

NEWARK BOARD OF EDUCATION

Research and Data-Sharing Agreement

**REQUIRED FOR DISCLOSURE OF INFORMATION
PERTAINING TO INDIVIDUAL STUDENTS AND EMPLOYEES
TO PARTIES CONTRACTED TO PERFORM SCHOOL DISTRICT SERVICES OR FUNCTIONS**

Contractor/Consultant Organization: Music and the Brain-Building for the Arts NY, Inc.

Individual(s) Performing Service/Function: _____

Educational Records requested and/or On-site Research Planned (be specific):

Music and the Brain (MATB) is a program of nonprofit Building for the Arts NY, Inc. MATB has partnered with and awarded grants to select Newark Public Schools in the form of music literacy curriculum, ongoing professional development for music teachers, and piano/keyboard lab equipment for use during music classes. Newark music teachers implement lessons using the Music and the Brain curriculum and classroom materials. Music and the Brain has launched a robust web platform called **Music and the Brain All Access** at **learn.musicandthebrain.org** that our partner schools can access through individual teacher and student accounts. To support learning needs for classroom and remote learning, Music and the Brain has adapted our program to be accessible through Music and the Brain All Access for school day lessons and 24/7 student access. Our platform is Google verified for easy sign in for Newark-Music and the Brain partner school use with your existing google sign in credentials. We observe all privacy protections outlined under COPPA and FERPA. Our privacy policy is accessible at <https://learn.musicandthebrain.org/privacy>

Relevance of the requested Education Records and/or On-Site Research to the project or study:

No student educational records are requested or required for use of Music and the Brain All Access. Music and the Brain will set up Music and the Brain-Newark partner school music teacher accounts using their school email address. Student accounts are optional and will be set up by the teacher via a google classroom credential integration. Newark students and teachers will not share any password data with Music and the Brain due to our Google integration. For additional protection, Music and the Brain has a coded system of school identifiers only privy to MATB authorized personnel.

The Family Education Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, is a federal law that applies to all schools receiving funds under a program of the United States Department of Education. FERPA, which protects the privacy of student education records, permits schools to

disclose Educational Records in accordance with designated guidelines, to contractors, consultants and other parties performing services or functions for which the School District would otherwise use employees. Contractor and their agents agree to maintain all client information confidentially in accordance with all New Jersey state and federal laws and regulations, including but not limited to, the federal Children’s Online Privacy Protection Act of 1998 (“COPPA”)(15 U.S.C. Sec, 6501 et seq.), the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Family Educational Rights and Privacy Act (“FERPA”), Federal Regulations (42 CFR-Part 2 and 42 CFR-Parts 160 & 164), and the N.J. Children of Substance Abusers Legislation of 1999 (N.J.S.A. 18A:40A-7.1). It is specifically acknowledged and agreed upon by that parties that willful or negligent unauthorized disclosure of personal information in Education Records by Contractor to any unauthorized person or third party shall entitle the Board and the Newark Public Schools (collectively “NPS”) to seek any remedies available to NPS at law or in equity and to terminate any services or agreement for services immediately.

The Contractor/Consultant Organization, and the Individual(s) named above on behalf of the Contractor/Consultant Organization, will be provided access to and/or disclosure of education records of current and/or former NPS students and employees in order for such Individual(s) to perform the service or function described in the contract between the Contractor/Consultant Organization and NPS (attached hereto as Exhibit A), subject to the terms and conditions set forth below.

A. Specific terms and conditions of access/disclosure of education records and employee records, if any:

N/A

B. Confidentiality of Education Records and Conditions of Access/Disclosure.

1. The Contractor/Consultant Organization understands and agrees that it is performing a service or function for which NPS would otherwise use employees, and that, with respect to the use and maintenance of education records, employee records and personally identifiable information pertaining to NPS students and employees, the Individual(s) identified above and any other employees or agents of the Contractor/Consultant Organization are performing such service or function under the direct control of NPS, under the supervision of the NPS administrators or managers to whom they report, and in accordance with all applicable NPS policies.

