed member of a police force or other organization of a city, county, township, or village, of the state, or of a state university or community college who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state, a law enforcement officer of a Michigan Indian tribal police force, the sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act.

³ Pursuant to MCL 487.1511, Section 511.1(b), family is defined as parent, child, sibling, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, nephew, niece, uncle or aunt.

- | | | | | |
|---|-------|-----|-------|----|
| 10. Are or will you or any immediate family members be employed at the Academy (either directly or as an employee of the educational service provider or any other company contracting or providing service to the Academy)? | _____ | Yes | _____ | No |
| 11. Do or will you or any immediate family members be selling any supplies, materials, equipment, services, or other personal property directly or indirectly to the Academy, educational service provider, or any other company contracting with the Academy? | _____ | Yes | _____ | No |
| 12. Are you or will you or any immediate family member be serving as an officer, director, trustee, sole proprietor, employee, sales representative, agent, consultant, independent contractor, or advisory board member to the educational service provider or any other company, organization or agency funding projects, goods or service to the Academy? | _____ | Yes | _____ | No |
| 13. Do you or an immediate family member own stock or have direct or indirect financial interest in any contract where the financial interest amounts to \$250 or 5% or more of the contract costs to the Academy, or the financial interest amounts to \$5000.00 or more in any corporation, partnership, association or joint venture involving the Academy, educational service provider, or any other company, entity contracting with the Academy? (MCL 15.321-15.323) | _____ | Yes | _____ | No |
| 14. Do you or an immediate family member have a close personal relationship with the Academy or any individual(s) associated with the Academy? | _____ | Yes | _____ | No |
| 15. Do you or an immediate family member know any individual(s) or entity that does or plans in the next year to engage in business or any exchange of services with the Academy? | _____ | Yes | _____ | No |
| 16. Other than your Academy Board position, do you currently serve as a public official? | _____ | Yes | _____ | No |
| 17. Other than the Academy Board, do you currently serve on any other school board? | _____ | Yes | _____ | No |
| 18. Other than the Academy Board, do you currently serve any other board, group or corporation that has an ownership interest or believes it has the right to control or have input on actions you would take or votes you would cast as a member of the Academy Board? | _____ | Yes | _____ | No |
| 19. Do you foresee any potential ethical or legal conflicts of interest if you continue to serve on the Academy Board? | _____ | Yes | _____ | No |
| 20. To the best of your knowledge, are there situations not described in this questionnaire which may give the appearance of a conflict of interest between you or a member of your immediate family, or would make it difficult for you to discharge the duties of your office in an independent manner? | _____ | Yes | _____ | No |

If needed, please use the space below to provide an explanation for answers given above. Clearly label the explanation with the number of the corresponding question. Attach additional pages if necessary.

Certification

I recognize that all information submitted with this conflict of interest disclosure becomes a matter of public record, subject by law to disclosure upon request to members of the general public. I will hold Central Michigan University, its trustees, officers, employees or authorized agents harmless from liability for the disclosure of any information it reasonably believes is true based upon my representations.

I hereby certify that the information contained in this document is true and complete to the best of my knowledge and agree to notify the Central Michigan University Charter Schools Office of any change that may create a conflict of interest. Further, I recognize that falsification or failure to submit a complete annual conflict of disclosure becomes justification for removal.

*Signature**Date*

This questionnaire, along with any clarifying documentation, must be returned to Central Michigan University Charter Schools Office by the date due to the CSO.



Charter Schools Office
2520 S. University Park Drive
Mt. Pleasant, MI. 48859

Telephone: (989) 774-2100 Facsimile: (989) 774-7893
Email: cmucso@mail.cmich.edu Web Address: www.cmucso.org

CMU, an AA/EO institution, strongly and actively strives to increase diversity within its community (see <http://www.cmich.edu/aaeo/>).

**Charter Schools Institute
State University of New York**

*Selected questions from Charter Schools Application Kit
(Fifth Edition)*

(Complete Application Kit available at www.newyorkcharters.org)

9. (a) If the charter school would be established in conjunction with a for-profit entity (including but not limited to an educational service provider) or a not-for-profit management company, then please provide the name of such entity and specify in detail the extent of the entity’s participation in the management and operation of the school. As part of such discussion, please include the following:

- a term sheet indicating, at a minimum, the fees proposed to be paid by the proposed school to the management company; the length of the proposed contract; the terms for the contract’s renewal; all provisions for termination; and
- copies of the last two contracts that the educational service provider has executed with operating charter schools (in New York or other states) and, if applicable, the status of those charter schools’ applications for tax-exempt status under section 501(c)(3) of the Internal Revenue Code;

Submit the “term sheet” required by Request No. 9(a) as Attachment 9(a).

Submit the two management contracts required
by Request No. 9(a) as Exhibit A.

(b) Please explain how and why the for-profit entity or non-profit educational service provider was selected.

Please note the following guidance in responding to Request No. 9(b).

• The Institute is particularly interested in the specific steps that you took in arriving at your decision to file an application with an educational service provider or other for-profit entity. If you are filing in conjunction with an educational service provider, please provide a description of the due diligence that you conducted on the educational service provider selected and the degree of “comparison shopping” in which you engaged prior to making your selection. Boilerplate, unsupported statements to the effect that the management partner selected was the best candidate will not allow the application reviewers to effectively evaluate your response.

Submit your response to Request No. 9(b) as Attachment 9(b).

(c) If Requests Nos. 9(a) and 9(b) are applicable to your application, then provide all of the following information. If not applicable, please so note and proceed to Request No. 10.

- evidence that the corporate entity is authorized to do business in New York State;
- the number of schools the entity presently manages (if any) and the location of those schools;
- the length of time the entity has been in business;
- the most recent annual report of the entity; and
- a description or summary reports of student achievement results in schools managed by the entity, especially highlighting achievement of students with similar demographic characteristics as those anticipated to attend the proposed charter school.

Please note the following in responding to Request No. 9(c).

• If the school proposes to locate in a district with a significant number of children who receive free or reduced price lunches, the management partner will be expected to provide student achievement results for students in schools with which it is associated that are disaggregated between students who receive free or reduced lunches and those who do not. Before presenting data to the Institute in response to Request No. 9(c), you may wish to contact the Institute for more comprehensive guidance as to what data the Institute finds most compelling.

Submit your response to Request No. 9(c) as Exhibit B.
--

29. Provide an organizational chart for the school and a narrative description of the chart. The materials supplied should indicate clearly the reporting structure of staff to the board of trustees and staff to the school director(s). If the charter school would contract with a company for management services, explain the company's role in the organizational structure of the school.

Please note the following in responding to Request No. 29.

- *Teachers, administrators and other school personnel are required to be employees of the education corporation formed to operate the charter school. Such personnel may not be employees of an educational service provider or other organization that has contracted with the charter school. [§ 2854(3)(a-1)]*
- *For schools associated with educational service providers, applicants are required to provide a specific statement indicating to whom the director of the school reports.*

Submit your response to Request No. 29 as Attachment 29.

30. Attach the code of ethics of the charter school. The code of ethics must include a comprehensive and formal conflict of interest policy with specific procedures for implementing the policy and assuring compliance therewith. The code of ethics and conflict of interest policy must be written to apply to trustees, officers and employees of the school.

Please note the following in responding to Request No. 30.

- *§ 2851(2)(v) requires that an applicant provide a “code of ethics for the charter school, setting forth for the guidance of its trustees, officers and employees the standards of conduct expected of them.”*
- *Your conflict-of-interest policy may be set forth in the proposed school’s by-laws. If so, please so indicate by citing to the appropriate section(s).*

Submit your response to Request No. 30 as Attachment 30.

52. If the charter school or its applicants or partners would own or lease its facility, provide a description of the ownership or lease arrangement of the facility, including indicating specifically any potential conflicts-of-interest and arrangements by which such conflicts will be managed or avoided.

Submit your response to Request No. 52 as Attachment 52.

EXCERPT*

4th EDITION

Existing Design Applicant Evaluation

On the Letter of Intent, an applicant must indicate whether it wants to be considered a “new design applicant” or an “existing design applicant.” An existing design applicant is one that is proposing to (a) replicate one or more existing schools, or (b) convert a private school to a charter school. An applicant proposing to replicate an existing school must be able to point to at least one school that is substantially similar *overall* to what the applicant is proposing. A plan to implement a specific program, such as a widely-used curriculum for a particular subject area, is not sufficient to categorize an applicant as an existing design applicant. In addition, the applicant must show that individuals or organizations that have operated similar schools will be deeply involved in the creation of the proposed school.

In the case of existing design applicants, the Mayor’s Office will conduct a review and evaluation of the *effectiveness* of the design in existing schools and the *capacity* of the applicant and its partners to replicate the design in Indianapolis or to convert from a private school to a substantially similar charter school. The Mayor’s Office also reserves the right to ask existing design applicants to submit a Prospectus if doing so would give the Indianapolis Charter Schools Board the information they need to decide whether to invite the applicant to submit a Full Application. The review and evaluation, which may include research, interviews and visits to operating schools, will examine a range of factors, such as:

- **A Proven Effectiveness.** Applicant provides evidence that the existing design has been successful (ideally, over multiple years in at least one school) and demonstrates a direct relationship between program elements and student achievement.

Note: At the center of the Mayor’s Office’s system for overseeing and holding accountable the schools it charters is the Performance Framework. Under this framework, a school’s success is measured by its performance relative to key questions established by the Mayor’s Office. If an applicant seeks to replicate an existing design as a charter school, or convert an existing private school into a charter school, it is expected that the existing school(s) to be replicated or converted already may meet many of the standards to which the Mayor’s Office holds all of its schools. Therefore, the factors that may be examined (listed below) closely reflect many of the questions included in the Performance Framework.

