

DEPARTMENT OF SPECIAL SERVICES
Township of Union Public Schools
M - E - M - O - R - A - N - D - U - M

TO: Pat Ditri
FROM: Jason Killian 
RE: Board Agenda Items
DATE: May 22, 2013

The committee recommends and I so move that the board approve Education Inc., PO Box 3345, Plymouth, Mass. to provide bedside instruction for district students on an "as needed" basis for the school year September 1, 2013-June 30, 2014 from account in the amount of \$15,000.00 in accordance with the information in the hands of each board member. (7693-11-150-100-320-01-19)

AGREEMENT

AGREEMENT made effective as of the 16th day of May 2013 by and between the UNION TOWNSHIP PUBLIC SCHOOLS (the "District"), having its administrative offices at 2155 Morris Ave, Union, NJ 07083 and Education, Inc. (The "Company"), having its office at P.O. Box 3345, Plymouth, MA 02361-3345

In consideration of the mutual covenants and conditions contained in this Agreement, the District and the Consultant hereby agree as follows:

1. **Retention**: The District hereby agrees to retain the Company and the Company agrees to provide the District with its services consisting of any of the following upon the terms and conditions herein set forth: The District hereby agrees to retain the Company and the Company agrees to provide the District with Hospital Tutoring for Union Township Public Schools students for the 2013-14 school year.

2. **Term**: This Agreement will be for services provided September 1, 2013 – June 30, 2014, inclusive, unless terminated early as provided in this Agreement. It is understood that the District is under no obligation to renew this Agreement upon its expiration.

3. **Compensation**: The District agrees to compensate the Company at the rate of \$48.00 per hour. Each hour of instruction delivered in any setting requires administrative and preparation time, and Education, Inc. bills for those services one hour for every three instructional hours provided. Such compensation shall be paid within thirty (30) days of receipt and approval by the District of invoices (in form and substance satisfactory to the District) from the Company with respect to performance of such services.

4. **Independent Contractor**: The Company is retained by the District only for the purposes and to the extent set forth in this Agreement, and its relation to the District shall, during the period of its retention and services hereunder, be solely that of an independent contractor. The compensation being paid pursuant to this Agreement shall not be subject to withholding taxes or other employment taxes required with respect to compensation paid by the District to an employee. The Company shall observe all requirements imposed by any laws upon corporations. The District, if required by Federal or State requirements, will submit a Form 1099, at year-end to the Federal government and to Company if having a gross income exceeding \$600, which thereupon will be reported for income tax purposes. Neither the Company nor any of its employees, agents, or assigns will be eligible for any employee benefits whatsoever relative to this Agreement including, but not limited to, social security, New Jersey Worker's Compensation, unemployment insurance, New Jersey State Retirement System benefits, health or dental insurance, or malpractice insurance, or the like. With regard to employees of the Company the Company alone shall be responsible for their work, personal conduct, direction, compensation, and for payment of all employment and other taxes in relation thereto.

Education, Inc.

5. **Indemnification:** The Company hereby indemnifies the District with respect to all claims, charges, costs and expenses arising out of the negligence of the Company, its agents, or employees, or with respect to the Company's breach of its obligations hereunder and for any liabilities, claims and demands made upon the Company or the District, arising out of the performance of the Company's duties hereunder. The Company shall defend (with counsel selected by the District and reasonably approved by the Company), indemnify, and hold harmless the District, and its agents, members, representatives and employees from any and all claims, costs, expenses (including, but not limited to, attorney fees) related, directly or indirectly, to this indemnity.

6. **Expenses:** The Company will pay all expenses incurred by it in connection with the performance of his duties hereunder, including but not limited to automobile and/or travel expenses.

7. **Required Records:** The Company shall provide services and maintain records, logs and reports in accordance with all applicable laws, regulations and requirements of the New Jersey Education Department, New Jersey State Department of Labor and District policies and procedures in force during the term of this Agreement. All student records, logs, etc., will be the property of the Company and will be considered mandated records. Company shall provide the District with a copy of any reports, testing, evaluations, or observations that are prepared in connection with the services provided by the Company under this Agreement.

8. **Confidentiality:** The Company shall maintain the confidentiality of student records in accordance with HIPAA and all applicable laws, regulations, requirements of the New Jersey State Education Department and District policies and procedures in force during the term of this Agreement.

9. **Review of Company Records:** In compliance with HIPAA, the District shall have the right to examine any or all records or accounts maintained by the Company in connection with this Agreement.

10. **Insurance:** The Company shall provide the District with a certificate of liability insurance naming the District as an additional insured with coverage of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate. The Company shall notify the District in writing ten (10) days prior to any lapse in liability coverage. The absence of liability coverage during the term of this Agreement may result in immediate termination of this Agreement.

11. **Employer's Authority:** The Company represents and warrants that it will observe and comply with the policies, rules and regulations of the Company (and shall cause its employees to do the same), including, but not limited to, the Company Code of Conduct, performance of its duties, and to carry out and perform orders, directions and policies advised from the District.

12. **Termination:** This Agreement shall be terminated upon the occurrence of any of the following events:

(a) Immediately upon the breach by the Company of any of the policies, rules and regulations of the District relating to the health or safety of students or District employees.

(b) Automatically upon the filing of a Petition in Bankruptcy by the Company

(c) Whenever the District or The Company shall give thirty (30) days written notice to the Company of the District's termination of the Agreement.

Upon termination of this Agreement, the Company shall be entitled to receive only the compensation accrued and unpaid as of the date of termination and shall not be entitled to any additional compensation.

13. **Notices:** Any notices required or permitted to be given under the terms of this Agreement shall be sufficient in writing and if personally delivered or sent by registered or certified mail to the parties at the following addresses:

To the Company:

Education, Inc.
PO Box 3345
Plymouth, MA 02361-3345

To the District:

Union Township Public Schools
2155 Morris Ave.
Union, NJ 07083
Attn: Claire Weber

14. **Entire Agreement:** This instrument contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations by and between the parties.

15. **Modification:** This Agreement may not be changed orally, but only by an agreement in writing signed by the party or parties against whom an enforcement of any waiver, change, modification, extension or discharge is sought. Any waiver of any term, condition or provision of this Agreement will not constitute a waiver of any other term, condition or provision, nor will a waiver of any breach of any term, condition or provision constitute a waiver of any subsequent or succeeding breach.

16. **Third-Party Beneficiaries:** There are no third-party beneficiaries of or in this Agreement or any of the terms or provisions hereof or any of the rights,

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privileges, duties, liabilities or obligations created hereby.

17. **Negotiated Agreement:** This is a negotiated Agreement, and this Agreement shall not be construed against any party by reason of this Agreement being prepared by such party's attorney. Each party warrants that it has full power to execute, deliver and perform this Agreement and has taken all actions required by law, its organizational documents or otherwise to authorize the execution and delivery of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals as of the date and year first above written.

Union Township Public Schools

By: _____
Authorized Representative

Education, Inc.

By: Elizabeth Sedlak
Authorized Representative