2. The Contractor/Consultant Organization and its officers and agents may use the education records, employee records and personally identifiable information disclosed to them only in order to perform the service or function set forth in the NPS Contract.

3. It is understood that all education records, employee records and personally identifiable information pertaining to NPS students and employees shall be treated as confidential whether or not explicitly designated as such. Neither the Contractor/Consultant Organization nor any of its employees or agents will disclose any education records or any student's personally identifiable information to any other party without the prior written consent of the student (if an adult) or the student's parent. Neither the Contractor/Consultant Organization nor any of its employees or agents will disclose any employee records or any employee's personally identifiable information without the prior written consent of the employee.

4. The Contractor/Consultant Organization shall immediately advise NPS in writing of any unauthorized use or disclosure of education records, employee records, or personally identifiable information relating to any NPS student or employee.

C. Criminal History Record Checks.

5. The Contractor/Consultant Organization shall provide proof to NPS that each worker(s), subcontractor(s), agent(s) and representative(s) assigned to a project involving contact with children has had a criminal history background check, and that said check indicates that no criminal history record information exists on file in either the Identification Division of the Federal Bureau of Investigation or the State Bureau of Identification which would disqualify said employee from employment pursuant to N.J.S.A. 18A:6-7.1 et seq or from coming into contact with school children. Failure to provide proof of a criminal history background check for any employee at a contract school location will be deemed a breach of contract by the Contractor. The Contractor shall not employ or utilize at any school location any person who is, or becomes, disqualified from coming into contact with children, or from employment or service, as a result of his or her criminal history record. The Contractor shall notify NPS immediately of any notice of disqualification Contractor receives with respect to any employee, consultant or volunteer it is utilizing as part of its contract with NPS.

D. Indemnification.

6. In consideration for execution of this Data-Sharing Agreement and the benefits to be received by the Contractor/Consultant Organization (which are acknowledged to be good and valuable consideration), the Contractor/Consultant Organization hereby agrees to fully indemnify, release, protect and hold harmless NPS, the Board, its Board of Education and members thereof, the Superintendent, and the Board's/NPS' officers, employees, agents and representatives as well as the respective heirs, personal representatives, successors and assigns, of any and all of them from and against any and all losses, damages, costs, expenses, claims and liabilities (including all attorneys' fees and costs), which the Board or NPS or any of the parties listed in this paragraph may suffer or incur as a result of the willful, reckless or negligent acts, errors or omissions of the Contractor/Consultant Organization, its employees or agents, including but not limited to the Individual(s) listed above, in connection with the service or function to be performed in accordance with the NPS Contract.

By signing this Agreement, the Contractor/Consultant Organization agrees to be bound by these terms and conditions, and I represent that I am authorized to so agree on

behalf of the Contractor/Consultant Organization. The Contractor/Consultant Organization further agrees that any and all individuals to whom education records, employee records or personally identifiable information pertaining to NPS students or employees are disclosed in the course of performance of the NPS Contract will be bound by these terms and conditions. In the event of any inconsistency or conflict between this Agreement and any other agreement between the parties, the terms of this Agreement shall apply. This agreement shall be governed by the laws of the State of New Jersey. This agreement may be terminated. NPS may terminate this Agreement at any time for any reason, by written notice to the other Party. Termination of this Agreement shall not abrogate any remedy provided for in this Agreement.

I understand and acknowledge that any breach of these terms and conditions may result in liability on the part of the Contractor/Consultant Organization for compensatory, punitive and consequential damages; and that NPS also shall be entitled to any other remedies for such breach allowable by this Agreement or applicable State and Federal law.

Music and the Brain/Building for the Arts NY, Inc.
CONTRACTOR/CONSULTANT ORGANIZATION

2/22/21
Date

By: Lisala Beatty

Name: Lisala Beatty

Title: Director, Music and the Brain

Date of NPS Approval: _____
(NPS Only – Do not fill out)