*EXCERPT**4th EDITION

Proven effectiveness may be studied by looking at factors such as:

Success of academic program over time, which may include:

- Are schools that have implemented the proposed design making adequate yearly academic progress, as measured by their states' systems of accountability?
- Are the students in these schools outperforming students in relevant comparison groups, as evidenced by measures collected by the schools?
- Has the proposed design demonstrated success in raising student achievement levels by:
 - Producing measurable gains across diverse populations of students?
 - Meeting/exceeding state standards for most students within 3-5 years of implementation?
- Are the schools that have implemented the proposed design meeting the mission-related goals they have established (e.g. graduation rates, post-graduation attainment, improved student behavior, etc.)?

Organizational viability, which may include:

- Are the other schools in which the proposed design has been implemented in sound fiscal health?
- Are the schools' student enrollment, attendance, and retention rates strong?
- Are the schools' boards active and competent in their oversight (if applicable)?
- Are there high levels of parent satisfaction?
- Are the schools' administrations strong in their academic and organizational leadership?
- Do the schools demonstrate an ability to attract and retain high quality staff?

Success in meeting operations and access obligations, which may include:

- Do any of the schools that have implemented the proposed design have any issues related to legal compliance?
- Do any of the schools that have implemented the proposed design have any issues (legal or otherwise) related to accessibility (e.g., special needs, open enrollment processes)?

- **A Capacity to Replicate or Convert.** Applicant is credible and proposes well-defined strategies for replication or for conversion from a private school

EXCERPT***4th EDITION**

to a substantially similar charter school. Capacity to replicate or convert will be studied by looking at factors such as:

- Has the applicant already implemented its design successfully in one or more schools?
- Does the applicant have resources or have the ability to obtain resources to support replication in Indianapolis or to convert from private school to charter school?
- Is the applicant in sound fiscal health, ideally as evidenced through an audited financial statement?
- Does the applicant possess a system for recruiting, hiring, training and evaluating staff?
- If an applicant is proposing to replicate an existing design, what individuals and organizations will provide the professional development, technical assistance, materials, financial resources, and help with facilities needed to replicate the design in Indianapolis? Have these individuals and organizations successfully helped to launch other successful schools using the model? Do they present an adequate plan for providing this assistance in Indianapolis?

The Charter Schools Board reserves the right to invite Full Applications from only those existing design applicants that it determines are proposing an effective school program that is replicable or may be successfully converted from a private school to a charter school. If a proposed school does not meet the standards set forth herein or is otherwise determined not to be in the best interest of the City of Indianapolis, the Board reserves the right to reject the applicant.

* Excerpted from the *Charter Schools Application Packet for Mayor-Sponsored Charter Schools*, 4th Edition, Office of the Mayor, City of Indianapolis, www.indygov.org/mayor/charter.



Applying for
Excellence

*Fostering High-Quality
Charter Schools in California*

Annotated Guide to the California State Board of Education Model Charter School Application



National Association of Charter School Authorizers

promoting quality charter schools

CSBE MODEL APPLICATION

SCHOOL MANAGEMENT CONTRACTS—If the proposed charter school intends to enter into a contract with an education management organization (EMO), inclusion of the following is recommended:

- A description of the proposed contract including roles and responsibilities, performance evaluation measures, payment structure, conditions for renewal and termination, and investment disclosure;
- A draft of the proposed management contract;
- A recent corporate annual report and audited financial statements for the EMO;
- A description of the firm's roles and responsibilities for the financial management of the proposed charter school and the internal controls that will be in place to guide this relationship;
- A list of other schools managed by the school management company, including contact information; and
- A summary of the company's history and philosophy, past results of its school management efforts, and background on its corporate leaders.

NACSA Commentary

The authorizer should seek evidence that there is clear understanding and agreement concerning the respective roles and responsibilities of the governing board and any proposed management organization (whether nonprofit or for-profit), including a clearly defined performance-based relationship between the organization and the school's board as well as understanding of the governing board's ultimate responsibility and authority as the holder of the charter.

This section is not required by the Charter School Act or the California Code of Regulations. However, it is included in the Model Application because many authorizers across the country have found that in cases of proposed part-

nerships between charter schools and third-party management providers, information regarding the proposed relationship is necessary to assess the quality of the plan and its likelihood of long-term success. **Soliciting this information for the proposal will encourage petitioners to plan carefully and lay a sound foundation for their partnership with a management entity.** Thus, it is advisable for authorizers to seek this type of information in charter petitions that propose management contracting.

Essential Element Addressed

- Description of proposed governance structure of the school.

CSBE MODEL APPLICATION

Evaluation Criteria (Section VII: School Management Contracts)

Substantial evidence is provided of clear understanding and agreement concerning the respective roles and responsibilities of the governing board and any proposed management company, including a clearly defined performance-based relationship between the organization and the school's board.

Public School Academy Board Application

Central Michigan University Charter Schools

Investing in our children's future, one school at a time.

Thank you for your interest in serving as a public school academy board member.

The boards of these schools play a vital role in their future. If you are appointed to serve on an academy board, your role will be to set policy, maintain the school's vision, and ensure that the school complies with its charter and applicable law.

We have designed this application to be straightforward, while collecting the detailed information needed to appoint effective board members.

CMU

CENTRAL MICHIGAN
UNIVERSITY

Charter Schools Office
2520 S. University Park Drive
Mt. Pleasant, MI 48859
Telephone: (989) 774-2100
Facsimile: (989) 774-7893
Email: cmucso@mail.cmich.edu
Web Address: www.cmucso.org

"CMU, an AA/EO institution, strongly and actively strives to increase diversity within its community (see <http://www.cmich.edu/aaeo/>)."

Revised January 13, 2004 jmb

Personal Information

I hereby request appointment to the board of directors of the following academy: _____
Academy Name

Title/Prefix: ☐ Mrs. ☐ Mr. ☐ Ms. ☐ Miss. ☐ Dr. ☐ Other _____

Name: _____

First
Middle
Last

Home Address: _____

Street Number

City
State
ZIP

Employer: _____ Title: _____

Employer's Address: _____

Street Number

City
State
ZIP

Home Number: _____ - - - - - Work Number: _____ - - - - -

Fax Number: _____ - - - - - Cellular Number: _____ - - - - -

Pager Number: _____ - - - - - E-mail Address: _____

Spouse's Name: _____

First
Middle
Last

Are you a United States citizen? Yes ☐ No ☐ Are you a Michigan resident? Yes ☐ No ☐

Do you agree to annually complete a conflict of interest disclosure? Yes ☐ No ☐

Do you agree to complete six (6) hours of board orientation and training provided by the Charter Schools Office ("CSO") during the first year of your term, and three (3) hours of CSO-provided orientation and training each year thereafter?
 Yes ☐ No ☐

Does your child(ren) attend this public school academy? Yes ☐ No ☐ If yes, how many? _____

Will you be able to attend regularly scheduled board meetings? Yes ☐ No ☐

Please check your highest education level:

<input type="checkbox"/> High School/GED	<input type="checkbox"/> Associate's Degree	<input type="checkbox"/> Master's Degree
<input type="checkbox"/> Trade/Business School	<input type="checkbox"/> BA or BS Degree	<input type="checkbox"/> MD, DO, JD, Ph.D., etc.

Please check each area of expertise you would contribute to the board:

<input type="checkbox"/> Community Service	<input type="checkbox"/> Education	<input type="checkbox"/> Finance
<input type="checkbox"/> Fund Raising	<input type="checkbox"/> Law	<input type="checkbox"/> Management
<input type="checkbox"/> Marketing	<input type="checkbox"/> Personnel	<input type="checkbox"/> Public Relations
<input type="checkbox"/> Parent Involvement Programs	<input type="checkbox"/> Other (please specify) _____	

Optional Information

If you would like any additional information considered, such as governmental, employment or volunteer experience, honors or awards, please attach a resume or include on a separate sheet of paper.

Relationship to the Academy

Instructions - If you answer "yes" to any of the following questions, please provide an explanation on a separate sheet of paper. Please label explanations with the number of the corresponding question.

1. Do or will you or your spouse have any contractual agreements with the academy? Yes ☐ No ☐
2. Do or will you, your spouse, or any member of your immediate family have any ownership interest in any educational service provider or any other company contracting with the academy? Yes ☐ No ☐
3. Did or will you or your spouse lease or sell property to the academy? Yes ☐ No ☐
4. Did or will you or your spouse sell any supplies, materials, equipment or other personal property to the academy? Yes ☐ No ☐
5. Have you or your spouse guaranteed any loans for the academy or loaned it any money? Yes ☐ No ☐
6. Are or will you, your spouse or any member of your immediate family be employed by the academy, its educational service provider or other contractors? Yes ☐ No ☐
7. Did you or your spouse provide any start-up funds to the academy? Yes ☐ No ☐
8. Did or do you or your spouse, or other member of your immediate family, have ownership interest, directly or indirectly, in any corporation, partnership, association, or other legal entity which would answer 'yes' to any of questions 1-7? Yes ☐ No ☐
9. Does any other board, group or corporation believe it has a right to control or have input on votes you will cast as a member of the academy board? Yes ☐ No ☐
10. Do you currently serve as a member of the board of any public school district or public school academy other than the board for which you have been nominated? Yes ☐ No ☐
11. Do you currently serve as a public official? *If you are being re-nominated to the same public school academy board, and do not serve as a public official in any other capacity, please select "No" as your response.* Yes ☐ No ☐
12. To the best of your knowledge, are there situations not described above which may give the appearance of a conflict of interest between you and the academy, or which would make it difficult for you to discharge your duties or exercise your judgment independently on behalf of the academy? Yes ☐ No ☐

Ethical Issues

Instructions - If you answer "yes" to any of the following questions, please provide an explanation on a separate sheet of paper.

- Citations

Have you ever been cited for a breach of ethics for unprofessional conduct, or been named in a complaint to a court, administrative agency, professional association, disciplinary committee, or other professional group?

