

AGREEMENT
BETWEEN BRYANT, GEMZA, KEENOY & KOZLIK AND THE
FRANKLIN LAKES SCHOOL DISTRICT
FOR THE PROVISION OF CONSULTANT
SERVICES

This Agreement is made on this 9th day of January 2019, between BRYANT, GEMZA, KEENOY & KOZLIK, LLP a limited liability partnership organized and existing pursuant the New Jersey Uniform Limited Partnership Law, with principal offices located at 28 East Bonita Way, Lavallette, New Jersey, (hereinafter referred to as "BGKK"), and the Franklin Lakes Public School District, organized and existing pursuant to Title 18A of the New Jersey Revised Statutes, with its principal offices located at 400 Pulis Avenue, Franklin Lakes New Jersey 07417(hereinafter referred to as the "Board").

RECITALS

WHEREAS, BGKK is a Limited Liability Partnership organized and existing pursuant to the New Jersey Uniform Limited Partnership Law for the purpose of engaging in the provision of special education consulting services; and

WHEREAS, the Board is a duly formed and authorized school district organized and existing under the laws of the State of New Jersey providing educational services to pupils residing within the geographic boundaries of its constituent municipalities; and

WHEREAS, in furtherance of its educational mission, the Board seeks to retain an appropriately certified professional as a

Consultant and the Consultant agrees to provide his/her best professional services on an as-needed basis, as directly assigned or approved by the Board or its designee. No other person shall perform the services other than the Consultants selected by BGKK. These services shall include the overseeing and supervision of the Board's special education and Child Study Team (hereinafter referred to as "CST") operations and staff on an as needed basis; and

WHEREAS, the parties are each desirous of entering into an Agreement whereby BGKK shall provide such a Consultant to the Board utilizing a fully qualified and certified professional with knowledge of the laws and regulations pertaining to special education as well as the procedures and procedural safeguards related to the provision of special education in order to supervise and administer the Board's special education and CST operations and staff on an as needed basis; and

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties agree as follows:

1. Incorporation of Recitals:

The above recitals are made a part of hereof and incorporated by reference herein.

2. **Term:**

The term of this Agreement shall begin on or about February 12, 2019 for a period to be determined based upon need and to continue through June 30, 2019.

This Agreement may be renewed upon the mutual written agreement of both parties.

This Agreement may be cancelled or terminated unilaterally by either party upon the cancelling party's provision of sixty (60) days written notice to the other party of its intent to terminate the Agreement. In the event of such cancellation, BGKK shall remain entitled to receive payment for all services rendered and/or performed in connection with this Agreement through the effective date of cancellation or termination.

3. **Program Personnel Staffing to Be Provided by BGKK:**

3.1 For the duration of this Agreement, BGKK shall provide to the Board certificated persons who shall serve as a Consultant to the Board and who should be responsible for aiding the Board's special education operations, curriculum, and existing staff. BGKK shall hire, supervise, and pay its own employees and/or Consultants in order to provide the necessary services for the Board.

3.2 The individual designated by BGKK shall be properly certified and fully familiar with relevant instructional

techniques, curriculum and accommodations, use of assistive technology, and all other aspects of special education as set forth in Section 4 herein.

3.3 BGKK agrees to provide a qualified, certified individual to perform the aforementioned Consultant services. The individual designated by BGKK to perform services in connection with this Agreement shall possess current and valid certification by the Department of Education and any other relevant State agency or department. BGKK agrees to screen the individual rendering these services to ascertain that there are no disciplinary actions pending against the individual and that such individual is in good standing with respect to any required continuing education courses. BGKK shall also ensure that the individual submits to a criminal history record check as required by N.J.S.A. 18A:6-7.1.

3.4 The parties agree to cooperate with each other to arrange for and set up appropriate scheduling for the rendering of the services at such times and places as the parties may deem appropriate.

