

INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement (“Agreement”) is made and entered into this _____ day of October, 2016, by and between the Brecksville-Broadview Heights City School District Board of Education (“Board”) and Mary Abercrombie, RN (“Contractor”).

WHEREAS, the Board is a public school district responsible for educating students in grades K-12; and

WHEREAS, the Contractor is a duly licensed Registered Nurse who is qualified to provide medical services to students with special needs; and

WHEREAS, the Board wants to retain the services of Contractor to provide medical services to a specific School District student on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the covenants and promises contained herein, the Parties agree as follows:

SECTION 1: SCOPE OF SERVICES

- A. During the term of this Agreement, the Board agrees to hire Contractor as an independent contractor to provide the services set forth below (in Paragraph B), to Student [REDACTED] (“Student”) not to exceed 6.25 hours per school day. Such services shall be provided to Student during the regular school day (i.e., from 9:25 a.m. to 3:40 p.m.) when school is in session and Student is in attendance during 2016-2017 school year.
- B. Contractor agrees to provide the following services to Student:
 - i. Medical care, including, but not limited to, trach and nasal suctioning, cleaning and dressing under trach and G-Tube, and performing any emergency medical care related to Student.
 - ii. Supervision while Student is in class during the school day (in close proximity);
 - iii. Supervision while Student is at lunch and at any other times when he may consume food (e.g., at snack time) due to Student’s potential to choke while eating.
- C. While the Board will provide suitable, appropriate space for Contractor to perform the specified services, Contractor is responsible for providing appropriate supplies and equipment that are customary and standard for the services provided (e.g., medical supplies and equipment). Contractor is responsible for paying for all medical supplies and equipment she uses to perform the contracted services.
- D. Contractor affirms that should Student’s parent request her to transport Student to and/or from school, and Contractor agrees to provide such transportation, such transportation is not covered by this Agreement, and Contractor hereby acknowledges that the Board is

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not responsible for paying Contractor for such service. Any arrangement that Contractor makes to provide transportation to and/or from school is solely between herself and Student's parents.

- E. School Transportation – If Student's parents elect to have Student transported to and/or from school via a school vehicle, the Board will pay Contractor to ride the school vehicle to and/or from Student's home and school at the same hourly rate paid to Contractor for performing the services listed in Paragraph B above.

SECTION 2: FEES/COMPENSATION

- A. In exchange for the Contractor's performance of services under the terms of this Agreement, the Board shall pay Contractor as a purchased service at the rate of \$25.00 per hour, not through payroll. Contractor shall submit invoices to the Board on a monthly basis for approval, excluding travel time. The Board shall issue payment to Contractor within thirty (30) days of receipt of the invoice. Absent a medical emergency, the Contractor will not be paid for any services performed outside of normal school hours, unless she submits a written request and it is approved, in advance, by the Board.
- B. Contractor shall receive no sick leave, vacation leave, personal leave, or any other type of paid leave from the Board. Should Contractor need to be absent from work on a given day, she shall contact the District's Nurse Coordinator at least three (3) hours prior to such absence.
- C. Contractor understands that she is responsible for paying any and all Federal, State, and/or Local income taxes and social security obligations with respect to the amounts paid hereunder. Contractor acknowledges that the Board will not withhold, through payroll deduction, any taxes or other payments – except as set forth below related to Ohio SERS – and that she will receive an IRS Form 1099 for any amounts paid by the Board under this Agreement. Contractor also acknowledges that the Board shall not be responsible for workers' compensation insurance or unemployment insurance for the Contractor.

Based upon a Membership Determination notice received by the District on October 20, 2016, from the State Employees Retirement System of Ohio ("Ohio SERS"), Contractor shall be considered a school employee solely for purposes of making contributions to Ohio SERS. As such, the Board will make the employer contribution to Ohio SERS (i.e., 14%) and withhold from the payments otherwise due to Contractor in accordance with this Agreement the employee contribution (10%). Such funds shall be remitted in a timely manner directly to the Ohio SERS program.

- D. This Agreement is contingent upon Contractor passing Ohio Bureau of Criminal Identification and Investigation (BCII) and Federal Bureau of Investigation (FBI) background checks. Contractor is responsible for paying for the Board to conduct the BCII and FBI background checks.

SECTION 3: RELATIONSHIP OF PARTIES

- A. The relationship of the Contractor to the Board is that of Independent Contractor. Contractor shall not be considered an employee or agent of the School District for any purpose. The Board is only interested in the services provided by the Contractor, and the means and manner in which such medical services are provided shall be determined by the Contractor and performed at her sole risk and responsibility.
- B. Contractor is not entitled to and shall not receive any health insurance or other benefits that the Board provides or may provide to its employees, and shall not be considered an administrator, teacher, or a classified employee of the School District for any purpose. Contractor shall have no authority to contract on behalf of the Board, or to bind or commit the Board to any agreement or any obligation.
- C. Contractor may utilize the secretarial services of the Board in the performance of the Contractor's duties. It is, however, understood that the personnel of both parties are neither agents nor employees of the other Party for Federal Tax purposes or any other purpose, and are not entitled to any employee benefits from the other Party.