Yes ☐ No ☐

- Agency Proceedings/Civil Litigation.

Are you presently, or have you ever been involved in administrative agency proceedings or civil litigation during the past five years?

Yes ☐ No ☐

Has any business involving you, your spouse, close family members or close business associates been part of any administrative agency proceedings or civil litigation relevant to the board member position?

Yes ☐ No ☐

(Please continue application on back side of this sheet)

Criminal Background History

Academy board members are public officials appointed by the Central Michigan University Board of Trustees. The University Board requires the Charter Schools Office to complete a criminal records check for each nominee.

Instructions - Complete this section by placing your **initials** in the space beside option 1, 2 and/or 3. If you initial option 1 or 2, please provide on a separate sheet of paper what the charges were and which courts were involved.

1. I have been convicted, pled guilty or nolo contendere (no contest) to one or more crimes.
initial

2. I am currently charged with one or more crimes.
initial

3. I have **not** been convicted, pled guilty or nolo contendere (no contest) to any crimes.
initial

I understand that:

- Central Michigan University must request or cause a criminal records check to be performed on me from local, state, or federal law enforcement agencies;
- Until that report is received and reviewed by Central Michigan University, my nomination for appointment will not be processed;
- If the report received from the local, state, or federal law enforcement agencies is not the same as my representation(s) above or attached hereto respecting either the absence of any conviction(s) or any crimes of which I have been convicted, my nomination for appointment is voided at the sole discretion of the Central Michigan University Board of Trustees or its designee.

Application Verification

I recognize that all information submitted with this application or gathered by Central Michigan University as a result of this application becomes a matter of public record, subject by law to disclosure upon request to members of the general public. I will hold Central Michigan University, its trustees, officers, employees or authorized agents harmless from liability for the disclosure of any information it reasonably believes is true based upon my representations or resulting from this application process.

I understand that if I am appointed, I will be required and agree to complete during the first year of my term, six (6) hours of board orientation provided by the Charter Schools Office (“CSO”), and three (3) hours of CSO-provided training per year thereafter.

I understand that if I am appointed, I will be required and agree to complete annually a conflict of interest disclosure.

I understand that Central Michigan University is under no obligation to appoint me or any nominee to a public school academy board. My signature below certifies that all information provided in this application is true and complete.

Signature

Date

Personal Background Check Consent

A criminal records check must be conducted as a condition for appointment as a public official serving on the board of a public school academy authorized by Central Michigan University. This consent does not authorize, nor will Central Michigan University conduct, a consumer credit check.

Information requested on this page will be used to conduct a criminal records check and will not be used to determine qualifications as a proposed public school academy board member. This page will be removed prior to review of the information contained in the application.

Please print or type the following information:

1. Print or type your full name _____
(First) (Middle) (Last) (Jr., III)
2. Current address: _____
(Address, City, State and ZIP)

Former address: _____
(Address, City, State and ZIP)
3. Social Security Number: _____ - -
4. Date of Birth: _____ / /
(MM/DD/YYYY)
5. Driver's License Number: _____
6. Gender: ☐ Male ☐ Female
7. Race: ☐ Caucasian ☐ African American ☐ Multi-Racial
☐ Hispanic ☐ Asian ☐ Other *Please Specify* _____
☐ Native American ☐ Pacific Islander / Hawaiian

By signing this document I acknowledge receipt of this disclosure and authorize Central Michigan University to obtain a copy of my criminal records report.

I consent to the release of information concerning my criminal record, subject to any restrictions that I have included, to Central Michigan University, its Charter Schools Office and its legal counsel. I specifically authorize Central Michigan University to conduct a criminal records check on me with the applicable local, state and federal law enforcement agencies.

I will hold Central Michigan University, its trustees, officers, employees or authorized agents harmless from liability for the disclosure of any information it reasonably believes is true based upon my representations or resulting from this criminal records check consent process.

By my signature I assert and certify that the information provided is, to the best of my knowledge, true and complete.

Signature

Date

REQUEST FOR INFORMATION FROM PROSPECTIVE CHARTER SCHOOL BOARD MEMBERS

As you are already aware, serving on a public charter school board is a position of great trust and responsibility. As a board member of a public school, you are not only ultimately responsible for the education of all students enrolled in the school, but also entrusted with the obligation to see that the public monies which are given to the charter school are legally and wisely spent.

In providing the information requested, prospective board members will assist the Charter Schools Institute in determining if the application demonstrates that the school will be run in a financially, organizationally and educationally sound manner.

Background

1. Please provide your educational and employment history. A resume is preferred, but not required.
2. Please indicate whether you will be at least eighteen years old by January 1 of the year in which the proposed charter school would open.
3. Please indicate how you became aware of the proposed charter school and the opportunity to serve as a member of its board if it is chartered, including who invited you, if applicable, to sit on the board.
4. Please explain why you wish to serve on the board.
5. Please indicate if you have previously served on a board of a school district or a not-for-profit corporation (including the board of a non-public school) and describe any relevant experience.
6. Please describe your understanding of the appropriate role of a public charter school board member.
7. Please indicate specifically the knowledge and experience that you would bring to the board.
8. Please provide a forecast of where you see the school in one year and then again in four years.
9. How would you handle a situation in which you believe one or more members of the school's board are involved in self-dealing (working for their own benefit, or the benefit of their friends and family)?

Conflict of Interest

10. If you, your spouse or other immediate family members knew any of the other prospective board members prior to being invited to sit on the board, please so indicate and describe the relationship with each such other prospective board member.
11. If you, your spouse or other immediate family members know any people already known to be prospective school employees, please so indicate and describe the relationship.
12. If you, your spouse or other immediate family members know anyone that plans to do business with the school, please so indicate and describe the relationship and the nature of the potential business.
13. If the school proposes to partner with an educational service provider (a management company), please indicate if you, your spouse or other immediate family members know any employees, owners, or agents of that provider. If your answer is yes, please indicate the individuals you know and the nature of the relationship.
14. If the school proposes to enter into a contract with an educational service provider, please indicate whether you, your spouse or other immediate family member have a direct or indirect ownership, employment, contractual or management interest in the educational service provider.
15. Please indicate if you, your spouse or other relative (by marriage or blood) anticipate conducting any business with the educational service provider, the school, or both. If so, please describe the potential relationship.
16. Please indicate if you foresee any potential ethical or legal conflicts of interests should you serve on the school's board. If so, describe such potential conflicts.

Educational Philosophy

17. Please describe your understanding of the school's mission and/or philosophy.
18. Please indicate your level of familiarity with the educational program that the school proposes to utilize.
19. Please describe what you believe to be the key characteristics of a successful school. What specific steps do you think the board of the school will need to take to ensure that this school is successful?

Name (please print)

Signature

Date



CHARTER SCHOOLS OFFICE

Educational Service Provider Review Sheet

Purpose of Review: To help ensure the ESP agreement is in compliance with the CMU-CSO Educational Service Provider Policies, dated July 15, 1999.

Instructions: Complete a review sheet for each ESP agreement received by the CSO.

Academy Name:	
Reviewed By:	
Date Reviewed:	

		ESP Agreement	Workpaper Reference
A.	Academy Board Due Diligence		
1.	The Academy Board shall provide the following information to the University Charter Schools Office: <ol style="list-style-type: none"> 1. List of all ESP owner(s), directors and officers. 2. Type or form of entity (for-profit/non-profit/LLC, etc.). 3. Name of ESP's primary banking institution. 4. Legal counsel for the ESP. Name, address, and telephone number of firm and name of contact person. 5. Accounting firm for the ESP. Name, address, and telephone number of firm and name of contact person. 6. A written statement regarding the ESP's experience in providing educational services, the types of educational service to be provided to the Academy, and the ESP's educational philosophy. 		
2.	Academy Board members, employees, and their respective spouses or immediate family members may not have any direct or indirect ownership, employment, contractual or management interest in any ESP's that contract with the Academy. The Charter Schools Office may formally waive this condition for persons who have an ownership interest in an ESP that contracts with the Academy if it concludes that the ownership interest is minimal.		
3.	Any proposed ESP agreement must be submitted to the University Charter Schools Office, not later than thirty (30) days prior to the proposed date of execution.		
4.	The Academy Board must retain independent legal counsel to review and negotiate the ESP agreement. Legal counsel for the Academy must not represent the ESP or principals thereof. The ESP agreement must be an arms-length, negotiated agreement between an informed Academy Board and the ESP. Prior to the Academy Board's approval of the ESP agreement, the Academy Board must obtain a legal opinion from its legal counsel, and submit a copy of the legal opinion to the University Charter Schools Office.		
5.	The Academy Board shall not approve an ESP agreement until all board members have been given the opportunity to review the proposed ESP agreement with the Academy's legal counsel		
6.	The Academy Board shall approve an ESP agreement with a formal vote at a public board meeting. Prior to Academy Board's vote on the ESP agreement , the Academy Board shall provide an opportunity for public comment on the proposed ESP agreement		
B.	Academy Board Administrative and Fiduciary Responsibilities		
1.	In negotiating the ESP agreement, the Academy Board must budget adequate resources to fulfill its Contract requirements which may include, but are not limited to: oversight of ESP, Provider of the Academy, negotiation of the Contract and any amendments, payment of staff costs, insurance required under the Academy's lease, ESP agreement and the Contract, annual financial audit, the Academy Board's legal counsel, consultants, recording secretary and any other such cost necessary for Academy Board operations.		

