

## ROCKY MOUNTAIN SCHOOL OF EXPEDITIONARY LEARNING (RMSEL)

### INTERGOVERNMENTAL AGREEMENT 2022 - 2027

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”), effective July 1, 2022, is made between and among Adams-Arapahoe 28J (“Aurora Public Schools”), Arapahoe County School District No. 6 (the “Littleton Public Schools”), Cherry Creek School District No. 5 (“Cherry Creek Schools”), School District No. 1 in the City and County of Denver (“Denver Public Schools”), and Douglas County School District RE-1 (“Douglas County Schools”), collectively referred to hereafter as “the sponsoring districts,” to create a board of cooperative educational services for the purpose of operating an expeditionary learning school, the Rocky Mountain School of Expeditionary Learning (“RMSEL”).

### RECITALS

WHEREAS, the sponsoring districts are authorized to enter into this Agreement pursuant to the Boards of Cooperative Services Act of 1965, as amended, § 22-5-101, *et seq.*, C.R.S., and 29-1-203, C.R.S.;

WHEREAS, the sponsoring districts previously have formed a board of cooperative educational services to establish and operate an expeditionary learning school for the benefit of students residing within the sponsoring districts;

WHEREAS, the sponsoring districts wish to continue the operation of said expeditionary learning school using a school-based governance structure;

WHEREAS, the parties wish to operate RMSEL within the boundaries of Denver Public Schools and to obtain certain facilities and services from said school district while working collaboratively with and providing educational opportunities for students of the other sponsoring districts;

WHEREAS, the parties have requested a renewal of the intergovernmental agreement, for five years, to operate RMSEL within the boundaries of Denver Public Schools and to obtain certain facilities and services from said school district while working collaboratively with and providing educational opportunities for students of the other sponsoring districts; and

WHEREAS, RMSEL is in good standing with the sponsoring districts.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants set forth herein, the parties agree as follows:

1. Continuation of BOCES. The sponsoring districts shall continue the Rocky Mountain School of Expeditionary Learning Board of Cooperative Educational Services (“the BOCES”) to operate and oversee the administration of RMSEL. The BOCES shall continue to operate in accordance with the constitution and bylaws in effect as of the date of this Agreement, until such time, if any, as those documents are lawfully amended; provided that this Agreement shall supersede and control the constitution and bylaws insofar as it may be inconsistent with the terms of those documents.
2. Board Membership. The BOCES shall have six members, consisting of one board member from each of the sponsoring districts and one member appointed by the sponsoring district from the public at large. Such public appointee shall be a resident of one of the sponsoring districts. The sponsoring districts shall consider the recommendations of the Public Education and Business Coalition in appointing such member.

3. Operating Authority. The BOCES shall be a body corporate with authority to exercise all powers available to it by law, including, but not limited to powers to contract for services; employ personnel and determine their compensation; procure insurance; lease a school site; purchase, lease, or rent furniture, equipment, and supplies; keep records required by law; adopt policies; and accept and expend gifts, donations, or grants of any kind in accordance with such conditions as may be prescribed by donors consistent with C.R.S. § 22-5-107, *Duties of board of cooperative services* and C.R.S. § 22-5-108, *Powers of board of cooperative services*, as well as the terms of this Agreement.
4. RMSEL Program. RMSEL shall offer a curriculum integrating the major academic disciplines for students in grades K-12. The expeditionary learning program shall be informed by the experience and ideas of Expeditionary Learning Schools, shall incorporate specific, identified design principles, and shall organize student education into purposeful expeditions of inquiry, discovery, and action.
5. Objectives. The BOCES and RMSEL shall pursue the following objectives:
  - a. Improvement of student learning.
  - b. The provision of an educational program organized around a series of interdisciplinary expeditions combining a rigorous academic program with intellectual inquiry, reflection, and service reflecting the mission and design principles of the Expeditionary Learning model.
  - c. The creation of accurate and innovative means for measuring student outcomes.
  - d. The integration of assessment practices, which are comparable with those used in the sponsoring district.
  - e. The creation of new professional opportunities for educators, including the opportunity to be responsible for the learning program at the RMSEL site.
  - f. The provision of educational service to a diverse student population drawn from the communities served by the sponsoring districts.
  - g. The dissemination of information regarding the RMSEL program, including dissemination of said information to diverse communities.
  - h. The provision of expanded choices in educational programs available within the public school system.
  - i. The provision of a formal mechanism for engaging parents and community members in the activities and educational program of RMSEL.
  - j. The establishment of a cross-district, school-based model of governance for use in other collaborations.
6. Governance. The BOCES ordinarily shall have responsibility for and authority to conduct the business and affairs of RMSEL consistent with the terms of this Agreement.