4. Administrative Services to Be Provided:

The services to be made available by the BGKK Consultant to the Board pursuant to this Agreement and on an as-needed basis shall include all aspects of the Board's special education operations, as deemed appropriate by the Board. The Consultant will provide on-site supervision of the district's special

education programs. The consultant will provide on-site on a per diem basis for the duration of the agreement. Additional services shall be made available at the request of the Superintendent and agreement of the Board for training and court appearances on behalf of the Board at a cost of \$1000 per day. Attendance at Board of Education meetings will be billed at 0.5 days.

5. Billing and Payment:

The Board and BGKK agree that the cost to the Board for the term of this Agreement is \$550.00 per day. In satisfaction of the aforementioned costs for this Agreement, the Board shall make payments to BGKK in the sum equal to the number of days worked within 20 days of the provision of written invoice throughout the term of this Agreement and all renewal terms.

6. Compliance with Law:

The services provided by BGKK and its employees pursuant to this Agreement shall be performed in accordance with the laws, rules, regulations and ordinances of the State of New Jersey and any and all pertinent Federal laws pertaining thereto.

7. Relationship between Parties, Independent Contractor:

It is specifically understood that BGKK is an independent contractor and nothing in this Agreement shall be construed to establish employer/employee, agency, joint venture or partnership arrangement between the parties. In discharging all duties and

obligations hereunder, BGKK and its consultant shall at all times remain in an independent contractor relationship with the Board. As such, the Consultant furnished by BGKK and its employees shall not be entitled to any fringe benefits that the Board normally extends to its employees.

8. Indemnification and Insurance:

8.1The Board and BGKK shall each be individually responsible for liabilities resulting from their own respective negligence, willful misconduct or omission, or resulting from the negligence, willful misconduct or omission of its agents, servants, visitors or licensees.

8.2BGKK shall obtain and maintain during the duration of the Agreement, at its own cost and expense, comprehensive general liability insurance with limits of no less than one million dollars (\$1,000,000) per incident and three million dollars (\$3,000,000) aggregate, insuring BGKK against any and all liability or claims arising out of, connected with or resulting directly from BGKK's performance of services under this Agreement. The policy shall name the Board as an additional insured. A copy of said certificate of insurance shall be attached to this Agreement.

8.3BGKK shall also procure full and appropriate workers' compensation insurance in the appropriate statutory amount for all of its Consultants. A copy of said certificate of insurance shall be attached to this Agreement.

8.4 BGKK shall indemnify, defend, and hold harmless the Board, its agents, servants and employees from and against any and all claims, liability, damages and or expenses, including reasonable attorney fees, arising out of or resulting from or in connection with any negligent or willful act or omission of any agent, servant and/or employee of BGKK.

8.5 The Board shall indemnify, defend, and hold harmless BGKK from and against any and all claims, liability, damages and or expenses, including reasonable attorney fees, arising out of or resulting from or in connection with any negligent or willful act or omission of any agent, servant and/or employee of the Board.

8.6 The Board shall assume the defense of any and all litigation, mediation and/or due process proceedings initiated against it by a student enrolled in The Board.

9. Confidentiality:

9.1 BGKK acknowledges that the services rendered are of confidential nature and shall use its best efforts to maintain the confidentiality of the Board and its pupils and shall use its best efforts to have its employees comply with this provision. Notwithstanding anything to the contrary contained herein, in the event BGKK shall receive a subpoena from a Court of competent jurisdiction to produce pupil records, BGKK shall immediately provide the Board with said

subpoena. BGKK agrees that it will not furnish any pupil records unless it receives prior approval from the Board or until such time as an appropriate court order is furnished compelling the production of such pupil records. The Board agrees to undertake any and all responsibility to take legal action or defensive efforts with respect to such subpoenas should the Board deem such legal action appropriate. All costs and expenses for such legal action shall be borne and paid for by the Board.

9.2The Parties acknowledge that all information shared between the Board and BGKK pursuant to this Agreement is confidential in nature. The Parties therefore agree that they will use its best efforts to maintain confidentiality of such information and to have its own Consultant comply with this provision. The Board shall not furnish any student records related to the BGKK consultant performing services under this Agreement without prior written consent and/or approval of the Board.

10. New Jersey Law:

The parties agree that in the interpretation of this Agreement, New Jersey law shall apply and the parties designate the Superior Court, State of New Jersey, County where the Board is located or the New Jersey Commissioner of Education as venue for any disputes that may arise with respect to this Agreement.

