

MEMORANDUM OF UNDERSTANDING TYPE A

**AGREEMENT BETWEEN THE BOSTON PUBLIC SCHOOLS AND
BOSTON DAY AND EVENING ACADEMY
A HORACE MANN CHARTER SCHOOL**

AGREEMENT by and between the Boston Day and Evening Academy ("BDEA"), a Horace Mann Charter Public School, by and through its Board of Trustees (the "Board"), and the School Committee of the City of Boston, by and through its Public School Department (the "BPS"). In consideration of the mutual covenants contained herein, BDEA and BPS agree as follows:

WHEREAS, Massachusetts General Law Chapter 71, §89 gives the Commonwealth of Massachusetts, Department of Elementary and Secondary Education ("Massachusetts DESE"), with the Board of Elementary and Secondary Education as the authorizer, the power to approve the operation of a public school under a charter (hereinafter, "Horace Mann Charter School"), to stimulate the development of innovative programs within public education, to provide opportunities for innovative learning and assessments, to encourage performance-based educational programs, and for other valuable educational purposes; and

WHEREAS, the Massachusetts DESE promulgated standards and procedures for the operation of Horace Mann Charter Schools under 603 CMR §1.00 *et seq.*; and

WHEREAS, in February 2018, the charter for BDEA was renewed unanimously for a period of five years beginning July 1st, 2018 and continuing until June 30th, 2023.

WHEREAS, the parties are desirous of delineating their respective rights and responsibilities to the extent not fully described by the laws of Massachusetts, and to comply with said standards and procedures;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Operation as a Horace Mann Charter School.
 - a. BPS agrees to permit and enable BDEA to operate as a Horace Mann Charter School in accordance with: (1) M.G.L. c. 71, §89, and the regulations promulgated in connection therewith; and (2) the terms of the Application as it may be amended from time to time.

- b. BDEA's Charter allows the school an enrollment capacity of 505 students after school year 2019-2020, in an ungraded, competency-based school, subject to Commissioner recommendation and approval by the Board of Elementary and Secondary Education.
- c. BDEA's mission is to re-engage off-track youth in their education so they graduate from high school and are prepared to succeed in post-secondary education, and as active members of their community. BDEA's vision is to become a leader in student-centered education innovation.
- d. This MOU shall protect the autonomies that allow charter schools to exercise the freedom to determine the means by which they achieve student outcomes. These autonomies are Governance, Budget, Staffing, Curriculum and Assessment, and School Schedule and Calendar.

2. BDEA's Annual Budget.

- a. BPS agrees to provide a Lump Sum Budget to BDEA on an annual basis in accordance with M.G.L. c. 71, §89 and the regulations promulgated in connection therewith for the term of this Agreement and so long as BDEA continues to operate as a Horace Mann Charter School.
- b. This Lump Sum Budget shall be calculated based on the weighted student funding (WSF) model adopted by Boston Public Schools and applied to future-year projected enrollment of BDEA. An adjustment, based on the same formula used at other Boston Public Schools, will be made to this budget based on actual enrollment on November 15 of each year. Future year projections will be agreed upon in November of each year between BDEA and BPS Finance, taking into account BDEA enrollment patterns and BDEA growth plans. If there is a disagreement over enrollment projections, BDEA's Board Chair or Head of School and the BPS Deputy CFO will meet to resolve it. Either party may appeal to the Superintendent for final determination. In all instances, any disputes must be resolved through negotiations or appeal prior to the BPS budget submission deadline in January. Due to the unpredictable nature and open enrollment policy, BDEA may request an adjustment in August of each year to its budget from the BPS in instances where the number and type of Special Education students or English Learners deviates substantially from the previous year due to BDEA's enrollment policy. BDEA will use actual salaries of employees in creating and managing its budget from BPS.
- c. BDEA will have the opportunity to purchase discretionary central support services from the district. In those instances where BDEA chooses not to purchase a discretionary central support service, BPS will add the equivalent per-pupil cost of the service to BDEA's budget. Additionally,

- BPS will provide non-discretionary services (including but not limited to: transportation, employee benefits, facilities, payroll, safety, food service, and other central office services) as in-kind support. BPS and BDEA will meet each spring to review the type and extent of "non-discretionary" services to be provided by BPS during the following school year.
- d. The Lump Sum Budget shall not be reduced because of the school's receipt of additional funds from sources independent of the BPS. BDEA agrees to operate within its Lump Sum Budget plus any other funds that BDEA may receive independent of the BPS, less services purchased from BPS.
 - e. Each fiscal year BDEA, in accordance with the provisions of M.G.L. c. 71, §89 and the regulations promulgated in connection therewith, shall adopt an annual operating budget for BDEA, which shall allot funds from the Lump Sum Budget to BDEA's educational mission as BDEA deems appropriate. In accordance with the requirements of all Boston Public Schools, BDEA shall deliver its plan for how it intends to use its Lump Sum Budget to the Chief Financial Officer of the BPS (the "CFO") in such form and time frame as s/he may reasonably specify, with a copy to the Boston School Committee, in no case later than February 1.
 - f. BDEA shall provide notice to the CFO of amendments and modifications to its budget as needed, in accordance with BPS policies, during the year; however, any failure by BDEA to provide notice of amendments or modifications to its budget will not limit its budgetary authority under M.G.L. c. 71, §89. BDEA will be responsible for compliance with the laws and regulations requiring an annual independent financial audit of the school. If requested, BDEA shall provide the CFO with copies of BDEA's annual financial audit, BDEA's budget and any amendments and modifications thereto, and any financial reports that BDEA submits to the Massachusetts DESE. The CFO may also request, and BDEA shall provide in response to any such request, additional documentation to support BDEA's annual operating budget or any amendments or modifications to its budget. Any budget disagreements shall be resolved through negotiation between the CFO and the BDEA Headmaster or Chair of the Board. In the event that no resolution is reached, either party may appeal to the BPS Superintendent for a final determination. In all instances, any disputes must be resolved through negotiation or appeal by February 1.
 - g. BDEA is an independent LEA. As such, BDEA will be responsible for applying for and accounting for any separate state or federal grants, including, but not limited to, Title I, Title II A, IDEA, and school