SECTION 4: TERM OF AGREEMENT

- A. This Agreement shall commence on the date set forth above, and shall remain in force through June 1, 2017.

SECTION 5: TERMINATION OF AGREEMENT

- A. Either Party may terminate this Agreement by giving written notice of the intent to terminate to the other Party at least thirty (30) days prior to the effective date of such termination.
- B. For purposes of this section, notice shall be deemed to have been sufficiently provided when accomplished by personal service or by certified mail to the addresses listed below on behalf of the Board and the Contractor:

For the Board:

Gina Symsek, Ph.D., Director of Pupil Services
6638 Mill Road
Brecksville, Ohio 44141

For the Contractor:

Mary Abercrombie, R.N.
270 Valentine Farm Lane
Akron, Ohio 44333

SECTION 6: REPRESENTATIONS AND WARRANTIES

- A. Contractor represents and warrants that during the entire term of this Agreement, she shall maintain a professional liability insurance policy with minimum limits of liability coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate and that the insurance policy will name the Board, and its members, officers, employees, and agents as additional insureds. Upon request, the Contractor shall provide the Board with written evidence of said policy prior to the Contractor's commencement of services under this Agreement.
- B. The Board represents and warrants that it maintains an insurance policy. Such policy is available for inspection upon request.
- C. Contractor acknowledges that in order to perform her duties as required by this Agreement, she may have access to confidential personally identifiable information, including student records, as well as other sensitive information (e.g., medical records) in the possession of the Board. All such confidential and sensitive information, including student records, are the sole and exclusive property of the Board, subject to any access and copying rights as permitted by law. Contractor shall have reasonable access to such documents, forms, records, and other materials and information as permitted by law and as necessary to perform the contracted services. Contractor further acknowledges that such information has been maintained as confidential by the Board and that the disclosure of it to third parties or unauthorized use of it by the Contractor may be contrary to law and could cause injury to Board, its staff and/or students.
- D. Contractor shall not during the term of this Agreement disclose to any third parties confidential information, and she shall confine use of this confidential information exclusively to carrying out services for the Board. Contractor shall not, after the expiration or termination of the Agreement, disclose or use in any way or for any purpose confidential information without the express written consent of the Board. Furthermore, Contractor shall, immediately upon termination of this Agreement, return to the Board all confidential information, as well as any copies made of that information and any other material, including handwritten notes made from, derived from, or related to that information. Additionally, Contractor agrees that all memoranda, notes, plans, records, reports, and/or documents (and copies thereof) generated by Contractor in the course of performing her responsibilities under this Agreement shall be the property of the Board. Contractor further affirms her obligation to maintain and preserve all records she generates to document the performance of her duties pursuant to this Agreement, including electronically stored information, if directed by the Board to maintain them pursuant to a Litigation Hold or Duty to Preserve Notification.
- E. Contractor agrees to abide by any and all pertinent Federal, State, and Local laws and regulations, and those policies, guidelines, and regulations established by the Board.

F. In the event that either Party becomes aware of any alleged incident that may involve injury resulting from the care or treatment of Student by Contractor as related to the performance of the services specified in this Agreement, each Party has a duty to give the other Party written notice of the incident in a timely manner of the known circumstances surrounding the incident, including but not limited to the date, time and location of the incident, and contact information of any available witnesses. Each Party further agrees to fully cooperate with the other Party in regard to any investigation and follow through in regard to said incident.

SECTION 7: MISCELLANEOUS

- A. Neither the Board nor the Contractor may assign or subcontract any of their respective obligations or duties under the terms of this Agreement or any interest therein without the prior written consent of the other Party.
- B. No amendment or modification of this Agreement shall be valid unless it is in writing and signed by the Contractor and a representative of the Board.
- C. Contractor and the Board acknowledge that this Agreement embodies the entire agreement between them concerning the matters discussed herein. Contractor further acknowledges that the Board has made no other representations, other than those set forth above, to induce her to agree to this Agreement, and Contractor further acknowledges that she has not relied on any such representations.
- D. Contractor shall indemnify and hold the Board harmless from and against any and all claims arising from the Contractor's performance of services under the terms of this Agreement. Contractor shall also hold the Board harmless from any and all tax liabilities for payments made to her by the Board under the terms of this Agreement.
- E. The laws of the State of Ohio shall govern this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) indicated below:

FOR THE BOARD OF EDUCATION

FOR THE CONTRACTOR

Gina Symsek, Ph.D., Dir. of Pupil Services

Mary Abercrombie, R.N.

Date

Date

