

## CHARTER SCHOOL AGREEMENT

Pursuant to Section 53A-1a-505, the State Charter School Board (herein after referred to as the Board), grants the Governing Board of Excelsior Academy a charter to operate a public school (hereinafter referred to as the School).

### 1. Application/Agreement-Binding

The Board has reviewed the application submitted by the Governing Board and has approved it, subject to adherence to all requirements set forth in this agreement and in state law and board rule. The application is fully incorporated in this agreement, and all representations and conditions contained in the agreement are binding on the Governing Board. The Governing Board shall immediately submit in writing, to the Board and the local board of education in which the School is located, notice of any proposed substantial changes to the application or the representations or conditions contained in the original application or charter. The Board reserves the right to reject any proposed changes to the agreement once the application and agreement have been approved. This agreement begins with the school year that commences immediately following or coincident with the date of this agreement. This agreement shall be automatically renewed at the end of its term, and at the end of each school year beginning thereafter, unless it is terminated by either the Board or the Governing Board pursuant to paragraph 23 or Utah Code Section 53A-1a-510.

### 2. Operation of School

The School shall at all times be operated by the Governing Board of the School in accordance with Section 53A-1a-501 et. seq., and all other applicable laws and regulations.

### 3. Compliance with Other Laws

The Governing Board shall comply with all applicable federal laws and regulations, including, but not limited to, such laws and regulations governing employment, environment, disabilities, civil rights, children with special needs, transportation, and student records as applicable. The Governing Board shall also comply with all applicable health and safety laws and regulations, whether federal, state, or local. Neither the State Charter School Board nor the local board of education assumes the duty to oversee the operations of the School except as may otherwise be provided by law or separate contract. The Board shall monitor the School for compliance with applicable laws and regulations consistent with Section 53A-1a-501.6 and R277- 470.

#### **4. Enrollment**

a. Admission and enrollment of students shall be as prescribed by Sections 53A-1a-506 and 53A-1a-506.5, R277-437, R277-470, and federal law. Failure to adhere to the requirements of random selection, under Section 53A-1a-506, and federal requirements for lottery selection, may be grounds for termination of this charter.

b. The School shall report information on student enrollment as required by the Board through state and federal law. When a student withdraws from the School, the School shall notify the local board of education responsible for the attendance area in which the student resides within 10 days of the withdrawal so that the local board may fulfill its legal obligation to verify the student's compliance with compulsory attendance laws.

c. Requests for the School to increase its enrollment beyond that set out in its initial agreement shall be submitted to the Board. This provision will be reviewed and is subject to negotiation and amendment by the State Charter School Board, including a review of student assessment data, prior to the 2006-2007 school year.

d. Failure to enroll the authorized number of students within three years of approval may result in the school being required to remand extra students for reallocation by the State Charter School Board upon request.

#### **5. Financial and Governance Warnings**

This charter incorporates by reference, and the Governing Board and School are subject to, Section 53A-1a-501 et. seq., and R277-470, and all other federal and state laws and rules unless specifically waived under Sections 53A-1a-511 and 512. A copy of the Board rules may be obtained at the following locations:

Website: <http://www.rules.utah.gov/publicat/code/r277/r277.htm>  
Mail: Utah State Office of Education  
250 East 500 South  
P.O. Box 144200  
Salt Lake City, UT 84114-4200

#### **6. Children with Special Needs**

a. As prescribed by the State Board of Education, and in accordance with state and federal laws, the School shall provide to the Board the total number of children with special needs, identified in accordance with state and federal laws, enrolled in the School.

b. The Governing Board accepts and understands that, for purposes of federal and state law, including the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Individuals with Disabilities Education Act, the School is obligated to provide free and appropriate education and related services to children with special needs. The School may not send special needs students back to resident districts because the School lacks services, nor may the School "counsel students" out of the School.

## **7. Reporting Requirements**

The Governing Board shall submit such reports as required by state law and the Board. Failure to submit such reports may be grounds for revocation of the charter.

## **8. Technical Assistance**

The School may request technical assistance from the Board in any area, including curriculum matters and financial concerns. In no event is the Utah State Office of Education, the State Board of Education or the State Charter School Board responsible for any financial or technical support other than the funding and technical assistance as expressly required by law.

## **9. Records**

a. *Access.* Subject to state and federal laws, the State Board of Education, its agents, and the State Auditor's Office shall have the right to examine and copy all records, reports, documents, and files relating to any activity, program, or student of the School.

b. *Public Records Law.* The Governing Board and School are subject to the Government Records Access and Management Act, Section 63-2-101 through 63-2-1001. This provision is effective upon the Board's final approval of the Governing Board's Application.

c. *Student Records.* The School is subject to all the provisions of the federal Family Educational Rights and Privacy Act, U.S.C. 20 § 1232g. In the event the School closes, it shall transmit all official student records as prescribed by the State Charter School Board.