Revised: 12.2003



CHARTER SCHOOLS OFFICE
Educational Service Provider Review Sheet

		ESP Agreement	Workpaper Reference
2.	The Academy Board shall be responsible for determining the budget reserve amount included as part of the Academy's annual budget. In addition, the Academy Board is responsible for implementing fiscal policies that will assist the Academy in attaining the stated budget reserve amount.		
3.	The ESP shall present to the Academy Board, on a frequency established by the Academy Board, a detail of budget to actual revenues and expenditures with an explanation of variances. The ESP shall present to the Academy Board, on a frequency determined by the Academy Board, a detailed schedule of expenditures at object level for review and approval by the Academy Board.		
4.	The Academy Board must be informed of the level of compensation and fringe benefits provided to employees of the ESP assigned to the Academy.		
C. ESP Agreement Provisions			
1.	No provision of the ESP agreement shall interfere with the Academy Board's constitutional duty to exercise its statutory, contractual and fiduciary responsibilities governing the operation of the Academy. No provision of the ESP agreement shall prohibit the Academy Board from acting as an independent, self-governing public body, or allow public decisions to be made other than in compliance with the Open Meetings Act		
2.	An ESP agreement shall not restrict an Academy Board from waiving its governmental immunity or require an Academy Board to assert, waive or not waive its governmental immunity		
3.	No provision of an ESP agreement shall alter the Academy Board treasurer's legal obligation to direct that the deposit of all funds received by the Academy be placed in the Academy's depository account as required by law. The signatories on the depository account shall solely be Academy Board members or properly designated Academy Board employee(s). Interest income earned on Academy depository accounts shall accrue to the Academy.		
4.	ESP agreements must contain at least one of the following methods for paying fees or expenses: (i) the Academy Board may either pay or reimburse the ESP for approved fees or expenses upon properly presented documentation and approval by the Academy Board; or (ii) the Academy Board may advance funds to the ESP for the fees or expenses associated with the Academy's operation provided that documentation for the fees and expenses are provided for Academy Board ratification		
5.	ESP agreements shall provide that the financial, educational and student records pertaining to the Academy are Academy property, and that such records are subject to the provisions of the Michigan Freedom of Information Act. All Academy records shall be physically or electronically available, upon request, at the Academy's physical facilities. Except as permitted under the Contract and Applicable Law, no ESP agreement shall restrict the University's or the public's access to the Academy's records		
6.	ESP agreements must contain a provision that all finance and other records of the ESP related to the Academy will be made available to the Academy's independent auditor		
7.	The ESP agreement must not permit the ESP to select and retain the independent auditor for the Academy		
8.	If an ESP purchases equipment, materials and supplies on behalf of or as the agent of the Academy, the ESP agreement shall provide that such equipment, materials and supplies shall be and remain the property of the Academy. The ESP will comply with section 1274 of the Revised School Code as if the Academy were making these purchases directly from a third party supplier		

Revised: 12.2003



CHARTER SCHOOLS OFFICE
Educational Service Provider Review Sheet

		ESP Agreement	Workpaper Reference
9.	ESP agreements shall contain a provision that if the ESP procures equipment, materials and supplies at the request of or on behalf of the Academy, the ESP shall not include any added fees or charges with the cost of equipment, materials and supplies purchased from third parties		
10.	ESP agreements must contain a provision that clearly allocates the respective proprietary rights of the Academy Board and the ESP to curriculum or educational materials. At a minimum, ESP agreements shall provide that the Academy owns all proprietary rights to curriculum or educational materials that (i) are both directly developed and paid for by the Academy; or (ii) were developed by the ESP at the direction of the Academy Board with Academy funds dedicated for the specific purpose of developing such curriculum or materials. ESP agreements may also include a provision that restricts the Academy's proprietary rights over curriculum or educational materials previously developed or copyrighted by the ESP, or curriculum or educational materials that are developed by the ESP from funds from the Academy or that are not otherwise dedicated for the specific purpose of developing Academy curriculum or educational materials. All ESP agreements shall recognize that the ESP's educational materials and teaching techniques used by the Academy are subject to disclosure under the Revised School Code and the Freedom of Information Act		
11.	ESP agreements involving employees must be clear about which persons or positions are employees of the ESP, and which persons or positions are employees of the Academy. If the ESP leases employees to the Academy, the ESP agreement must provide that the leasing company accepts full liability for benefits, salaries, worker's compensation, unemployment compensation and liability insurance for its employees leased to the Academy or working on Academy operations. If the Academy is staffed through an employee leasing agreement, legal confirmation must be provided to the Academy Board that the employment structure qualifies as employee leasing		
12.	ESP agreements must contain insurance and indemnification provisions outlining the coverage the ESP will obtain. The ESP's insurance is separate from and in addition to the insurance the Academy Board is required to obtain under the Contract.		
13.	Marketing and development costs paid by or charged to the Academy shall be limited to those costs specific to the Academy program, and shall not include any costs for the marketing and development of the ESP.		
14.	The maximum term of an ESP agreement must not exceed five academic years		
D. Lease and Loan Agreement Provisions			
1.	If the Academy intends to enter into a lease, execute promissory notes or other negotiable instruments, or enter into a lease-purchase agreement or other financing relationships with the ESP, then such agreements must be separately documented and not be a part of or incorporated into the ESP agreement		
File Management			
1.	Receive executed copy of the Agreement.		<Not Applicable>
2.	Provide copy of executed Agreement to Contract Administration (for processing during reauthorization or contract amendment process).		



CHARTER SCHOOLS OFFICE

Educational Service Provider Review Sheet

3.	Mail final letter following review to Board President.		
4.	Send documents to scanning.		
Review Follow-up			

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Department of
Education

Excerpted Section from

**THE CHARTER SCHOOL ADMINISTRATIVE
AND GOVERNANCE GUIDE**

***AN OVERVIEW OF THE LAWS AND REGULATIONS THAT SCHOOL
LEADERS AND BOARDS OF TRUSTEES NEED TO KNOW***

**DRAFT
May 2005**

Massachusetts Department of Education
address 350 Main Street, Malden, MA 02148
telephone 781-338-3000 **internet** www.doe.mass.edu

3. Contracts for Educational Services

Department Review of Contracts for Educational Services

The Board of Education must approve the terms of charter school contracts with individuals for “substantially all educational services.” G.L. c. 71, § 89(j)(5). The Department has developed standards and procedures for reviewing and approving the contracts. Boards of Trustees of charter schools should review the information below to better understand the standards the Department will use to evaluate contracts with EMOs. EMO contracts are not valid or in effect prior to receiving final approval by the Board of Education. Charter schools may not construe inaction by the Board of Education regarding a request for approval of an EMO contract as approval of, or waiver of objection to, the contract or any provision contained in the contract.

In deciding whether to approve a contract with an EMO, the Department conducts a careful review. All contracts must include the required elements listed below. Once submitted for approval, if a contract fails to include one of these elements, the Department will require the Board of Trustees to change the contract.

Though the Department reserves the right to require any changes based on its overall review of the contract, its review primarily focuses on the issues listed below. The Department may either require the Board of Trustees to change the contract or suggest changes, depending on the specific provision in question.

Required Elements of Contracts for Educational Services¹

- The contract must comply with all applicable laws and regulations. The contract’s choice of law provision, a standard provision in most contracts, must specify that Massachusetts law applies to any legal proceeding arising out of a dispute between the Board of Trustees and the EMO.
- Boards should pay special attention to the public records law, G.L. c. 66, that requires schools to provide access to certain records to any member of the public upon request.
- The term of the contract with the EMO may not exceed the term of the school’s charter.
- The Board cannot abdicate its legal or fiduciary responsibilities as the entity holding the charter. For example, the contract must provide for sufficient Board oversight of the EMO and the school cannot assign to the EMO the Board’s responsibilities as defined in G.L. c. 71, § 89.
- The contract must include provisions dealing with ownership of physical and intellectual property developed by the EMO or by the school’s employees. Keep in mind that the charter school has an obligation to disseminate information to other schools in the Commonwealth. G.L. c. 71, § 89(II). All contract provisions must conform to this requirement.

¹ The following criteria and protocol are effective for all contracts that have not yet been approved and apply to all contracts upon expiration of the term of the contract. See *Charting a Clear Course* for more information about these issues.

- The contract must include a description of how the parties will develop, approve, and oversee the school's budget and curriculum and how the Board of Trustees will monitor and oversee the EMO's financial and management services.
- The contract should reflect that the Board of Trustees has the ultimate responsibility for establishing the school's budget and determining its curriculum. G.L. c. 71, § 89(x).
- The contract should include clear methods for determining the EMO's compensation. Ideally, methods of compensation should create incentives for the EMO that parallel the Board's goals for the school. The method of compensation should indicate all contract payments, lease payments, management fees, administrative fees, licensing fees, expenses, and other amounts payable to the EMO and under what conditions these amounts are payable.
- The contract should indicate upon what sources of revenue the fee is based, especially if it is based upon a percentage of the school's revenues.
- The contract should include a provision specifying that the Board of Trustees hires the school's independent auditor. G.L. c. 71 § 89(hh).
- The contract should require that the EMO furnish the charter school with all information deemed necessary by the school for the proper completion of the budget, financial reports and audits.
- The contract should indicate that all financial reports provided or prepared by the EMO will follow generally accepted auditing principles and will also comply with the Department's prescribed format for charter school reporting.
- All loans to, or investments in, the charter school by the EMO must be evidenced by appropriate documentation. In the case of investments, such documentation must explain how the investment will be treated on the books of the charter school and clearly state the EMO's expected return on equity.
- Budgets prepared by the charter school should include all revenue anticipated and all actual expenses, as well as anticipated expenses and incidentals, associated with the operation and management of the charter school. The EMO must submit invoices and supporting documentation to justify expenses.
- The contract must include a description of the specific services that the EMO will provide and the Board of Trustees' responsibilities. Be sure to address those responsibilities required of the charter school by law, such as the development of an annual report.
- The contract must include termination provisions. The contract should protect the Board of Trustees from unwarranted termination by the EMO and give the Board an opportunity to terminate the contract if the EMO fails to meet mutually agreed upon goals or standards.
- The contract must include a description of the relationship between the EMO and the Board. For example, the contract should clarify how the parties will hire, evaluate, and dismiss the school leader.

