

## NONPUBLIC SCHOOL AGREEMENT

The Opportunity Scholarship Program (“Opportunity Scholarship Program” or “OSP”) was established by the 2013 North Carolina General Assembly, pursuant to Part 2A of Article 39 of Chapter 115C of the North Carolina General Statutes, as may be amended from time to time, to provide scholarships to students who are North Carolina residents attending eligible nonpublic schools in North Carolina.

The Education Student Accounts for Children with Disabilities Program (“ESA+ Program”) was established by the 2021 North Carolina General Assembly, pursuant to Article 41 of Chapter 115C of the North Carolina General Statutes, as may be amended from time to time to provide scholarships to certain students with disabilities attending eligible nonpublic schools in North Carolina.

All Terms capitalized herein are specifically defined in the Rules Governing the [Opportunity Scholarship Program \(OSP Rules\)](#) and the Rules Governing the [Education Student Accounts for Children with Disabilities Program \(ESA+ Rules\)](#), which are publicly available on the State Education Assistance Authority’s (the “Authority”) website at <https://www.ncseaa.edu/psr/>. The Rules are incorporated herein by reference.

Nonpublic schools who enroll students who have been awarded Opportunity Scholarship funds will receive funds via direct disbursement and must comply with statutory requirements set forth in G.S. § 115C-562.5 and regulatory requirements set forth in the OSP Rules. If a school receives Opportunity Scholarship funds via direct disbursement and also enrolls students that pay tuition and fees from ESA+ funds, those schools will be paid ESA+ scholarship funds by the Authority via direct disbursement.

Further, nonpublic schools that enroll students who are awarded scholarship funds from the ESA+ Program, but not the OSP Program, must consent to comply with statutory requirements set forth in G.S. §115C-562.5, and regulatory requirements set forth in the ESA+ Rules, in order to be paid scholarship funds for tuition and fees by the Authority via direct disbursement.

A nonpublic school that receives scholarship funds via direct disbursement must accept those funds for the payment of tuition and fees for any student enrolled in the nonpublic school who receives a scholarship award. Reimbursement of tuition and fees to a Parent of a student awarded scholarship funds is not allowable if the student is enrolled in a nonpublic school that receives scholarship funds via direct disbursement.

The Authority is charged with administering both the Opportunity Scholarship Program and the ESA+ Program (the “K12 Programs”). Funds for the Opportunity Scholarship and ESA+ Program scholarships are contingent each year upon appropriations made available to the Authority by the General Assembly.

Proper execution of this Nonpublic School Agreement (the “Agreement”) is a prerequisite to a nonpublic school’s receiving Opportunity Scholarship funds and is also a prerequisite for a nonpublic school that does not receive Opportunity Scholarship funds to be paid by direct disbursement for tuition and fees in the ESA+ Program.

NOW THEREFORE, the undersigned nonpublic school (“School”) agrees to the following terms and conditions:

**A. Compliance with Program Requirements.** The School warrants that it will comply with all relevant statutes and rules that pertain to the administration of the K12 Programs, as well as instructions and requests concerning the K12 Programs as may be issued by the Authority, including administrative forms, administrative memoranda, interpretive guidance, or any other procedures established by the Authority. The reference to or recitation of any portion of an applicable statute or rule in this Agreement does not limit the School’s obligation to comply with other applicable statutes and rules.

**B. Legally Operating in the State of North Carolina.**

1. The School warrants that it meets the requirements to legally operate in the State of North Carolina as set forth in Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes.
2. If the School has more than one school location or campus, the School agrees to register each of its campuses separately with the Division of Nonpublic Education and warrants that each of its campuses meets the requirements to legally operate in the State of North Carolina as set forth in Part 1 or Part 2 of Article 39 of Chapter 115C of the North Carolina General Statutes.
3. If the School (i) is no longer meeting the requirements for nonpublic schools to legally operate in the State as set forth in Part 1 or Part 2 of Article 39 of Chapter 115C or (ii) ceases to operate as a school, the School shall notify the Authority no later than fourteen (14) days from the date that it is no longer in compliance with State law or ceases to operate.

**C. In-Person Instruction Required.** The School certifies that it maintains a location in North Carolina where it can provide In-Person Instruction, such that one or more teachers provide educational instruction in-person to students receiving scholarship funds at a facility maintained by the School. The School acknowledges its understanding that remote instruction is not prohibited, but failure to maintain a facility where In-Person Instruction can be offered will result in the School being deemed ineligible to participate in the K12 Programs.

**D. Direct Payment to Schools.** The School agrees to accept payment for tuition and fees via direct disbursement for all eligible students enrolled at the School who are awarded scholarship funds.