- a. The BOCES shall approve the appointment of an executive director for purposes of managing the daily operations of RMSEL and oversight of the educational program.
  - b. The BOCES may approve the establishment of a District Accountability Committee for the purposes of providing input to the Executive Director and/or the BOCES in matters related to educational programs and other matters related to the quality of RMSEL's program. The District Accountability Committee will have governance and operational bylaws.
7. Sponsoring District Service Link. To ensure that RMSEL administration and its leadership have access to the experience and expertise of the sponsoring districts and other organizations, the Sponsoring District Service Link will be provided. The Service Link shall consist of the Superintendent or Superintendent's designee from each of the sponsoring districts and shall provide advice, experience, and advocacy in developing strategies to overcome legal, administrative or political obstacles to the objectives of RMSEL.
8. Student Enrollment. All RMSEL students residing within the geographic boundaries of the Aurora Public Schools, Cherry Creek Schools, Denver Public Schools, Douglas County Schools, and Littleton Public Schools shall be deemed enrolled in the Denver Public Schools, which shall include such students within its pupil enrollment count for purposes of the Public School Finance Act of 1994, C.R.S. § 22-54-102 *et seq.*
9. Student Admission. Students shall be selected for admission as follows:
  - a. Each sponsoring district shall be guaranteed up to the following number of student spaces each school year, not to exceed 400: Aurora Public Schools – 40 FTE; Cherry Creek Schools – 110 FTE; Denver Public Schools – 200 FTE; Douglas County Schools – 50 FTE; and Littleton Public Schools – 40 FTE.
  - b. If a sponsoring district does not fill its allocation, students from another sponsoring district shall be admitted by such date as is determined by the BOCES, upon the agreement of the student's sponsoring district of residence. Each student so admitted shall be counted toward the subsection 9(a) allocation of the sponsoring district, which did not fill its allocation. No student so admitted shall be disenrolled solely to make room for a resident student of the sponsoring district whose allocation was used to admit the student.
  - c. If more than the allotted number of students from any given sponsoring district seeks admission, a lottery or other random process for selection shall be used. Such process shall maintain each sponsoring district's minimum enrollment entitlement and shall promote diversity in the student population.
  - d. RMSEL shall make enrollment decisions in a nondiscriminatory manner. RMSEL will implement and annually review a recruitment and enrollment plan designed to ensure that the students reflect the diversity of the sponsoring districts by ensuring that enrollment at RMSEL is available to all student populations, including, but is not limited to, students that are eligible for free/reduced lunch, students with disabilities, and English language learners.
  - e. Enrollment at RMSEL shall be determined by a lottery process, which shall be described in the Lottery Enrollment Administrative Procedure, as amended by the BOCES Board from time to time. RMSEL shall review annually the priorities applied in the Lottery

Enrollment Administrative Process. The priorities will reflect the annual recruitment and enrollment plan. Some applicants will be given priority in the lottery process as also explained in the Lottery Enrollment Administrative Procedure. RMSEL will admit students based on a lottery for each grade. A student will be eligible for the lottery for kindergarten if the student will be 5 years old on October 1 of the academic year in which the student will enroll at RMSEL. A student will be eligible for the lottery for a grade other than kindergarten based on the next grade level up from the student's grade level at the student's then current school in the academic year immediately preceding the year the student will enroll at RMSEL, assuming the student is not retained by the student's current school. For example, a 9<sup>th</sup> grader who participates in the lottery in the winter/spring of an academic year will participate in the lottery for 10<sup>th</sup> grade for the next academic year. The only conditions that RMSEL may impose for participation the lottery shall be proof of residency in the sponsoring district from which the student enters the lottery. Priority in the enrollment lottery is defined in the Lottery Policy.

- f. Consistent with § 22-36-101, C.R.S., admission to RMSEL may be denied if:
  - i. There is a lack of space or teaching staff within RMSEL or any grade level;
  - ii. RMSEL does not offer appropriate programs (this provision is limited to students who need a specialized program pursuant to an IEP, see Section 22, below), is not structured or equipped with the necessary facilities to meet special needs of a student, or does not offer a particular program requested;
  - iii. A student does not meet established eligibility criteria for participation, including age requirements, course prerequisites, and required levels of performance, as further defined in RMSEL's Eligibility Criteria Policy as established by the BOCES Board from time to time; subject to the lottery enrollment provision in Subsection 9(e);
  - iv. A student has been expelled, or is in the process of being expelled, for the reasons specified in C.R.S. § 22-33-106(1)(c.5) or (1)(d); or
  - v. Grounds exist for the denial of enrollment pursuant to C.R.S. § 22-33-106(2)(a) or (b) (see Section 21 below), and C.R.S. § 22-33-106(3)(a), (b), (c), or (f). (Subsection (f) is limited to conduct which would be grounds for an expulsion at RMSEL and the student must be afforded the process outlined in Section 21 below prior to being denied admission.)