- The contract must include a direct reference to the school's accountability plan as approved by the Department, a commitment by the EMO to achieve the goals stated in the plan, and a description of how the Board will evaluate the EMO's progress toward achieving the plan's goals.

Process for Submitting Educational Services Contracts for Department Review

Once a charter School has selected an EMO and obtained legal counsel, it can begin drafting the contract. To ensure that the Board of Education approves a contract for "substantially all educational services" before the school begins operating, schools should follow the following procedure for submitting the contract to the Department for approval.

- **Step 1:** With the assistance of legal counsel, draft the contract.
- **Step 2:** Send a draft of a proposed contract to the Charter School Office at least 120 days in advance of an intended start date for the contract. To allow for consistent referencing in the case of multiple drafts, the draft should be numbered and dated on the cover page and all subsequent pages.
- **Step 3:** The Charter School Office will review the contract based on the criteria above and attempt to return it to the school within 30 days, along with an EMO Contract Action Letter. If the contract is satisfactory, the Action Letter will state that and may note concerns that the parties should consider. Otherwise, the Action Letter will list specific changes that must be made, raise general areas of concern that the parties must address, and suggest changes that the parties may want to consider.
- **Step 4:** The Board of Trustees, consulting with its legal counsel, should meet with the EMO to review the Department's response and to discuss areas of concern. The Board can use the Action Letter as a guide for this meeting.
- **Step 5:** The parties then must redraft the contract, clearly indicating any changes that have been incorporated in the new draft, and resubmit the contract to the Charter School Office. The parties must resubmit the contract at least 60 days before the intended starting date of the contract. The contract is not valid until it is approved by the Board of Education. G.L. c. 71, § 89(j)(5).
- **Step 6:** If a Board of Trustees wants to change any contract provisions or terminate the contract after it has been approved, it must submit a written request for a charter amendment to the Department for Board of Education approval that follows the procedures in 603 CMR 1.11 and Appendix 9, *Charter Amendments - Technical Advisory 03-3*. The Board of Education shall endeavor to approve or deny an amendment request within 60 days of receiving a complete amendment request. 603 CMR 1.11(4).

Management Contract Review checklist

School name: _____

EMO: _____

Date of review, reviewer: _____

- 1) The contract must comply with all applicable laws and regulations. The contract's choice of law provision, a standard provision in most contracts, must specify that Massachusetts law applies to any legal proceeding arising out of a dispute between the Board of Trustees and the EMO.

Done?/Comments:

- Boards should pay special attention to the public records law, G.L. c. 66, that requires schools to provide access to certain records to any member of the public upon request.

Done?/Comments:

- The term of the contract with the EMO may not exceed the term of the school's charter.

Done?/Comments:

- The Board cannot abdicate its legal or fiduciary responsibilities. For example, the contract must provide for sufficient Board oversight and cannot assign to the EMO the Board of Trustees' responsibilities as defined in G.L. c. 71, § 89.

Done?/Comments:

- The contract must include provisions dealing with ownership of physical and intellectual property developed by the EMO or by the school's employees. Keep in mind that the charter school has an obligation to disseminate information to other schools in the Commonwealth. G.L. c. 71, § 89(II), and all contract provisions must conform to this requirement.

Done?/Comments:

- 2) The contract must include a description of how the parties will develop, approve, and oversee the school's budget and curriculum and how the Board of Trustees will monitor and oversee the EMO's financial and management services.

Done?/Comments:

- The contract should reflect that Boards have the ultimate responsibility for establishing the school's budget and determining its curriculum. G.L. c. 71, § 89(x).

Done?/Comments:

- The contract should have clear, easily understandable methods for determining the EMO's compensation. Ideally, methods of compensation should create incentives for the EMO that parallel the Board's goals for the school. The method of compensation should indicate all contract payments, lease payments, management fees, administrative fees, licensing fees, expenses, and other amounts payable to the EMO and under what conditions these amounts are payable.

Done?/Comments:

- The contract should indicate upon what sources of revenue the fee is based, especially if it is based upon a percentage of the school's revenues.

Done?/Comments:

- The contract should include a provision specifying that the Board of Trustees hires the school's independent auditor. G.L. c. 71 § 89(hh).
Done?/Comments:

- The contract should require that the EMO furnish the charter school with all information deemed necessary by the charter school for the proper completion of the budget, financial reports and audits.
Done?/Comments:

- The contract should indicate that all financial reports provided or prepared by the EMO should follow generally accepted auditing principles and with the Department's prescribed format for charter school reporting.
Done?/Comments:

- All loans to, or investments in, the charter school by the EMO must be evidenced by appropriate documentation. In the case of investments, such documentation must explain how the investment will be treated on the books of the charter school and clearly state the EMO's expected return on equity.
Done?/Comments:

- Budgets prepared by the charter school should include all revenue anticipated and all expenses, as well as anticipated expenses and incidentals, associated with the operation and management of the charter school. The EMO must submit invoices and supporting documentation to justify expenses.
Done?/Comments:

- 3) The contract must include a description of the specific services that the EMO will provide and a description of the Board of Trustees responsibilities. Be sure to include responsibilities required by law, such as the development of an annual report.

Done?/Comments:

- 4) The contract must include termination provisions. The contract should protect the Board of Trustees from unwarranted termination by the EMO and give the Board an opportunity to terminate the contract if the EMO fails to meet mutually agreed upon goals or standards.

Done?/Comments:

- 5) The contract must include a description of the relationship between the EMO and the Board. For example, the contract should clarify how the parties will hire, evaluate, and dismiss the school leader.

Done?/Comments:

- 6) The contract must include a direct reference in the contract to the school's academic accountability plan as approved by the Department, a commitment by the EMO to achieve the goals stated in the plan, and a description of how the Board will evaluate the EMO's progress toward achieving the plan's goals.

Done?/Comments:

Chicago Board of Education

Charter School Agreement

Comprehensive Management Services Contract Requirements

The Chicago Board of Education includes the following requirements in its Charter School Agreement with any charter school contracting with a third-party provider for comprehensive management services.

EXHIBIT G

COMPREHENSIVE MANAGEMENT SERVICES CONTRACT REQUIREMENTS

In the event Charter School intends to contract with a third party for comprehensive school management or operations services (“Service Contract”), all of the following requirements must be met by Charter School:

1. Required Provisions of Bylaws. The bylaws of the Charter School shall provide that the Charter School may not enter into any contract for comprehensive school management or operations services (“Service Contract”) without first submitting such Service Contract to the Board for review. The Charter School shall further incorporate within its bylaws, or duly establish pursuant to such bylaws, procedures for the termination of the Service Contract as provided herein.

2. Submission of Service Contract. The Service Contract shall be submitted to the Board no later than 30 days prior to its effective date. If the Board determines that the Service Contract does not comply with the provisions set forth in Section 3 of this Exhibit, or that the Charter School’s entering into the Service Contract would otherwise be in violation of the conditions set forth in this Exhibit, the Charter School Agreement, or the Charter School Law, then the Board shall notify the Charter School within twenty (20) days, stating with particularity the grounds for its objections. In such event, the Charter School shall not enter into the Service Contract unless and until the deficiencies noted by the Board have been remedied to the Board’s reasonable satisfaction.

3. Required Terms of Service Contract. The Service Contract shall include, without limitation, the following Required Terms:

i. The Service Contract shall be subject to, and shall incorporate by reference, the terms and conditions of the Charter School Agreement and this Exhibit.

ii. The Service Contract shall clearly delineate the respective roles and responsibilities of the Service Provider and the Charter School in the management and operation of each school facility for which the Service Provider shall provide management or operations services. The Service Contract shall also include acceptable procedures by which the Service Provider may be held accountable to the Charter School.

iii. The Service Contract shall be terminable by the Charter School, in accordance with its bylaws or other established termination procedures, (A) upon default by the Service Provider, including without limitation any act or omission of the Service Provider that causes a default under the Charter School Agreement

or that causes the Charter School to be in violation of the Charter Schools Law, or (B) for other good cause as agreed by the Charter School and the Service Provider.

iv. The Service Contract shall require that the Service Provider furnish the Charter School with all information deemed necessary by the Charter School or the Board for the proper completion of the budget, quarterly reports, or Financial Audits, required under Section 6 of the Charter School Agreement.

v. The Service Contract shall provide that all financial reports provided or prepared by the Service Provider shall be presented in GAAP/FASB approved nonprofit format.

vi. The Service Contract shall provide that all employees or contractors of the Service Provider who have direct, daily contact with students of the Charter School shall be subject to the criminal background check requirements contained in Section 34-18.5 of the School Code to the same extent as employees of the Charter School.

vii. The Service Contract shall contain provisions requiring compliance with all requirements, terms and conditions established by any Federal or State funding source.

4. Financial Reporting.

a. Budget. The budget prepared by the Charter School pursuant to Section 6 of the Charter School Agreement shall include, without limitation, the following itemized information:

i. All revenue anticipated to be received from the Board under the Charter School Agreement.

ii. All expenses and anticipated expenses associated with the operation and management of the Charter School.

iii. All expenses associated with the operation of the governing board of the Charter School, including without limitation personnel, occupancy and travel expenses, if any, and provided that in the event that the expenses in this subsection 1(b) are not paid out of expenses received from or through the Board, such expenses shall not be required to be separately itemized hereunder.

iv. All contract payments, lease payments, management fees, administrative fees, licensing fees, expenses and other amounts paid to the Service Provider or otherwise paid for the Contract Services by the Charter School.

v. All loan repayments for any loans made to the Charter School by the Service Provider, including separate line items for interest, principal and premium, if any, on such loan repayments.

vi. All investments in the Charter School by the Service Provider, including the expected returns on equity for such investments.

b. Quarterly Financial Statements. In the event that quarterly financial statements are required to be furnished by the Charter School pursuant to Section 6(m) of the Charter School Agreement, such financial statements shall reflect the entire school's financial operations, including an itemized accounting of all amounts paid to the Service Provider or otherwise paid for the Contract Services, which amounts shall be itemized in a manner that clearly corresponds with those categories provided in the Charter School's annual budget or the Service Contract.

c. Annual Audit. The Financial Audits required under Section 6 of the Charter School Agreement shall include review of all fees and payments made by the Charter School to the Service Provider

d. Reporting of Loans and Investments. All loans to, or investments in, the Charter School by the Service Provider must be evidenced by appropriate documentation, either in the contract between the Charter School and the Service Provider, or through separate agreements. In the case of investments, such documentation shall explain how the investment shall be treated on the books of the Charter School and shall clearly state the Service Provider's expected return on equity.