**E. Return of Funds Policy related to Students.**

1. The School agrees that it will not refund any of the K12 Programs' funds directly to a Parent or an eligible student in any manner at any time, unless specifically authorized by the Authority. If a refund of Program funds is due, the School agrees to contact the Authority directly and refund any scholarship funds to the Authority, in the manner and by the deadline required by the Authority. Scholarship funds will then be routed to the appropriate entity or individual's account.
2. The School agrees that it will not charge a Parent the amount of required tuition and fees that are to be paid by K12 Programs' funds in advance of the direct payment of the scholarship funds to the School.

**F. Parent Endorsement of Scholarships Funds to School.** The School acknowledges its understanding that scholarship awards belong exclusively to families and that only a parent is permitted to complete the parental endorsement of scholarship funds for disbursement to the School. The School agrees that it will not request, accept, use or attempt to use any Parent's MyPortal account information, including passwords, to take any action, including but not limited to endorsing scholarship funds over to the school.

**G. Requirements for Schools Receiving Scholarship Funds by Direct Payment.**

**1. Tuition and Fee Schedules.**

- a. The School will provide the Authority with a copy of its tuition and fees schedules for the following school year no later than July 15, including documentation of the required tuition and fees charged to any eligible student under the K12 Programs and all discounts that may be applied to students, such as for part-time enrollment or enrollment of siblings.
- b. The School agrees that it will not require any additional fees based on the status of the student as an eligible student under the K12 Programs.

**2. Criminal History Check.** The School agrees to conduct a criminal history check, in the manner prescribed by the Authority, for its staff member with the highest level of decision-making authority to ensure that he or she has not been convicted of any crime listed in G.S. §115C-332(a)(1) and provide the Authority with a copy of the criminal history report. The School further agrees to notify the Authority if the staff member with the highest decision-making authority is charged or convicted of any crime listed in G.S. §115C-332(a)(1), within five (5) business days of the charge or conviction. If a new staff member with the highest decision-making authority becomes employed at the School, the School agrees to notify the Authority within five (5) business days of employing the new staff member and shall obtain a criminal background check on that person immediately thereafter, in the manner prescribed by the Authority. The School agrees to conduct a criminal history check on its staff member with the highest level of decision-making authority every three (3) years, or more frequently, as requested by the Authority. The School agrees to provide supplemental information related to a criminal history report submitted by the School upon request of the Authority.

3. **Student Testing and Reporting Requirements for the 2024-25 School Year:**
  - a. The School agrees to administer a nationally standardized test or other nationally standardized equivalent to scholarship recipients in grades three (3) and higher that measures achievement in the areas of English grammar, reading, spelling, and mathematics, or in the alternative, for grades nine (9), ten (10), and twelve (12) only a test that measures competencies in the verbal and quantitative areas and submit this test performance data to the Authority by July 15<sup>th</sup> of each year in a form acceptable to the Authority.
  - b. The School agrees to administer the ACT Exam for all students in grade eleven (11).
  - c. The School agrees to submit individual scholarship student test performance data to the Authority by July 15<sup>th</sup> of each year in a format acceptable to the Authority.
  - d. If the School has more than twenty-five (25) students in grade eleven (11) who pay tuition and fees through direct disbursement with OSP funds or with ESA+ Program funds, the School will report to the Authority no later than July 15<sup>th</sup> of each year on the aggregate standardized test performance of the students in grade eleven (11) that have over 25 students participating in the K12 Programs.
4. **Graduation Rates.** The School agrees to provide the Authority with the graduation rates for students participating in the K12 Programs in a manner prescribed by the Authority.
5. **Financial Review for Certain Schools.** The School agrees to contract with a certified public accountant licensed (CPA) in North Carolina to perform a Financial Review, consistent with generally accepted accounting principles or any other comprehensive basis of accounting recognized by the American Institution of Certified Public Accountants, in the manner prescribed by the Authority, for any year that the school enrolls seventy (70) or more students who receive scholarship funds from either of the K12 Programs for at least one semester during the School Year and to provide the Authority with a copy of the report produced as a result of such review within four (4) months of the end of the School's fiscal year. The Financial Review, prepared using the accrual, modified accrual, or cash basis method of accounting, must include the amount received from the K12 Programs listed separately by program.

#### **H. School Certification and Endorsement.**

1. At the beginning of each semester, the School agrees to certify to the Authority, in a manner acceptable to the Authority, that the eligible student is enrolled in and attending the School and that the scholarship amount does not exceed the tuition and fees charged for that student. The School will also certify that the information the School has for the student is the same as the information maintained by SEAA

for the student. The School agrees to notify the Authority if it has information regarding a student that is inconsistent with the information provided to the Authority, or if it is aware of any misrepresentations made by a Parent to the Authority concerning the receipt of funds for the K12 Programs.

2. The School acknowledges its understanding that the tuition and fees certified and endorsed by the School for each student must align with, and be accurately itemized in, the Tuition and Fee Schedule submitted by the School to the Authority for the School Year.
3. The School acknowledges its understanding that any discrepancies between the amount of tuition and fees endorsed for a student and the Tuition and Fee Schedule submitted to the Authority, or other information certified by the School, may result in a return of funds to the Authority.