improvement grants. BPS will be responsible for applying for reimbursements for national school nutrition programs.

3. Operating Account and Expenditures.

- a. By July 1 of each year, the CFO shall establish an operating account for BDEA in the amount of the Lump Sum Budget (the "BDEA Operating Account"). Only BDEA's Headmaster or his/her designee(s) shall authorize expenditures from its operating account.
- b. BDEA shall establish and maintain a separate bank account under its exclusive control (hereinafter, the "BDEA Bank Account"). BPS agrees to transfer any funds not allocated or budgeted for salaries or stipends at least two times a year, with the first transfer coming no later than September 1 from the BDEA Operating Account to the BDEA Bank Account. The first transfer will be based upon the difference between the total Lump Sum Budget provided by BPS to BDEA and an estimate of the amount of funds BDEA anticipates spending on stipends and salaries. The amount of this transfer will be mutually agreed upon by the CFO of BPS and the Headmaster at BDEA. The second transfer will occur by January 31 and will only be necessary if there is an increase in the difference between the total Lump Sum Budget provided by BPS to BDEA and the estimated amount of funds BDEA anticipates spending on stipends and salaries. For example, the transfer in January will be necessary if BDEA receives more in its BPS Lump Sum Budget after accounting for actual enrollment at BDEA, per the process described above. The third transfer may occur after the end of the fiscal year. After the CFO performs a year-end reconciliation at the close of the BPS's fiscal year, any remaining funds from BDEA's Operating Account will be transferred to the BDEA Bank Account. Expenditures from the BDEA Bank Account shall be made in accordance with all applicable laws, ordinances, and regulations.
- c. BDEA shall have the option to purchase non-instructional goods and services as BDEA shall from time to time determine, including, but not limited to, technology, professional development, and athletics, at costs reasonably determined by BPS. For all such non-instructional goods and services purchased, BDEA may request, and the BPS shall provide in response to such request, an annual report detailing the scope of goods and services provided and the cost of such non-instructional goods and services purchased. In addition, BDEA shall have the option to purchase additional, non-instructional goods and services as BDEA shall from time to time determine.
- d. BDEA agrees that it shall be responsible for all costs associated with the operation of BDEA. BDEA further agrees it shall indemnify and hold

harmless the BPS, its officers, agents or employees from all claims resulting from any costs incurred by BDEA, its Board, officers, agents or employees in association with the operation of BDEA.

4. Facilities.

- a. BPS and BDEA acknowledge that they share responsibility for securing an adequate facility for BDEA. BPS will provide and maintain an adequate facility for BDEA, or, consistent with charter school law and regulations (603 CMR 1.08) and the Massachusetts DESE Horace Mann Charter School Technical Advisory 03-1 – Paragraph 14), will provide BDEA with the funds to pay for a facility, including the equivalent costs associated with utilities, facilities maintenance, and custodial staff salaries that BPS would have provided to BDEA were it to be in a BPS facility.
- b. Subject to BPS's aforementioned agreement to provide BDEA with funds to pay for a facility, in the case that BDEA operates in a non BPS-owned facility, BDEA agrees it shall ensure that the site and facilities for the school comply with all federal, state, and local laws, regulations, and codes and shall be responsible for all costs associated therewith. Subject to BPS's aforementioned agreement to provide BDEA with funds to pay for a facility, in the case that BDEA operates in a non BPS-owned facility, BDEA also agrees to be responsible for payment of all lease or mortgage obligations on the site and facilities for the school, utility charges, and any and all other costs associated with the operation of the site and facilities. In the case that BDEA operates in a non BPS-owned facility, any purchase or lease agreement relating to the site or facilities for BDEA, including any renewals, must be submitted to BPS for review and for approval by the Boston School Committee and Superintendent of Schools prior to execution by BDEA, which shall not be unreasonably withheld or delayed.
- c. If BDEA is located in a BPS-owned facility, BPS shall ensure that the site and facilities for the school comply with all federal, state, and local laws, regulations, and codes and shall be responsible for all costs associated therewith, including utility charges, and will be responsible for performing building maintenance, and promptly support any capital repairs requested by BDEA. BPS has processes in place to prioritize maintenance and capital requests from BPS schools. Facilities work requests from BDEA would be considered promptly and prioritized according to need, using the same criteria as with any other BPS-owned facility. BDEA and BPS will agree to a reasonable timeline for all BDEA facilities improvements and BPS shall provide these improvements within that timeline.
- d. Unless the BuildBPS process identifies a need for change regarding the building in which BDEA is currently located, BDEA will continue to be located at 20 Kearsarge Ave, Roxbury, MA 02119. If, in the future, BPS proposes to