10. Funding. RMSEL shall be funded as follows:

- a. Revenues.
  - i. Per Pupil Revenue (PPR) Funding. In each fiscal year during the term of this Agreement, Denver Public Schools shall provide 100% of the Denver Public Schools' PPR to RMSEL for each pupil attending RMSEL from any sponsoring district, up to a maximum of 400 students; less deduction for purchased services, less other deductions as provided herein and adjusted as provided herein. For purposes of this Agreement, the term "per pupil revenue" will have the meaning defined in C.R.S. § 22-54-103(9.3). Any subsequent CDE audits of Denver Public

Schools pupil counts and per pupil revenue that impact the funding received by RMSEL will be reflected as an adjustment to subsequent payment from the Denver Public Schools to RMSEL.

ii. Categorical Aid

1. State: On or before January 15<sup>th</sup> of each year, Denver Public Schools shall provide to RMSEL the school's proportionate share of applicable state (e.g., English Language Proficiency, Gifted and Talented, Amendment 23 capital construction funds, or Transportation funding) categorical aid received by Denver Public Schools for which RMSEL is eligible. Schools are eligible for such funds upon approval of the schools' plans for such funds by the Colorado Department of Education as required.
- b. Denver Public Schools Services. Except as expressly provided in this Agreement, as set forth in any subsequent written agreement between RMSEL and the Denver Public Schools, or as required by law, RMSEL will not be entitled to the use of or access to the Denver Public Schools' services, supplies, or facilities. Such agreements by the Denver Public Schools to provide services or support to RMSEL shall be subject to all terms and conditions of this Agreement, except as may be otherwise agreed in writing.
- i. Special Education Services. RMSEL shall pay to the Denver Public Schools an amount equal to the per pupil cost incurred by the Denver Public Schools in providing federally required educational services, less the Denver Public Schools expenditures for licensed special education teachers (licensed special education teachers are under employment contracts pursuant to the BOCES), multiplied by the number of students enrolled in RMSEL. The per pupil cost shall be equal to the total budget for special education, (to include the General Fund special education and related specialized services expenditures) less any categorical special education revenue received by the Denver Public Schools , less the proportionate share of any categorical transportation revenue received by the Denver Public Schools, less the Denver Public Schools expenditures for licensed special education teachers working in Denver Public Schools-run schools, divided by the total number of students enrolled in the Denver Public Schools, times one plus the Denver Public Schools state-certified indirect cost rate. Charges to RMSEL may be withheld from the funding provided to RMSEL pursuant to Subsection C below.

RMSEL's expenses incurred in connection with the employment of teachers providing special education services to students with disabilities (above) shall be borne entirely by RMSEL.

1. Excess Costs. With respect to students with disabilities who reside in other school districts, the Denver Public Schools shall determine whether excess costs should be charged to the district of residence pursuant to C.R.S. § 22-20-109(5), and any amounts paid as excess costs shall be paid to Denver Public Schools to defray extra costs incurred by the Denver Public Schools in providing special education services to the student.

However, if RMSEL provides transportation services to a non-resident student with disabilities as a related service, it shall enter into a contract with the student's district of residence for payment to RMSEL of any transportation services arranged for by RMSEL.