Nothing in this Section 4 shall be construed to waive or otherwise limit the obligation of the Charter School to provide information otherwise required to be reported by the Charter School under the Charter Schools Law or the Charter School Agreement.

Ferris State University (MI)

Charter Contract Provision Concerning Public Information

Ferris State University includes the following addendum in its contracts with charter schools, to ensure public availability of information in accordance with the Freedom of Information Act (FOIA) and Michigan law.

SCHEDULE 8**INFORMATION TO BE PROVIDED BY THE ACADEMY
AND/OR EDUCATION SERVICE PROVIDERS**

- A. The following described categories of information are specifically included within those to be made available to the public by the Academy in accordance with Section 11.26(a):
1. Contract with the authorizer to charter a public school academy
 2. Acceptance of public office for each serving Director
 3. Oath of office for each serving Director
 4. List of currently serving Directors with name, address, and term of office
 5. Public notice of all Board of Directors meetings
 6. Board of Directors meeting agendas
 7. Board of Directors meeting minutes
 8. Board of Directors approved budget and amendments to the budget
 9. List of bills paid as submitted to the Board of Directors
 10. Quarterly financial reports submitted to the authorizer
 11. Annual report to the public
 12. School improvement plan (if required)
 13. Facility leases and/or deeds
 14. Equipment leases
 15. Proof of ownership for vehicles and portable buildings
 16. Board approved management contract
 17. Board approved services contract
 18. Office of Fire Safety occupancy certificate
 19. MDE letter of continuous use (if required)
 20. Health Department food service permit (if required)
 21. Asbestos inspection report (if required)
 22. Boiler inspection certificate (if required)
 23. Phase 1 environmental report
 24. List of current Academy teachers with names and addresses
 25. Listing of Academy teachers salaries by name
 26. Teaching Certificate or permit of current teaching staff

27. Proof of fingerprinting, criminal back-ground check and unprofessional conduct check for all Academy teachers and administrators
 28. Board approved policies
 29. Proof of insurance as required by the Contract
- B. The following described categories of information are specifically included within those to be made available to the Academy by the Educational Service Provider (if any) in accordance with Section 11.26(b):
1. Information Regarding Academy Teachers, Administrators, and Support Staff
 - a. Personal information (name, address, age, sex, marital status – if known)
 - b. Education (highest degree attained, alma mater, certifications, teaching certificates, years of experience in educational systems, etc.)
 - c. Employment record (occupation, rate of pay, seniority, salaries, benefits, disciplinary actions – if any, commendations, special projects directed, supervisory evaluations, etc.)
 2. Information Regarding Academy Business Operations
 - a. Financial records and information concerning the operation of the Academy, including without limitation budgets and detailed records of funds received from the State and others, expenditure of those funds, investment of those funds, carryover, contractual arrangements and/or agreements, etc.)
 - b. Financial records and information concerning leases to which the Academy is a party (equipment, physical facility space, institutional and educational materials, etc.)
 - c. Financial records and information concerning mortgages and loans to which the Academy is a party.
 3. Other Information
 - a. Other records and information needed by the Academy in order to comply with its obligations to disclose the information listed under Part A, above.

Education Service Provider Quality and Performance Assessment Tool

School Lane Charter School, Bensalem, PA

Following is a tool that the School Lane Charter School governing board developed and used in 2002 to evaluate the quality and performance of the school's comprehensive education service provider. (The school is now self-managed).

SLCS Quality and Performance Assessment

Organization/Name: _____ Date Completed: _____

Project/Objective: _____

Instructions

Indicate a performance rating for each category listed on the form. Complete the form for each project or objective that you wish to assess.

Rating definitions: **Performance against Expectation**

5	Exceeds	Performs exceptionally, significantly and positively impacts projects. Demonstrates future thinking; promotes organizational strategic objectives. Identifies and resolves issues before they become problems.
4	Above	Performs above expectations. Has an important and positive impact on organizational performance. Promotes organizational objectives. Solves problems efficiently and effectively.
3	Meets	Meets expectations for performance. Competent, dependable performance; meets basic fundamental needs of organization.
2	Below	Results are below expectation. Organizational goals are compromised. Improved performance is required.
1	Fails	Organizational goals are not met. Results are significantly below expectation. Performance improvement is mandatory.

Quality of Service	5	4	3	2	1
Timeliness					
Delivers in suitable time					
Meets targets of plan/goal					
Dependable/reliable					
Comprehensiveness					
Relevant					
Inclusive, thorough					
Deals with appropriate details					
Documentation					
Accuracy					
Free from errors and omissions					
Usefulness					
Practical, beneficial, functional, Pertinent					
Quality of Service Comments:					

Performance					
Management	5	4	3	2	1
Deals with complexity in the environment of competing needs; exercises planning, organization, direction, coordination, flexibility and priority identification.					
Performs role in an adept and highly skilled manner.					
Acknowledges the needs and motivation of others.					
Management Comments:					
Teamwork and Communication	5	4	3	2	1
Practices full disclosure by understanding and using appropriate communication methods, identifying target audiences, delivering effective presentations, useful reports, and listens to learn.					
Shares information and resources in a manner that aids and assists others in accomplishing their goals.					
Teamwork and Communication Comments:					
Analysis and Decision Making	5	4	3	2	1
Seeks to identify and define problems, develops facts, formulates alternative solutions, and offers appropriate conclusions and recommendations.					
Searches for and assesses many different kinds of information before arriving at an understanding of an event, problem, or opportunity.					
Demonstrates creative approaches to addressing issues.					
Analysis and Decision Making Comments:					

Adapted: U of C, Santa Cruz, Planning and Budget
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 Quality and Performance Assessment

Leadership	5	4	3	2	1
Copes with change, focuses on objectives, develops strategies and inspires the entire organization to move in the same direction					
Demonstrates a positive and encouraging attitude toward the organization, staff, and constituents.					
Serves as a role model.					
Leadership Comments:					
Use of Resources	5	4	3	2	1
Effectively manages financial and human resources to stay within budget.					
Establishes priorities and schedules activities to accomplish goals in a timely and thorough manner.					
Makes effective use of own and other's time.					
Exercises care in utilizing organizational resources to achieve results.					
Use of Resources Comments:					

Relations with Others	5	4	3	2	1
Works effectively and cooperatively with others at all levels of the organization.					
Seeks out other's opinions.					
Listens to and acknowledges concerns.					
Modifies courses of action, as appropriate, based on opinions and concerns.					
Is able to receive input and create a synthesis of issues, and ideas.					
Maintains confidentiality and objectivity.					
Relations with Others Comments:					
Technical Performance	5	4	3	2	1
Demonstrates expertise and effectiveness both technically and professionally.					
Keeps current in recent developments and research in all areas.					
Applies technical knowledge in a practical manner.					
Completes projects/tasks within the required time while meeting quality requirements for accuracy and thoroughness.					
Technical Performance Comments:					

Reviewed by: _____ **Date completed:** _____
Comments:

Period of Performance Review: _____

Narrative for Project/Objective: _____

Describe in detail the company's performance for each provision in a management agreement or contract that details work to be performed by the company.

- 1. Contract Provision 1**
Narrative on Contract Provision 1

- 2. Contract Provision 2**
Narrative on Contract Provision 2

Sample School Management Contract (Chicago)

Following is a redacted management agreement negotiated between a Chicago charter school governing board and an education management organization.

**AGREEMENT BETWEEN THE
Nonprofit Organization
AND
EMO**

THIS CAMPUS MANAGEMENT AGREEMENT (the "Agreement") is executed as of the as of the 1st day of July, 2004, by and between EMO, an Illinois not-for-profit corporation ("EMO"), and the Nonprofit (the "Nonprofit"), an Illinois not-for-profit corporation. This Agreement shall be effective as of July 1, 2004. The Nonprofit and EMO also agree to the terms set forth below and in Appendix A, "Terms and Conditions," attached hereto and incorporated herein.

1. Term. The term of this Agreement ("Term") shall commence on July 1, 2004 and end on June 30, 2007, unless terminated earlier in accordance with the terms and conditions set forth herein. Upon termination of this Agreement, EMO acknowledges that the Nonprofit or its designee shall be entitled to offer employment to any of the EMO's employees without liability to EMO

The Term shall include three (3) school years, each commencing on or about August 15 and ending on or about the following June 30. However, notwithstanding the foregoing, in no event shall the Term extend beyond the term of the charter granted to the Nonprofit, as it may be extended from time to time.