## **10. Financial Management**

The Governing Board shall comply with the same financial audits, audit procedures and audit requirements of school districts. The program, financial and compliance audits may be conducted by the charter entity or the Legislative Auditors Office. The Governing Board shall maintain the financial records of the School pursuant of the governing authority and the State Auditors Office.

## **11. Property Ownership**

Following the termination of a charter and after the settlement of outstanding obligation, there is a presumption that the property of a charter school shall revert to the State Board of Education. A charter school may defeat the presumption of State Board ownership with documentation that the charter school purchased the property with private funding, and may be requested to provide documentation that the charter school or its founders or directors were never reimbursed from public funds.

## **12. Procurement**

Charter schools are subject to the Utah Procurement Code, Section 63-56-101 through 63-56-1002, to the same extent as local boards are.

### **13. Insurance and Bonding**

a. The Governing Board shall obtain and maintain insurance at a minimum in the following amounts:

- 1) General liability: two million dollars (\$2,000,000) per occurrence
- 2) Employee dishonesty bond
- 3) Workers' compensation: as specified by federal law
- 4) Comprehensive/collision consistent with cash values of vehicles
- 5) Liability insurance specific to the Governing Board's financial officer or treasurer or business administrator consistent with coverage designated in R628-4-4

b. The provisions of Paragraph 1 shall not preclude any School from obtaining liability insurance coverage in addition to or in excess of the requirements stated in this section.

c. Written proof/copies of required insurance policies shall be provided to the State Charter School Board at least 90 days prior to the opening of school. The policies shall be maintained by the Charter School Board with the agreement. The Governing Board shall provide the Charter School Board with a certificate of insurance annually.

### **14. Facilities**

State Board of Education Administrative Rule R277-471-3, "Oversight of School Inspections," requires a Local Charter School Board Building Officer to be appointed by the charter school board.

Local charter school boards shall appoint a local charter school board building officer who has direct administrative and operational control of all construction, renovation, and inspection of public school district facilities within the school district, and shall provide in writing the name of the local charter school board building officer to the USOE.

The local charter school board building officer is responsible for coordinating with local municipalities and counties and the State Office of Education to ensure that the appropriate documents are filed in a timely manner for all construction projects, as outlined in the School Construction Inspection Resource Manual.

The Board may delay the opening of the School or terminate this charter on any of the following grounds (R277-470-13):

- 1) Failure to provide evidence of groundbreaking before January 1 of the intended opening year of the School (R277-470-7)
- 2) Failure to submit monthly construction/facility progress reports (SP-8) and/or failure to submit required documents in a timely manner to the State Office of Education (R277-471-7)
- 3) Failure to attend orientation/training sessions designated by the State Charter School Board (R277-470-4)

The School shall not be allowed to operate unless and until all health and safety certificates are current. If the Governing Board subsequently makes substantial changes in its facility or desires to relocate to another facility, the State Charter School Board shall receive written notice of the changes or relocation in a timely manner.

## **15. Licensed Employees**

a. All employees who hold professional licenses issued by the Board are subject to the rules applicable to licensed professionals, and their licenses may be revoked based on any of the grounds consistent with state law or R686-103. In addition, School administrators are subject to mandatory child abuse reporting consistent with state law.

b. The Governing Board shall report, as required by the State Board of Education, the total number of teachers and the total number of teachers who hold valid licenses who are employed to teach at the School, as well as information regarding assignments and endorsements. All teachers must hold a valid Utah Professional Educator License or meet the State Board requirements for alternative licensing routes or Board authorization consistent with 53A-1a-512(3).

c. The Governing Board understands and agrees that it shall not employ in any capacity, or accept voluntary services from, any individual whose certificate or license has been suspended or revoked by the Board or any other licensing board or agency on the grounds of unethical or immoral behavior, including improper sexual or physical conduct with children or students. Violation of this provision shall result in immediate revocation of the charter.

d. The Governing Board shall notify the appropriate local board of education and the Utah State Office of Education if a School employee who is on leave from employment with the local board was suspended, terminated, asked to resign, resigns in the face of allegations, or is otherwise subjected to disciplinary action because of poor performance or misconduct. The Governing Board shall cooperate with the local board and the USOE and shall provide any relevant information requested concerning such employees.

## **16. Transportation**

Neither the local board nor the State Board of Education is responsible for student transportation. Parents of a student at the School shall be notified of this provision.

## **17. Indemnity**

The Governing Board agrees to indemnify and hold harmless the USOE, State Board of Education, State Charter School Board and local boards of education, their officers, agents, employees, successors and assigns from all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from any action of the School caused by any intentional or negligent act or omission of the School, its officers, agents, employees, and contractors.

## **18. Student Discipline**

- a. The School agrees to and shall comply with Section 53A-11-901, except as otherwise provided by law.
- b. The School shall comply with all applicable federal and state laws and regulations governing discipline of children with disabilities, including compliance with 20 U.S.C. Sec. 1400 et. seq. and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 706(8).
- c. The School shall comply with state and federal due process requirements both in notifying parents and students of conduct for which they may be suspended or expelled and in providing notice and hearing opportunities to students being recommended for exclusion from the School. If the School suspends a student with special needs, it shall continue to provide to the student with all continuing education services to the extent mandated by federal and state laws and regulations.