- ii. Student Information Data Processing System. Unless otherwise agreed upon in writing by the Denver Public Schools and RMSEL, the Denver Public Schools shall provide to RMSEL the use of the Denver Public School's student information data processing system. The use of such system is essential to the transmission of data between RMSEL and the Denver Public Schools to fulfill district, state and federal reporting requirements. RMSEL shall use such system and shall adhere to all Denver Public Schools directives, processes and timelines, with respect to such use. Accurate information will be provided by RMSEL according to Denver Public Schools provided timelines to ensure state and federal reporting deadlines are met including such documentation as is required to verify student enrollment. In addition, both parties acknowledge that the data recorded in the student information system informs certain measures on the School Performance Framework. RMSEL shall install and maintain such equipment as is necessary to use such system. By way of this Agreement, Denver Public Schools and RMSEL agree that RMSEL will pay an amount equal to the cost of the system licensing and support, as computed on a per pupil basis. Denver Public Schools will provide training and support in the use of the student information system. In addition, Denver Public Schools will provide three user accounts for the school's use. Use of the system shall be coordinated through the Office of School Choice & Enrollment or successor office. RMSEL shall reimburse the Denver Public Schools for actual costs incurred in submitting data for the annual October count, and any other agreed upon Denver Public School Services.
- c. Disbursement of Funding. RMSEL shall receive disbursements from the Denver Public Schools as follows:
  - i. On July 15<sup>th</sup> of each fiscal year, twenty-five percent (25%) of the funding provided for the projected pupil membership shall be allocated to RMSEL. It is understood that this July 15<sup>th</sup> installment will be remitted upon the Denver Public Schools receiving RMSEL's BOCES approved budget for the year.
  - ii. The remaining state funds adjusted to reflect the official pupil membership on October 1<sup>st</sup> of that school year and the Colorado Department of Education calculation of Denver Public Schools per pupil funding payable under this Agreement shall be disbursed monthly after October 15<sup>th</sup> throughout the duration of each year.
- d. Adjustment to Funding. The Denver Public Schools' disbursement of funds will be adjusted as follows: January 15<sup>th</sup> of each year, funding may be revised based on the number of FTE pupils actually enrolled at RMSEL as determined at the October 1<sup>st</sup> count and included in the official membership count, and to reflect any change in PPR, positive or negative, so that the overall funding for the year is equal to the PPR provided for in this Agreement.

- e. Funding Contingency. If the Denver Public Schools is not provided funding pursuant to the Public School Finance Act of 1994, § 22-54-101, *et seq.*, C.R.S., as to any student or students attending RMSEL, the sponsoring district in which each such student resides shall be responsible for payment to RMSEL of a sum equivalent to that sponsoring district's per pupil revenue, and RMSEL shall reimburse the Denver Public Schools for any funding provided to RMSEL by the Denver Public Schools for such student.

11. Insurance and Legal Liabilities.

- a. Insurance. RMSEL will provide and maintain adequate insurance necessary for the operation of RMSEL.
  - b. Limitation of Liabilities. In no event will the sponsoring districts, their board members, officers, employees, or agents be responsible or liable for the debts, acts or omissions of RMSEL, or its board members, officers, employees, or agents.
  - d. Indemnification. To the extent permitted by applicable law, including specifically, Article IX, Section 1 of the Colorado Constitution, RMSEL agrees to indemnify and hold the sponsoring districts, their board members, officers, employees, and agents harmless from all liability, claims and demands arising from any suit, action, grievance, charge or proceeding brought in connection with or related to RMSEL's operation or the conduct of any of the RMSEL's employees, agents, or representatives. RMSEL's indemnification and hold harmless obligation shall include all damages, attorneys' fees, costs, and expenses incurred by any sponsoring district.
  - e. Formal Notification of Legal Action. RMSEL shall provide written notice to the sponsoring districts in the event that RMSEL is named as a defendant in a threatened or current legal action. Such notice shall be given no later than fifteen (15) business days after the date at which the legal action was filed or threatened. For purposes of this subsection, notice to the sponsoring district shall be deemed given if sent electronically to the sponsoring districts' RMSEL Board member representative and with a copy sent to the sponsoring districts' general counsel. RMSEL shall provide periodic status reports to all sponsoring districts on all pending legal matters.
12. Content Standards. RMSEL shall ensure that its students meet or exceed the content standards of the sponsoring districts.
13. Accreditation. RMSEL shall maintain accreditation through a process approved by the BOCES through the Colorado Department of Education.
14. Student Fee. RMSEL's curricular expeditionary and instructional programming shall be accessible to all students. To that end, RMSEL aspires to fully fund all student curricular programming for families with financial need through voluntary donations and/or grants. Beginning with school year 2022-2023, RMSEL will cover fee waivers for students meeting the federal standards for Free or Reduced Lunch. To ensure that all qualifying students have access to these fee waivers, RMSEL shall include in the recruitment plan described in Section 9(d) hereinabove, a section detailing minimum disclosure requirements to prospective students regarding the availability of fee waivers for curricular expeditionary or instructional programming. RMSEL will also work toward funding additional waivers or scholarships for students who do not qualify for Free or Reduced Lunch, but have financial barriers to accessing RMSEL's programming.