2. Charter School.

(a) Authorization. The Nonprofit has previously been granted a charter (the "Charter") to organize and operate a charter school (the "Charter School") at one or more locations in Chicago, Illinois (each such location, an "Attendance Center") by the Board of Trustees (the "School Reform Board") pursuant to the State of Illinois Charter Schools Law, 105 ILCS 5/27A-1 et seq., as amended (the "Charter Schools Law"). The Nonprofit and the School Reform Board have entered into a Renewal of Charter and Charter School Agreement dated as of June 25, 2002 (the "Charter Agreement") which (i) sets forth certain terms and conditions of the Charter, and (ii) may be amended from time to time, subject to the obligation of the Charter School to consult with EMO before it agrees to any amendment which materially affects EMO. The Nonprofit is governed by a Board of Directors (the "Board") which is responsible for overseeing the operations of the Nonprofit and the Charter School. EMO shall provide the services contemplated by this Agreement to the Nonprofit subject to the direction, oversight and policies of the Nonprofit, and the requirements of the Charter Agreement, the Charter Schools Law, as either may be amended from time to time, to the extent applicable to such services. EMO shall provide the services contemplated by this Agreement at the Charter School's Attendance Centers. EMO and the Nonprofit hereby agree and acknowledge that the Nonprofit may operate additional Attendance Centers pursuant to the Charter, either on its own or through arrangements with EMO or other service providers. (The Basil Campus and the Northtown Academy Campus are sometimes collectively referred to herein as the "Campuses").

(b) Name of Attendance Center. The Nonprofit shall have the sole authority to name the Campuses and all other Attendance Centers subject to the Charter.

(c) Program. The Campuses will open for each academic year on or about August 15, with an expected aggregate enrollment of 1200-1500 students in grades K-12 for each year during the Term.

(d) Admissions and Recruitment. Admission to the Campuses shall be open to all City of Chicago residents on a nondiscriminatory basis; however, preference may be given to siblings of students already enrolled in the Campuses. EMO and the Nonprofit shall be jointly responsible for the recruitment of students for the Campuses. EMO shall select students based upon selection criteria agreed upon between EMO and the Nonprofit, subject to the requirements of the Charter Agreement and the Charter Schools Law, as either may be amended from time to time.

3. The Nonprofit's Responsibilities.

(a) School Facilities. The Nonprofit shall provide the real estate facilities (the "School Facilities") constituting the Campuses. The Nonprofit shall use its reasonable efforts to ensure that the School Facilities are suitable and appropriate for use as a school by the student population to be served at the site, and that such facilities are in compliance with all federal, state and local fire, safety, and building codes and requirements applicable to the Charter School, including, to the extent applicable to the Charter School, the abatement of environmental hazards and the requirements of the Americans with Disabilities Act; provided that its only source of funds for doing so will be the operating funds it receives pursuant to the Charter Agreement allocable to the Basil Campus and the Northtown Academy Campus, as applicable, retained by the Nonprofit hereunder (allocable funds so received by the Nonprofit (whether retained by the Nonprofit or disbursed to EMO pursuant hereto) being referred to as "Operating Funds"), except to the extent otherwise agreed by EMO and the Nonprofit; and provided further, that EMO will be responsible for maintenance and repairs and any costs or expenses incurred as a result of EMO's negligence or willful misconduct. Schedule A, attached hereto and made a part hereof, describes what expenditures constitute capital repairs and improvements for which the Nonprofit is responsible and what expenditures constitute maintenance and repairs for which EMO is responsible.

(b) Furniture and Fixtures. Although the Nonprofit shall retain legal possession of and access to the School Facilities at all times, EMO may enter the School Facilities to meet its obligations hereunder and may use the desks and other furniture, furnishings and other personal property included with and located at the School Facilities to educate students at the Campuses; provided, that EMO may not move such personal property valued over \$10,000 in the aggregate between Campuses without the prior written approval of the Nonprofit.

(c) Capital Repairs and Improvements. Capital repairs and Improvements at the Campuses shall be managed and paid for by the Nonprofit from the four percent (4%)

of Operating Funds retained by the Nonprofit pursuant to Section 7(b)(ii) of this Agreement for such purpose. The Nonprofit shall consult with EMO in determining the capital repairs and improvements that will be made out of such funds; provided, that the final decision shall rest with the Nonprofit. In no event shall the Nonprofit be required to spend amounts in excess of the four percent (4%) of Operating Funds described above for capital repairs and improvements.

(d) Real Estate. Subject to the provision of Section 7(b), the Nonprofit shall make all rental payments and other payments due from the Nonprofit as tenant pursuant to leases for the School Facilities out of the share of Operating Funds allocable to EMO prior to any payment to EMO.

4. EMO Responsibilities.

(a) School Operations. EMO shall provide the Charter School and its students at the Campuses in grades K-12 with a complete educational program based on school management principles previously presented in writing to the Nonprofit, subject to the overall direction, oversight and policies of the Nonprofit, and shall meet all requirements of the Charter Agreement and the Charter Schools Law, as either may be amended from time to time, except as otherwise specifically required by this Agreement. EMO will provide the management and administrative services necessary to implement and operate its educational program at the School Facilities.

(b) School Technology. EMO shall be responsible for the acquisition and installation of school-based technology equipment integral to the operations of the Campuses, and for related clean-up and painting incident thereto. School technology equipment provided by EMO hereunder out of funds other than Operating Funds shall be the property of EMO, provided that any items acquired through the e-Rate program will be the property of the Nonprofit.

(c) Curriculum Materials and Other Property. EMO shall be responsible for the provision of curriculum materials to be used at the Campuses, including without limitation acquisition of curriculum materials from third parties to the extent necessary or appropriate. Curriculum materials and other property provided by EMO hereunder out of funds other than Operating Funds for use at the Charter School shall be the property of EMO, provided that any items provided through funds the Nonprofit acquires through government or private grants or donation Nonprofit grants or other similar receipts, will be the property of the Nonprofit.

(d) Cost of Operating the Campuses. Except as otherwise provided in Section 3 above, EMO shall be responsible for all expenses of operating the Campuses.

(e) School Facilities. In addition to capital improvements paid for by the Nonprofit, EMO may make building adaptations to the School Facilities at its own cost and expense if required by or advantageous to its educational objectives; however, EMO shall not make significant capital improvements or significant alterations to the School Facilities

without prior approval of the Nonprofit, which approval may be contingent upon consistency and compliance with normal Charter School standards, Nonprofit educational objectives and landlord requirements, but which otherwise may not be unreasonably withheld. EMO shall be responsible for the cleaning, maintenance and operation of the School Facilities. Upon termination of this Agreement, EMO shall take steps to insure that the School Facilities are in substantially the same condition as they were on the date of this Agreement, except for permitted alterations and improvements, reasonable wear and tear consistent with the number of years that EMO has performed services at the School Facilities, obsolescence, and fire or other casualties beyond EMO's control.

(f) Transportation and Food. EMO shall be responsible for providing food service for the Campuses in accordance with applicable law. The Nonprofit shall arrange for any transportation of the Campuses students, but only to the extent required by applicable law; provided that the actual cost of such transportation will be paid by EMO. EMO shall not provide transportation services without the Nonprofit's approval. EMO may subcontract with a municipality or a public or private subcontractor for the provision of food services subject to the approval of the Nonprofit, which approval will not be unreasonably withheld.

(g) EMO Board Meetings. EMO shall provide the Nonprofit not less than three (3) days' prior written notice of all meetings of its Board of Directors (including, without limitation, telephonic and similar meetings). The Nonprofit shall be permitted to send not less than two (2) representatives to each such meeting. Such Nonprofit representatives shall be entitled to participate in all discussions at such meetings. However, such Nonprofit representatives shall not be EMO Board members and accordingly shall not have any voting rights. The Nonprofit shall be entitled to select three of no more than six board members of EMO. Initially, the three members will be Craig Henderson, Biju Kulathakal and Laura Thonn.

5. Philanthropic Campaigns.

EMO will cooperate with the Nonprofit's reasonable requests in the Nonprofit's conduct of philanthropic campaigns during the Term for the benefit of the Nonprofit.

6. Property Ownership.

(a) Nonprofit Property. Subject to Section 6(b), all property purchased for use at the Campuses with Nonprofit funds, including purchases made with EMO Receipts (as defined in Section 6(b)), including but not limited to (x) Operating Funds it receives pursuant to the Charter Agreement and (y) the funds the Nonprofit acquires through government or private grants or donation, or other similar receipts, shall remain the property of the Nonprofit, or be disposed of in accordance with the terms of the applicable grant.

(b) EMO Property. All property which has been purchased by EMO with its own funds, except funds paid or otherwise disbursed by the Nonprofit to EMO under this

Agreement (the "EMO Receipts") including without limitation EMO Receipts from Operating Funds, will remain the property of EMO.

(c) Teacher and Other Staff Property. All property owned personally and/or individually by the teachers, administrative and support staff shall remain the property of such individual teachers and staff. Such property includes, but is not limited to, albums, curriculum manuals, and personal mementos and other materials or apparatus that have been personally financed or personally developed by teachers or staff.

7. Annual Fees.

(a) State Funding. The Nonprofit shall use its best efforts, without expenditure of funds other than its share of Operating Funds, to comply with the requirements of the Charter Agreement and the Charter Schools Law, as they may be amended from time to time, for the purpose of receiving or maintaining its eligibility to receive from the Chicago Public Schools the per pupil allowance for each student enrolled and in attendance at the Campuses. The Nonprofit shall also comply, without expenditure of funds other than its share of Operating Funds, with the requirements to receive funds from other external sources, including but not limited to those listed in subsection (c) below. EMO shall provide such assistance to the Nonprofit in the preparation or review of applications and reports as the Nonprofit may request. The Nonprofit shall permit EMO to review any such applications and reports prior to their submission.