**I. Determination of School Non-Compliance.**

1. If the Authority determines that the School is noncompliant with OSP or ESA+ Program requirements, including but not limited to the requirements set forth in Paragraphs B, C, E, F, G and H of this Agreement, the School understands and agrees that it will be ineligible to receive scholarship funds from the K12 Programs and will notify the parents or guardians of eligible students of its loss of eligibility to accept funds from the K12 Programs.
2. In the event the School is determined to be noncompliant and ineligible to receive a disbursement of funds from the K12 Programs, the School understands and agrees that it may be required to return the scholarship funds, or a pro rata share of those funds, that was to be used for tuition and fees for the student to attend the School, depending upon when, during the Semester, the School is deemed ineligible, as determined in accordance with the policies of the Authority.
3. In addition, if a School does not fully cooperate with the Authority in its efforts to determine whether a School is failing to meet Program requirements or to make progress towards compliance, the School may be subject to the return of scholarship funds disbursed to the School for students enrolled during the period the Authority subsequently determines the School was noncompliant.

**J. Application of Scholarship Funds for Dual Recipients.** If an eligible student attending the School is enrolled in the ESA+ Program and also concurrently enrolled in the OSP, the School shall apply funds for tuition and fees and any other eligible expenses owed by the student first from the OSP, and then from the ESA+ Program in that specific order.

**K. Use of the Authority's logo.** The School agrees that it will not use the Authority's trademark, trade name or logo, for any purpose, including in any publicity, website,

promotion, news release or disclosure, except the School is permitted to link to the Authority's website for informational purposes.

**L. Nondiscrimination Clause.** The School agrees that it will not discriminate with respect to race, color, or national origin.

**M. Training on School Responsibilities for the K12 Programs.** The School agrees to attend any mandatory training on school responsibilities and program operation requirements pertaining to the K12 Programs as required by the Authority and by the deadlines set by the Authority, unless following notification by the School that it is requesting a waiver of one or more training requirements for good cause, the Authority determines that the school may receive a waiver of a requirement and still receive scholarship funds for that School Year only.

**N. Access to School Records.**

1. The School agrees to provide the Authority access to all records related to the administration of the K12 Programs, including student records for the purpose of, among other things, conducting K12 Program reviews.
2. The School agrees to maintain all records related to the K12 Programs for a period of five (5) years from the close of the School Year, or until all audit exceptions have been resolved, whichever is longer.

**O. Third-Party Administrators.**

1. The School agrees to provide the Authority with written notice, e-mail being sufficient, of its engagement of a third-party administrator ("TPA") to perform any administrative functions related to the K12 Programs' funds on behalf of the School. The notice to the Authority must include: (a) the name and contact information of the TPA, (b) the name and the contact information of the TPA's employee who will require access to MyPortal, along with a request that the TPA employee be given credentials to access MyPortal, and (c) confirmation that the School has satisfied subsection 3. of this section.
2. The Authority may take up to ten (10) days from the date of the transmission of the School's notice to review and either approve or reject the request for the TPA to be given credentials to access MyPortal.
3. As part of the request, the School must enter into a written agreement with the TPA that requires that the TPA comply with data protection and confidentiality standards related to the handling, storage, and use of personally identifiable information (PII) of students, to the extent applicable, in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) and any state and federal privacy laws.

4. The School shall ensure that the TPA participates in any mandatory training on school responsibilities and program operation requirements pertaining to the K12 Programs as may be required from time to time by the Authority.
5. The School shall be responsible for any misconduct, errors, or omissions by the TPA in the administration of the K12 Programs funds; this includes, but is not limited to, any failure to comply with statutory and Rule requirements and any applicable state and federal privacy laws.

**P. Termination of Agreement.** This Agreement shall be effective when executed and shall terminate immediately upon written notice of the occurrence of the following: (a) a Determination of Non-Compliance issued by the Authority as described in Paragraph I of this Agreement; (b) any material change in the School affecting this Agreement; (c) notice from the School of its intent to terminate its participation in the K12 Programs; (d) notice to the Authority of its intent to cease operations; or (e) any action of the General Assembly which, in the opinion of the Authority, requires the termination of this Agreement.

**Q. Miscellaneous.**

1. The School agrees to notify the Authority promptly of any change affecting the School's ability to comply with any of the terms and conditions of this Agreement.
2. The School agrees to provide the Authority with a copy of an IRS Form W-9 complete with its federal taxpayer identification number.
3. This Agreement is not assignable.
4. The undersigned represents and warrants that he or she is authorized to bind the School to the terms and conditions of this Agreement.

**Staff Member with the Highest Decision-Making Authority**

**Name of School**

**School Code**

**City where School is located**

**Date**