15. Employment Policies and Practices. RMSEL shall follow the policies and procedures set forth in the RMSEL Personnel Handbook, as such may be amended by time to time by the BOCES, including the salary schedule and dispute resolution process set forth in that handbook. RMSEL shall not be deemed bound by the provisions of any employment contract or collective bargaining agreement in effect between any sponsoring district and any of its employees or employee representatives. Any employee of RMSEL may retain membership in any employee organization, provided that no such organization shall be recognized for collective bargaining purposes absent approval of each sponsoring district.
16. Record Keeping. RMSEL shall maintain appropriate financial records and make those records available to the sponsoring districts for review at any time. RMSEL will comply with all confidentiality requirements required by the Colorado Open Records Act, C.R.S. § 24-72-101 *et seq.*, and the Family Education Rights and Privacy Act, 20 U.S.C. 1232(g)(“FERPA”).
17. Audit. RMSEL shall engage the services of an independent auditor to audit its financial and administrative operations each year. The report of such audit shall be provided to the sponsoring districts.
18. Compliance with Laws. RMSEL shall operate in compliance with all applicable federal, state, and local laws, ordinances, and regulations.
19. Nondiscrimination. RMSEL shall not discriminate against any person on the basis of race, creed, color, sex, age, national origin, religion, ancestry, sexual orientation, gender identity or expression, transgender status, immigration/citizenship status, ancestry, pregnancy, parenting or marital status, veteran status, or disability. To the extent RMSEL engages in or is alleged to have engaged in discriminatory practices, it expressly agrees to hold harmless and indemnify the sponsoring districts, its board members, officers, employees, and agents from all liability, claims, and demands arising from any suit, action, grievance, charge or proceeding, pursuant to this Agreement.
20. Strategic Plan. RMSEL will create a Unified Improvement Plan that is tailored to its student population, rooted in data such as student outcomes and/or disparities in special education identification, discipline and/or Gifted and Talented designations, including but not limited to a Black Excellence Plan, a plan for students of color, a plan for multi-language learners, and a plan for students with disabilities. RMSEL will also continue to monitor disaggregated data for all its students to address any areas of concern related to disparities among subgroups.
21. Student Suspension, Expulsion and Denial of Admission Procedures. RMSEL shall ensure that its discipline policy as implemented for all students complies with Sections 22-32-109.1 and 22-33-105 of the Colorado Revised Statutes. The BOCES Board hereby delegates to RMSEL’s Dean of Students the authority to suspend a student for not more than five days, or up to ten days in the case of “serious” violations of state law pursuant to C.R.S. § 22-33-106(d), for conduct that violates state law, the RMSEL Student Handbook or school policies or procedures. The BOCES Board hereby delegates to RMSEL’s Executive Director the authority to deny admission to or expel for any period of time not extending beyond one year any student whom the Executive Director or a designee shall determine after a hearing, if one is requested by the student/parent/guardian, does not qualify for admission to or continued admission in or attendance at RMSEL in accordance with the limitations imposed by Title 22, Article 33 of the Colorado Revised Statutes and RMSEL Policy. To the extent practicable, the hearing shall not be conducted by an employee of RMSEL or member of the BOCES Board. If the hearing is conducted by a designee serving as a hearing



officer, the hearing officer shall prepare findings of fact and recommendations for the Executive Director at the conclusion of the hearing. The Executive Director shall render a written opinion within five days after the hearing whether the hearing is conducted by the hearing officer or Executive Director. The Executive Director shall also notify the student/parent/guardian that they may appeal the decision to expel or deny admission to the student to the BOCES Board within ten days after receipt of the decision of the Executive Director or designee. When the decision to expel is final, either after appeal or when the student and his or her parent/guardian waive the right to appeal, then the Expeditionary BOCES shall be responsible for offering the student educational alternatives, if requested by the student and his or her parent/guardian. Further, if, after the expulsion period, the student thereafter seeks to return to the student's sponsoring district, the sponsoring district has the authority, pursuant to C.R.S. § 22-33-106(2) and (3), to deny admission to the student. The BOCES Board shall adopt and amend from time to time a student handbook and other school policies and procedures, including without limitation, enrollment eligibility criteria, and student conduct and discipline guidelines consistent with applicable law.