(b) EMO Fees and Nonprofit Expenses. The Nonprofit shall apply for and shall promptly remit to EMO all Operating Funds that it receives allocable to the Campuses, less the following: (i) three percent (3%) of the Operating Funds for the Nonprofit for the reasonable expenses of the Nonprofit, (ii) four percent (4%) of the Operating Funds for capital repairs and improvements to be made in accordance with Section 3(c), (iii) the greater of (x) \$720,000, or (y) \$450 per student enrolled at the Campuses, in respect of real estate lease and/or acquisition expenses of the Nonprofit (provided, that notwithstanding the foregoing, during the first year of the Term the amount withheld pursuant to this clause (iii) shall be \$450 per student enrolled at the Campuses), (iv) amounts payable by the Nonprofit for insurance required pursuant to Section 12 of Appendix A attached hereto and (v) an offset for any obligations that are imposed on EMO by this Agreement and that have not been paid in a timely fashion. The three percent (3%) calculation in clause (i) of the preceding sentence shall not take into consideration revenues such as Title I, special education, gifted and talented, or other funding that, by terms of state or federal legislation or regulation, may only be used for direct services to students who qualify for (or whose status enables the school to qualify for) receipt of such funds.

(c) Compliance with External Source Funding. The Nonprofit and EMO shall comply with all terms and conditions of any external source funding (e.g., federal and state funds designated for particular purposes such as Title I and special education) that is received pursuant to this Agreement. Such payments shall be expended by EMO solely on behalf of the designated students when so required by the funding source. Upon reasonable advance request, EMO shall provide evidence to the Nonprofit that the Campuses are in

compliance with such requirements, and shall provide all reports, data, and information reasonably necessary for the Nonprofit to meet any reporting, certification or other requirements for such funding.

(d) **Payment Schedule.** All funds payable to EMO hereunder shall be paid to EMO by the Nonprofit within five (5) business days after its receipt of such funds, except that if the Nonprofit has concerns about the ability of EMO to pay its remaining obligations for a particular school year, EMO will work together to insure EMO's ability to finish the school year, including the ability of the Nonprofit to withhold a sufficient amount of funds so that at no time during the school will the withheld funds be insufficient to meet EMO's remaining obligations.

8. **Budgets and Financial Records.**

(a) EMO shall provide the Board with an annual projected budget, in reasonable detail, for the Charter School prior to the opening of the School or when required in compliance with Chicago Public Schools and or Illinois State Board of Education reporting schedules. The annual budget for each subsequent year shall be provided to the Board for its approval by the 30th of June. EMO's expenditures on behalf of the Charter School shall not in the aggregate deviate materially from the approved budget without notice to the Nonprofit.

(b) **Financial and Business Records.** EMO shall, on behalf of the Nonprofit, maintain accurate financial and business records pertaining to the operation of the Campuses. EMO agrees to maintain such records at all times during the Term of this Agreement. Upon the termination or expiration of this Agreement, EMO agrees to transfer or transfer control of such records to the Nonprofit. EMO also agrees that, consistent with applicable federal and State laws and regulations concerning the maintenance and disclosure of such records, financial records relating to the Campuses shall be made available to the Board or the School Board upon request, or any other appropriate regulatory agency entitled by law to review such records. EMO also acknowledges that all financial statements and records pertaining to each of the Campuses are subject to an independent annual audit. EMO agrees to cooperate fully with the independent auditor selected or retained by the Board and to make available all financial and other records pertaining to the Campuses to such independent auditor as requested in a timely manner. EMO agrees and acknowledges that all student information, data and records, including test results from outside testing services, are the property of the Nonprofit and that EMO only has access to such information and records to meet its obligations under this Agreement. EMO will cooperate with the Nonprofit to insure that the Nonprofit has timely access (including the simultaneous receipt of outside information and data) to all such information, data and records. EMO's obligations with regard to such data, information and records will extend beyond the termination of this Agreement, and at the end of the term of this Agreement will transfer and deliver to the Foundation, or dispose of, such information, data and records in such manner as the Nonprofit shall request.

9.

Student Fees.

Subject to the approval of the Nonprofit, EMO may charge fees to students at the Campuses for program expenses for which other public schools in the region customarily charge fees or for extra services such as after school programs, athletics and other similar activities.

10. Appendices, Schedules and Exhibits. The parties agree to the terms and conditions of this Agreement and the Appendices, Schedules and Exhibits, if any, attached hereto and incorporated herein by reference. The above described Appendices, Schedules and Exhibits shall become incorporated herein and part of this Agreement effective as of the date the parties agree to the terms and conditions of such Appendices, Schedules and Exhibits.

11. Entire Agreement. This Agreement and Appendices, Schedules and Exhibits hereto shall constitute the full and complete agreement between the parties. All prior representations, understandings and agreements are merged herein and are superseded by this Agreement.

12. Notices. All notices required or permitted by this Agreement shall be in writing and shall be either personally delivered or sent by nationally-recognized overnight courier, telecopy or by registered or certified U.S. mail, postage prepaid, addressed as set forth below (except that a party may from time to time give notice changing the address for this purpose). A notice shall be effective on the date personally delivered, on the date delivered by a nationally-recognized overnight courier, on the date set forth on the receipt of a telecopy or facsimile, or upon the earlier of the date set forth on the receipt of registered or certified mail or on the fifth day after mailing.

To EMO at:

with a copy to:

EMO

Attn: _____

Attn: _____

Telecopy: _____

Telecopy: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NONPROFIT

EMO

By _____

By _____ ,
Board President

Table of Schedules and Appendices

Schedule A	Maintenance, Repairs and Improvements
Appendix A	Terms and Conditions
Appendix B	Insurance
Appendix C	Dispute Resolution

SCHEDULE A

MAINTENANCE, REPAIRS AND IMPROVEMENTS

(A) Capital Repairs and Improvements to be made by the Nonprofit. The following maintenance, repair, replacement and improvement activities at the School Facilities shall be the Nonprofit's responsibility, without reimbursement from EMO (unless the need for such maintenance, repair, replacement or improvement is due to the negligence or willful misconduct of EMO or its agents, employees or contractors):

1. all maintenance, replacement and repair to the roof, flashing, gutters, downspouts, nonprofit, outer walls and structural portions of the School Facilities which shall be necessary to maintain the School Facilities in a safe, dry and tenantable condition and in good order and repair;

2. all maintenance, replacement and repair of underground utility installations and underground electrical conduit and wire, up to the points of connection with the School Facilities and inside the School Facilities;

3. any repair, maintenance or restoration required as a result of the act or neglect of Lessor or its agents, employees or contractors, or resulting from the failure of Lessor to perform in a timely manner its obligations under this Agreement;

4. all major repairs, improvements and alterations and all replacements to: (i) all fixtures attached within the School Facilities, (ii) the parking area(s) adjacent to the School Facilities and (iii) the building systems of the School Facilities and/or any major component thereof, including the electrical, mechanical, sewerage and plumbing systems.

(B) Repair and Maintenance to be made by EMO. All maintenance, repair and replacement activities not allocated to the Nonprofit pursuant to paragraph (A) above shall be the sole responsibility of EMO, without reimbursement from the Nonprofit (unless the need for such maintenance, repair or replacement is due to the negligence or willful misconduct of the Nonprofit or its agents, employees or contractors).

(C) Budgets. To the extent allocation of responsibility for maintenance, repair and improvement expenditures set forth in any annual budget for any Campus prepared in accordance with Section 6.2 of Appendix A to the Agreement is inconsistent with this Schedule A, the allocation of responsibility set forth in the budget shall govern and control.

APPENDIX B**CERTAIN INSURANCE REQUIREMENTS**

EMO shall secure and maintain the following insurance and shall add the Nonprofit as a co-insured or loss payee, in such manner as the Nonprofit shall request, including the right of the Nonprofit to receive notices of cancellation at least thirty (30) days in advance of cancellation in the minimum amounts set forth below:

- Commercial general liability insurance with limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate;
- Automobile liability insurance of one million dollars (\$1,000,000); and
- Employee dishonesty insurance with limits of five hundred thousand dollars (\$500,000).
- Educators legal liability insurance with limits of one million dollars (\$1,000,000) for each claim and one million dollars (\$1,000,000) aggregate.
- Employee practices liability insurance with limits of one million dollars (\$1,000,000) for each claim and one million dollars (\$1,000,000) aggregate.
- Director's and officers insurance with limits of one million dollars (\$1,000,000) for each claim and one million dollars (\$1,000,000) aggregate.

Notwithstanding any provision of the Agreement to the contrary, all insurance to be carried by EMO shall be written for not less than limits of liability required by the Charter Agreement, the Charter Schools Law and any and all other applicable federal and state laws and regulations, as they may be amended from time to time.

APPENDIX C

DISPUTE RESOLUTION

(1) Any dispute under the Agreement shall be submitted to arbitration conducted in accordance with the Commercial Arbitration Rules ("Rules") of the American Arbitration Association ("AAA") except as amplified or otherwise varied hereby. The parties shall submit the dispute to the Chicago regional office of the AAA and the situs of the arbitration shall be Chicago. The arbitration shall be conducted by a single arbitrator. The parties shall appoint the single arbitrator to arbitrate the dispute within ten (10) business days of the submission of the dispute. In the absence of agreement as to the identity of the single arbitrator to arbitrate the dispute within such time, the AAA is authorized to appoint an arbitrator in accordance with the Rules, except that the arbitrator shall have as his principal place of business the Chicago metropolitan area.

(2) Anything in the Rules to the contrary notwithstanding, in any dispute seeking a monetary award, the arbitration award shall be made in accordance with the following procedure: Each party shall, at the commencement of the arbitration hearing, submit an initial statement of the amount each party proposes be selected by the arbitrator as the arbitration award ("Settlement Amount"). During the course of the arbitration, each party may vary its proposed Settlement Amount. At the end of the arbitration hearing, each party shall submit to the arbitrator its final Settlement Amount ("Final Settlement Amount"), and the arbitrator shall be required to select either one or the other Final Settlement Amounts as the arbitration award without discretion to select any other amount as the award. The arbitration award shall be paid within five (5) business days after the award has been made, together with interest from the date the dispute was submitted to arbitration at the rate of ten percent (10%) per annum. Judgment upon the award may be entered in any federal or state court having jurisdiction over the parties.