## **19. Instruction**

As prescribed by R277-419, the School shall provide a minimum of 180 days and 990 hours of instruction (grades two through 12), a minimum of 180 days and 810 hours of instruction (grade one), and a minimum of 180 days and 450 hours of instruction (grade K).

## **20. Criminal Background Checks**

The Governing Board agrees to conduct thorough background checks on all of its employees and volunteers who shall have significant unsupervised contact with students, consistent with Section 53A-3-410. In addition, the State Charter School Board or the State Board of Education may conduct criminal history checks on any School personnel or director or Governing Board member when it is deemed necessary to protect the financial integrity of the School or the health and safety of students or employees. Refusal by any individual to submit to a fingerprint check is grounds for termination of employment and/or revocation of the charter. The Board may consider the refusal of an individual to submit to a fingerprint check in determining whether:

- a. To grant final approval of the charter agreement.
- b. To recommend to the governing board that the individual be denied employment.
- c. To revoke the charter of the governing board.

## **21. Open Meetings: Public Records**

The Governing Board agrees to be subject to the Open and Public Meetings law, Section 52-4-1 et. seq. This provision is effective upon the Board's final approval of the Governing Board's/School's agreement.

## **22. Assignment**

Assignment of the School to another entity is deemed an amendment to the charter and shall have prior written approval of the Board.

### **23. Amendment**

This agreement may be amended by the mutual agreement of the Board and the Governing Board, pursuant to Section 53A-1a-508(4). Any such amendment must be made in writing and signed by the appropriate representatives of the Board and the Governing Board.

### **24. Termination of Charter**

a. *Grounds:* The Board may terminate this charter on any of the following grounds (53A-1a-510):

- 1) Failure of the Governing Board or School to meet the requirements stated in the charter.
- 2) Failure of the Governing Board to meet generally accepted standards of fiscal management.
- 3) Violation of law.
- 4) Material violation of any of the conditions, standards, or procedures set forth in this agreement.
- 5) Failure to meet the requirements for student performance under state or federal law.
- 6) Other good causes shown.

The Governing Board may terminate this charter after the end of the spring semester and prior to the beginning of the fall semester with or without cause.

b. *Procedures:* A charter that is terminated by the Governing Board shall be terminated consistent with Section 53A-1a-510 and R277-470. A charter that is terminated by the Governing Board shall be terminated in a manner consistent with the provisions of this agreement upon the effective date communicated in a written notice provided by the Governing Board to the Board regarding its intention to terminate the charter. The Board must receive such notice at least 60 days prior to the beginning of the fall semester.

### **25. Status of Parties to Charter**

This charter is not intended to create and shall not be interpreted to create employer-employee, contractor-subcontractor, or principal-agent relationships between or among any party or parties to this charter. "Parties," for purposes of this paragraph only, include the parties to this agreement as well as the local board of education. No officers, employees, agents, or subcontractors of the School shall be considered officers, employees, agents, or subcontractors of the local board of education.

### **26. Agreements with Local Boards of Education**

This charter shall not preclude the Governing Board from entering into any agreement with a local board of education, provided that such agreements do not supersede or override any provision of this agreement.

**27. Notice**

Any notice the Governing Board or School is required or permitted to submit under this agreement shall be delivered to:

Utah State Office of Education  
250 East 500 South  
P.O. Box 144200  
Salt Lake City, Utah 84114-4200

All faxes sent by the Governing Board or School shall be followed by hard copies postmarked within the next business day of the fax transmittal.

**28. Severability**

If any provision of this agreement is determined to be unenforceable or invalid for any reason, the remainder of this agreement shall remain in effect, unless the charter is revoked or terminated.

**29. Non-Endorsement**

The Governing Board acknowledges that the granting of a charter in no way represents or implies endorsement by the State Charter School Board of any method of instruction, philosophy, practices, curriculum, or pedagogy used by the School or its agents; nor does this agreement constitute a guarantee by the State Charter School Board of the success of the School in providing a learning environment that shall improve student achievement.

**30. Legislative Action**

This agreement and any amendments to it and renewals of it are subject to applicable state and federal laws, and shall be deemed amended to reflect applicable changes to those laws. Upon repeal of the statutes authorizing the school charter, the charter is null and void.

FOR THE CHARTER SCHOOL GOVERNING BOARD:

This 8<sup>th</sup> day September of 2009

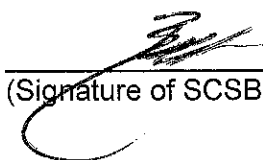
Ann H. Gubler  
(Type or Print Name of Board Chair)

  
(Signature of Board Chair) (Seal)

FOR THE STATE CHARTER SCHOOL BOARD:

This 10 day September of 2009

Brian Allen  
(Type or Print Name of SCSB Chair)

  
(Signature of SCSB Chair)