22. Students with Disabilities. Notwithstanding anything in this Agreement to the contrary and unless otherwise agreed to by the Superintendent for the Denver Public Schools or his designee and RMSEL, special education services, related services, and accommodations for students who are eligible under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), or the Americans with Disabilities Act (ADA) shall be provided as follows:

- a. Denver Public School's Responsibilities. The Denver Public Schools, as the Local Education Agency (LEA), is responsible for ensuring that the requirements of federal special education law and regulations are met at RMSEL, and that special education and related services are provided at RMSEL in the same manner that Denver Public Schools provides such services at other schools in the Denver Public Schools. Accordingly, the Denver Public Schools will provide administrative and special services using Denver Public Schools staff (except as set forth herein), forms, documents, and procedures. Denver Public Schools will oversee and monitor all referral processes, evaluations, reevaluations, eligibility determinations, placement decisions, and development and implementation of IEPs for students with disabilities. Additionally, the Denver Public Schools will oversee procedural compliance with federal and state law and regulations concerning the education of students with disabilities. If RMSEL and the Denver Public Schools disagree as to the correct interpretation or application of a statute or regulation concerning the education of students with disabilities, the Denver Public Schools' position will control. The Denver Public Schools will provide training, consultation and advice to RMSEL as needed with regard to Section 504 compliance, including legal interpretations, recommendations for intervention strategies, and assistance in conducting Section 504 plan and review meetings.
- b. RMSEL's Responsibilities. RMSEL will comply with all Denver Public Schools' Board policies, procedures and regulations and the requirements of federal and state law and regulations concerning the education of students with disabilities, including providing a continuum of services to meet the needs of students with disabilities enrolled in the school so that they may access the RMSEL curriculum (both direct services inside the classroom and additional supports outside of the classroom, as appropriate). RMSEL will cooperate with and assist the Denver Public Schools in the delivery of special education services. By way of illustration and not by way of limitation, such cooperation and assistance shall

include making available reasonable times and places, including an appropriate resource room or work area, during the regular school day for the provision of special education services, providing time at RMSEL's expense for the student's general education teachers to attend IEP meetings and other meetings and to provide consultation to the Denver Public Schools' special education staff concerning students, and providing appropriate meeting rooms at RMSEL site for meetings with parents. Additionally, RMSEL will be responsible for compliance with Section 504 and the ADA in its general curriculum, including but not limited to implementation of any formal Section 504 Plan that has been developed for a student.

RMSEL shall employ the teachers necessary to provide specialized instruction to its students with disabilities. Such teachers shall be properly trained, licensed and endorsed to provide the special education services for which they are employed, including meeting the definition of "highly qualified teacher" pursuant to the Elementary and Secondary Education Act and IDEA, as amended from time to time, and shall have such other training and qualifications as the Denver Public Schools may in its discretion prescribe from time to time for similarly situated Denver Public Schools teachers. The number of teachers employed to provide special education to RMSEL students with disabilities shall be determined in accordance with generally applicable Denver Public Schools requirements. The Denver Public Schools reserves its right to require RMSEL to assign a different teacher to provide special education to students with disabilities if the Denver Public Schools determines that the teacher employed by RMSEL in that capacity is not properly trained or qualified or is not delivering special education services in accordance with applicable law or Denver Public Schools policies or procedures, Denver Public Schools shall provide written notification of any compliance and/or violation of policy or procedure to the Executive Director of the BOCES, as teacher employment per contract is of the BOCES. The Executive Director of the BOCES shall coordinate with the Denver Public Schools, Director of Special Education, and respond in writing to any violation of policy or procedure within 10 days of notice.

- c. Provision of Services for Students with Disabilities: The School shall provide a Free and Appropriate Public Education (FAPE) in the least restrictive environment at RMSEL in its existing programs and at its current level of staffing to students with disabilities in accordance with applicable law and policy.
- d. Admission Process/Procedure. To ensure that the needs of students with disabilities are met, RMSEL shall do the following:
  - i. Following the application deadline and upon completing the lottery described in Section 9, RMSEL will obtain from the student or most recent district of attendance the most recent IEP or Section 504 Plan, if any.
  - ii. Immediately upon receipt by RMSEL, the IEP or Section 504 Plan will be provided to RMSEL's licensed special education teacher, or regular education teacher, as applicable.
  - iii. Prior to the decision to admit or deny admission to RMSEL as a school of choice option for an applicant that has an IEP or Section 504 Plan, a transition IEP or Section 504 meeting shall be held in accordance with applicable state and federal laws and Denver Public Schools policies and procedures to determine whether RMSEL can provide the

special education and/or related services and accommodations required by the student's IEP or Section 504 Plan. Representatives from the student's prior district will be invited to participate in the IEP team meeting at RMSEL. The student's application for admission is contingent upon the determination by the IEP team that the student can receive FAPE in the least restrictive environment at RMSEL at its current level of staffing in accordance with applicable law and policy. If the determination is that FAPE is not available, the student's application for admission will be denied and the student's current placement will remain as determined by the prior IEP team meeting, unless changed at a RMSEL IEP team meeting. Additionally, an applicant that has an IEP or Section 504 Plan who is seeking placement at RMSEL may also be denied admission for those reasons an applicant without disabilities may be denied admission.