11. Assignment:

It is hereby agreed between the parties that BGKK shall not assign without the Board's prior written consent the whole or any part of its obligation under this Agreement.

12. Affirmative Action and Anti-Bullying Bill of Rights:

During the performance and term of this Agreement, BGKK agrees as follows:

To comply with P.L. 1975, c.127, dated June 23, 1975, "Affirmative Action," the parties to this Agreement agree to incorporate into this Agreement the mandatory language of N.J.A.C. 17:27-3.4 et seq. and N.J.A.C. 17:27-3.6, as amended and supplemented from time to time and the Consultant agrees to comply fully with the terms, provisions and obligations of said Regulations. The parties to this Agreement further agree to incorporate into this Agreement the mandatory language of N.J.A.C. 17:27-1.1 et seq. of the Regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Board agrees to comply fully with the terms, provisions and obligations of said Regulations.

To comply with P.L. 2010, c.122, dated January 5, 2011, "Anti-Bullying Bill of Rights Act," the parties to this Agreement agree to incorporate into this Agreement the requirements placed upon districts and educators in order to prevent

harassment, intimidation and bullying. The Board agrees that it has put into effect the requirements of the Anti- Bullying Bill of Rights Act, including the appointment of a district-wide anti-bullying coordinator, an anti-bullying specialist, and have formed a school safety team as outlined in the Anti- Bullying Bill of Rights Act. The parties to this Agreement hereby agree to adhere to the district's anti-bullying policy, which, starting with the 2011-2012 school year, must be put into effect following the dissemination of the Department of Education's Model Policy.

13. Notices:

Notices hereunder shall be in writing and delivered by hand or Registered or Certified Mail, Return Receipt Requested or by recognized overnight carrier, addressed as follows and deemed to be given on the day of the hand delivery or on the date of mailing:

As to BGKK:

Bryant, Gemza, Keenoy & Kozlik, LLP
52 East Bonita Way
Lavallette, New Jersey 07009
Attn: Barbara Gemza

As to The Board:

Franklin Lakes Public Schools District
400 Pulis Avenue
Franklin Lakes, N.J.07417

14. Entire Agreement:

This Agreement contains the entire understanding between the parties and may not be changed orally, but only by an Agreement in writing signed by the parties against whom enforcement of any modifications or extension may be sought. If any portion of this Agreement is deemed unenforceable or illegal by the Court of competent jurisdiction, then that portion of the Agreement so determined shall be stricken and the remainder of the Agreement shall remain in full force and effect.

15. Miscellaneous:

This Agreement contains the entire understanding between the parties and may not be changed orally, but only by an Agreement in writing signed by the parties against whom enforcement of any modifications or extension may be sought. If any portion of this Agreement is deemed unenforceable or illegal by the Court of competent jurisdiction, then that portion of the Agreement so determined shall be stricken and the remainder of the Agreement shall remain in full force and effect.

15.1 If any provisions herein contained are at variance with pertinent law, such variation shall be modified to conform to the appropriate pertinent governing law.

15.2 This Agreement represents and incorporates the complete and final understanding of the parties. Any amendment and/or modification to this Agreement shall be effective only upon execution of a written agreement by the parties.

15.3 If any part of this Agreement, or the application thereof, to any person or circumstance shall, for any reason, be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Agreement, which is hereby declared to be severable.

15.4 The parties hereto represent and acknowledge that they have had the right and opportunity to seek the advice of independent legal counsel with respect to the interpretation, meaning and legal affect of entering into this Agreement prior to executing same.

15.5 The failure of either party to exercise any right it may have under this Agreement shall not constitute a waiver of that right.

IN WITNESS WHEREOF, the parties executed this Agreement on the day and date first above written.

**BRYANT, GEMZA, KEENOY &
KOZLIK, LLP**

THE BOARD OF EDUCATION

Patrick Keenoy
Patrick Keenoy
Partner

Board President

Charles Bryant
Charles Bryant Partner

Attest:

Attest:

Date:

Date: