

Type B MOU between BDEA's Board of Trustees, and Boston Teachers Union (BTU):

Agreement between the Boston Public Schools, the Boston Day and Evening Academy and the Boston Teachers Union

AGREEMENT by and between the Boston Day and Evening Academy ("BDEA") (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") and the Boston Teachers Union ("BTU"). In consideration of the mutual covenants contained herein, BDEA, BTU, and BPS agree as follows:

WHEREAS, Massachusetts General Law Chapter 71, §89 gives the Commonwealth of Massachusetts, Department of Education ("Massachusetts DESE"), 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;

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; and

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

Status of BTU Employees Who Work at BDEA

All BTU Employees who are selected to work and who elect to work at BDEA shall maintain their full status as members of the BTU bargaining unit and as employees of the Boston Public Schools. Specifically:

- A. BTU employees shall receive, at a minimum, the salary and benefits established in the salary scale in "Article VIII: Compensation and Benefits" of the BTU Contract (the "Contract"), subject to possible upward adjustments as set forth below.
- B. BTU employees shall maintain and continue to accrue seniority within BPS in accordance with the terms of the Contract.

As expressly set forth below, with the exception of (A) and (B) above, BDEA shall be exempt from provisions of the Contract, and all past practices pertaining to the relationship between the Boston School Committee and the BTU, contained in or related to the following sections of the existing Contract as well as corresponding sections of any future Contract in effect during the term of this Agreement:

- Article III: School-Based Management and Shared Decision Making

- To adequately meet student needs, teachers at BDEA may work a longer school day and year than traditional BPS teachers and staggered schedules are used to accommodate both day and evening programs. The specific length of the school year and day may vary for each teacher each year, as specific school and student needs arise. Per article III E (i) excess hours up to 46 per school year shall not be compensated. Compensation for hours from 46-145 shall be paid by the school department. Compensation for hours beyond 145 shall be the responsibility of the school.
- Article IV: School Assessment
 - All
- Article V: Staffing
 - All
- Article VI: Professional Development
 - All
 - *BDEA will have access to all District-wide professional development opportunities including TLT, student support (including CPI), academic, and operations professional development offerings. BDEA staff members will attend required professional development based on their position/title*
- Article VII: Working Conditions
 - All
- Article VIII: Compensation and Benefits
 - Only Section G – Special Rates and Extracurricular Compensation
 - Note: BDEA may elect to compete in the Massachusetts Charter School Athletic Organization, not in the BPS interscholastic and intramural athletic programs which are covered by Section G.
- Article X: Dispute Resolution
 - NOTE: In lieu of the dispute resolution process described in Article X of the BTU Contract, staff and administration developed a dispute resolution process that was approved by BDEA's Board of Trustees.

Articles of Paraprofessionals Agreement

- Article II: Working Conditions
 - All with the exception of A. 13., and B. 2.
- Article V: Dispute Resolution
 - NOTE: In lieu of the dispute resolution process described in Article X of the BTU Contract, staff and administration developed a dispute resolution process that was approved by BDEA's Board of Trustees.

Articles of Substitute Teachers and Nurses Agreement

- Article II: Working Conditions
 - All
- Article V: Dispute Resolution
 - NOTE: In lieu of the dispute resolution process described in Article X of the BTU Contract, staff and administration developed a dispute resolution process that was approved by BDEA's Board of Trustees.

Please note that some sections below are included for clarity purposes only.

BDEA and BTU agree to abide by Chapter 71, Section 89 (t) Horace Mann charter schools shall be exempt from local collective bargaining agreements to the extent provided by the terms of its charter; provided, however, that employees of the Horace Mann charter school shall continue to be members of the local collective bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and benefits established in the contract of the local collective bargaining unit where the Horace Mann charter school is located. Employees of Horace Mann charter schools shall be exempt from all union and school committee work rules to the extent provided by the school's charter. Employees in Horace Mann charter schools shall be required to work the full work day and work year to the extent provided by the terms of the school's charter.

Selection and Hiring of Staff

BDEA has the sole discretion to select the staff for any and all positions at the school. BDEA may select staff for BTU positions at the school without regard to seniority within the BTU or past practices between the Boston School Committee and BTU. BDEA may formulate job titles and descriptions, duties and responsibilities for any and all positions in its school. The selection of staff shall be in compliance with the applicable federal and state laws and municipal ordinances. BTU staff shall not have attachment rights to any position at the school and the Head of School may unilaterally transfer any BTU staff member to another position provided the BTU staff member is properly qualified. BDEA, as part of the Boston Public Schools, acknowledges and supports the district's goal to employ a workforce that represents the diversity of our student population, and will seek to employ a diverse workforce, especially teachers.

Staff will be paid at least as much as the BPS salary scale dictates, but BDEA has the right to compensate staff members above the salary scale and is not required to adhere to BPS or union salary steps / lanes. All salaries outside of the established salary grades and steps must be discussed with the Office of Human Capital and Chief Financial Officer prior to offer. If a BDEA employee is compensated above the standard salary scale, the employee would revert to the contractual salary scale based on experience and academic credentials if that employee leaves BDEA for another position within the district.

Management and Evaluation

BDEA, through its board of trustees, shall manage its staff. All members of the BDEA staff shall execute an election to work agreement containing the working conditions every year. BDEA will adopt the Educator Evaluation system adopted by BPS across all job categories.

Excessing and Dismissal

BDEA may involuntarily excess members of the BTU by providing notice of any involuntary excessing by February 1st. The provisions in any relevant collective bargaining agreements regarding excessing, seniority, transfer, layoff and recall shall not apply to BDEA except that members of the collective bargaining units shall be done in accordance with federal and state law, municipal ordinances and applicable Acknowledgement of Working Conditions agreements. BDEA may issue discipline, up to and including termination, to employees in accordance with applicable federal and state laws and municipal ordinances. BDEA must notify the BPS Office of Labor Relations of any discipline or dismissal prior to action toward the employee.

Layoffs and Recall

BDEA is exempt from the layoff and recall language in the Contract and any associated practices.

Processing and Notification Regarding Staff

BPS agrees that any and all hiring and dismissals of staff for BDEA will be processed in a timely manner through the BPS Office of Human Capital. BDEA shall provide the BPS Office of Human Capital with timely notification of any staffing changes for the subsequent school year. Such notification shall be in writing and shall be made to BPS in a timely manner. Under no circumstance may an employee work in front of children without a CORI check. BPS will conduct all background checks on behalf of BDEA through its normal procedures.

Compensation – All BTU Members

Every BDEA teacher earns, at a minimum, his or her base salary under the BTU scale.

Working Conditions – All BTU Members

The provisions of the BTU collective bargaining shall not apply to BTU employees at BDEA except that members of the BTU will receive, at a minimum, the salary and benefits outlined in the BTU collective bargaining agreement. Among other changes to BTU working conditions, BDEA intends to operate a longer school day and year than the standard BPS school schedule. Each employee at BDEA will sign an Election to Work Agreement prior to the beginning of each school year. The Election to Work document will detail the working conditions for that employee's position, including but not limited to expected hours per day and number of days per year.

Dispute Resolution

The Boston Day and Evening Academy Election to Work Agreement, Section F, establishes that the staff and administration of the Boston Day and Evening Academy ("BDEA") shall develop a dispute resolution process to be used in lieu of the process described in Article X of the Boston Teachers Union Contract. Through an open and inclusive effort, these parties have designed the dispute resolution process and disciplinary procedures set forth in this document. This procedure will be available to all employees to resolve disputes involving working conditions at BDEA and to address disciplinary matters. This dispute resolution process has been approved by the BDEA Board of Trustees.

Compliance with Law

BDEA agrees to comply with all applicable federal, state, and municipal laws, rules, regulations, and codes, including, but not limited to: the provisions of the Uniform Procurement Act, M.G.L. c. 30B; M.G.L. c. 71, §89 and 603 CMR §1.00 *et seq.*; M.G.L. c. 71; those relating to diversity of students, teachers and other staff; the protection of the rights and interests of students and staff; the expenditure of public funds; and education reform. BDEA also agrees to comply with the civil rights policies of the BPS. Students who have special needs or are English language learners will be appropriately identified, assessed, and served in accordance with federal and state requirements. Without limiting the foregoing, BDEA agrees that it shall, in carrying out its responsibilities under this Agreement, comply with every provision of M.G.L. c. 268A (the Conflict of Interest Law) to the full extent of the applicability of said provisions. Failure to comply with all applicable legal requirements may result in termination of this Agreement pursuant to section 16, herein.

BDEA agrees that all employment decisions will be made in compliance with the applicable federal and state laws. BDEA, as a part of the Boston Public Schools, acknowledges and supports the district's goals to employ a workforce that represents the diversity of our student population, and will seek to employ a diverse workforce.

Term of Agreement

The term of this Agreement is the period from the date of execution of this Agreement through June 30, 2023. No later than six (6) months prior to the expiration of the term of this Agreement, or the expiration of BDEA's charter, whichever occurs first, BPS and BDEA shall meet and make a good faith effort to discuss and plan for the continuation of this Agreement, and the continued operation of BDEA in accordance with the Application and the Renewal, with such modifications as to which all parties agree, the Boston School Committee approve, and the Massachusetts DESE grants.

Indemnification

It is expressly understood by and between the parties hereto that BDEA is a unit of the Boston Public School Department only to the extent consistent with the provisions of M.G.L. c. 71, §89 and regulations promulgated in connection therewith. The parties expressly acknowledge that BDEA is an entity independent of the Boston Public School Department and that Boston Public School Department shall not be liable for the acts or omissions of BDEA, the Board, its officers, agents or employees except to the extent consistent with the provisions of M.G.L. c. 71, §89 and regulations promulgated in connection therewith. Further, BDEA shall indemnify and hold harmless the Boston Public School Department, its officers, agents or employees for all suits and claims against them or any of them directly resulting from any educational or employment action or decision, any intentional or negligent acts or omissions or wrong-doing of BDEA, the Board, its officers, agents or employees.

Termination

BDEA acknowledges that the Superintendent is responsible for the education of all BPS students. In the event the Superintendent determines in his/her professional judgment that BDEA is not serving the best interest of the students of the BPS, and/or that BDEA is not complying with the requirements of the Compliance with Law section, above, s/he shall have the right to invoke the complaint procedures set forth in 603 CMR 1.09 *et seq.*, and/or present facts to the Commissioner of Education in connection with a request for review and investigation of BDEA. In addition, this Agreement terminates automatically in the event that the Commissioner of Education revokes the charter of BDEA for any reason. In the event that this Agreement is terminated, BPS agrees to reimburse BDEA for appropriate BDEA expenses that it incurred prior to such termination.

BDEA's Rights of Appeal

BPS acknowledges that BDEA has the right to file an appeal with the Massachusetts DESE, in accordance with the procedures set forth in 603 CMR 1.09 *et seq.*, if BDEA determines in its professional judgment that the BPS is not complying with the requirements of this Agreement or the provisions of M.G.L. c. 71, §89. BDEA agrees that it shall not file any such appeal with the Massachusetts DESE without first giving BPS at least fourteen (14) days written notice of BDEA's intent to file such an appeal and the grounds upon which any such appeal would be based.