- iv. Admission and transition of applicants with an IEP or Section 504 Plan shall be in compliance with all requirements of applicable state and federal laws and Denver Public Schools policies and procedures regarding the education of students with disabilities. Every student who is admitted with an IEP or Section 504 Plan from the student's previous school will be placed directly in a program that meets the requirements of such IEP or Section 504 Plan, unless and until a review staffing by the IEP team or 504 Plan review meeting is held and the IEP or Section 504 Plan is changed.
  - e. Transportation. No sponsoring district will provide transportation services to RMSEL's students with disabilities who are attending RMSEL, which is a school of choice. If RMSEL determines that a student with disabilities requires transportation as a related service, RMSEL solely shall be responsible for arranging for the financing and provision of said services.
  - f. Responsibility to Defend. The Denver Public Schools will handle administrative proceedings and provide for the defense and payment of any claims, awards, or damages, including attorneys' fees, resulting from any alleged violation of any applicable law or regulation pertaining to the education of students with disabilities who are enrolled in RMSEL, provided that RMSEL gives its full cooperation to and follows the advice and instructions of the Denver Public Schools in special education and Section 504 related matters, and is in compliance with the terms of this Agreement. RMSEL and/or Denver Public Schools will provide periodic status reports to the other sponsoring districts on the status of such matters.
  - g. Risk Management. RMSEL will promptly report to Denver Public Schools' Director of Special Education and all other sponsoring districts any and all pending or threatened claims or charges, promptly provide the Denver Public Schools' general counsel and Risk Management department with all notices of claims, cooperate fully with the Denver Public Schools in the defense of any claims asserted against Denver Public Schools, its board members, agents or employees arising from or related to the responsibilities of the parties described in this Section 22, and comply with the defense and reimbursement provisions of the Colorado Governmental Immunity Act and Denver Public Schools' and RMSEL's applicable insurance policies.
23. Gifted and Talented Students. RMSEL will implement the Denver Public Schools' process for identifying gifted and talented students. Further, RMSEL will develop programming for identified students that complies with state rules to create and maintain an Advanced Learning Plan ("ALP") for each student who is identified as gifted and talented. Finally, the School will identify an

employee who will be responsible for the following: overseeing implementation of the identification process (including universal assessments), drafting ALPs, and ensuring that Gifted and Talented services are being provided in the classrooms.

24. English Language Learners. The School shall implement a program for English Language Learner (“ELL”) students that uses efficient and effective techniques to provide ELL students with the English language skills they need to meaningfully and equally participate in the School’s mainstream English language instructional program. To satisfy the three-pronged test set forth in *Castaneda v. Pickard* (1981), the School must meet the needs of ELL students in several critical areas, as follows:
  - a. RMSEL shall follow the State’s procedures for identifying, assessing, monitoring and exiting ELL students, consistent with state and federal law.
  - b. RMSEL is required to provide and demonstrate evidence of an English language development block for all ELL students that uses research-based curriculum and resources specifically selected by the School for ELL students.
  - c. RMSEL shall provide Transitional Native Language Instruction (TNLI); or an equivalent in native language supports if it is serving a significant number of ELL students; or provide a program based on an educational theory recognized as sound by experts in the field or that is considered by experts as a legitimate experimental strategy with the resources and personnel to implement this theory effectively.
  - d. RMSEL shall assess whether the program is being implemented with fidelity and conduct ongoing evaluation and adjustment of programs to ensure language barriers are actually being overcome.
  - e. RMSEL shall provide English Language Acquisition (ELA) program services by ELA teachers who are fully ELA qualified.
  - f. RMSEL shall identify a school administrator, or an administrator-designee, with ELA expertise to provide oversight and evaluate the effectiveness of ELA services provided by RMSEL.
25. Administrative Policies. RMSEL shall annually undertake a review of its policies. RMSEL will adopt Denver Public Schools’ policies as required by that certain Lease Agreement dated November 1, 2000 as amended by the First Amendment to Lease Agreement dated May 1, 2002, and as extended by an Extension and Amendment to Lease Agreement dated September 2019, and policies required in Section 21 of this Agreement. RMSEL shall also adopt all Colorado Association of School Boards’ sample policies as recommended for a BOCES operating a school.
26. Facilities. RMSEL may be located in a facility provided by the Denver Public Schools, pursuant to the terms and conditions of a lease to be agreed upon between the BOCES and the Denver Public Schools.
27. Third Party Beneficiaries. This Agreement shall not create any right in any party other than the sponsoring districts, nor shall any third party be entitled to enforce any right or obligation that may be possessed by any party to this Agreement.

28. Governing Law and Enforceability. This Agreement will be governed and construed according to the constitution and laws of the State of Colorado. If any provision of this Agreement or any application hereof is found contrary to law, such provision or application will have effect only to the extent permitted by law. Prior to the anticipated renegotiation of this Agreement in 2027, the RMSEL Board will review whether the school should continue to operate as a BOCES.
29. Term of Agreement and Termination. This Agreement shall be effective as of July 1, 2022, and shall continue through June 30, 2027, unless earlier termination as provided herein.
30. Termination. This Agreement may be terminated prior to its expiration date, as follows:
- a. The board of education of any sponsoring district may terminate the Agreement by notifying the BOCES of its intention to withdraw from the Agreement by November 1<sup>st</sup> of any year. Such notice shall be in writing and shall operate to terminate the Agreement effective as of the end of the fiscal year following the year in which notice is given. Notwithstanding a sponsoring district's election to terminate this Agreement and, thereby, its participation in RMSEL, all currently enrolled students from said terminating sponsoring district may remain enrolled at RMSEL through their graduation. Seats vacated by a sponsoring district that terminates this Agreement will be distributed to remaining sponsoring districts proportionate to the other districts' total student FTE at the school.
  - b. Notwithstanding anything contrary in this Agreement, the board of education of any sponsoring district may terminate participation in this Agreement should RMSEL substantially breach any term and/or condition within this Agreement subject to the following provisions. The sponsoring district shall provide written notification of the breach that describes which Agreement terms have been violated by RMSEL to the BOCES. The BOCES shall submit a written plan to cure the breach within thirty (30) days of receipt of the notice from the sponsoring district and such plan shall include a timeline through which RMSEL will cure the breach. If RMSEL does not cure the breach of Agreement per the plan provided, then the sponsoring district shall have the right to terminate participation in this Agreement with ninety (90) days' notice.
  - c. Two-thirds of the members of the BOCES may vote to terminate the Agreement effective as of the end of RMSEL's fiscal year.
  - d. Upon termination as provided above, the non-terminating sponsoring districts may continue to operate RMSEL upon such terms and conditions as they may determine among themselves.
31. Prior Agreement. This Agreement supersedes all prior agreements between the parties concerning the establishment and operation of RMSEL.
32. Non-Assignment. Parties to this Agreement shall not assign or attempt to assign any rights, benefits, or obligations accruing to the Parties under this Agreement unless the other Parties agree in writing to any such assignment.
33. Faith and/or Credit Contracts with Third Parties. RMSEL shall not have authority to extend the faith and credit of any sponsoring district to any third party and agrees that it will not attempt or purport to do so. RMSEL acknowledges and agrees that it has no authority to enter into a contract that would bind a sponsoring district and agrees to include a statement to this effect in each contract

or purchase order it enters into with third parties. RMSEL acknowledges that the same provisions in law that apply to a sponsoring district limit RMSEL's authority to contract.

34. Savings Clause. All terms contained in this Agreement are severable and in the event that any term shall be held invalid or unenforceable by a court of competent jurisdiction, this Agreement shall be interpreted as if such invalid or unenforceable term or condition is not contained herein.
35. Entire Agreement. This Agreement and any Addendum(s) attached hereto constitute the entire agreement between the Parties regarding the matters addressed by this Agreement, and this Agreement supersedes all prior agreements and understandings relating to the subject matter hereof. Amendments may be made to this Agreement in the form of an Addendum, so long as those Addendums are in writing and executed by all parties to this Agreement.

**[Signature Page is Next Page.]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective the day and year first above written.

ADAMS-ARAPAHOE 28J (AURORA PUBLIC SCHOOLS)

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

ARAPAHOE COUNTY SCHOOL DISTRICT NO. 6 (LITTLETON PUBLIC SCHOOLS)

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

CHERRY CREEK SCHOOL DISTRICT NO. 5

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER (DENVER PUBLIC SCHOOLS)

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

DOUGLAS COUNTY SCHOOL DISTRICT RE-1

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary