

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**SETON HALL UNIVERSITY UPWARD BOUND PROGRAM**  
**and the**  
**Newark Board of Education**

The terms and conditions in this Memorandum of Understanding (“MOU”) will govern and take precedence over any other Agreement by and between **SETON HALL UNIVERSITY** for its **UPWARD BOUND PROGRAM** located at **400 SOUTH ORANGE AVENUE, SOUTH ORANGE, NEW JERSEY 07079** (“Partner”) and **THE NEWARK BOARD OF EDUCATION** (the “Board”) located at 765 Broad Street, Newark, NJ 07102.

**WHEREAS**, Partner is a not-for-profit educational corporation in the State of New Jersey that participates in the Upward Bound Program in order to provide, *inter alia*, **ACADEMIC SUPPORT TO STUDENTS FROM NEWARK SCHOOL DISTRICTS**; and

**WHEREAS**, Partner’s staff has the education, certification, training and/or work experience in this area so as to be able to provide these services responsibly; and

**WHEREAS**, the Board voluntarily desires to allow Partner to provide such services to the Board.

**NOW THEREFORE**, in consideration of the mutual promises and covenants set forth in this MOU, the receipt and sufficiency thereof being acknowledged by both parties, the Board and Partner hereby agree as follows:

**SCOPE OF SERVICES:**

Upward Bound provides fundamental support to participants in their preparation for college entrance. The goal of Upward Bound is to increase the rate at which participants complete secondary education and enroll in and graduate from institutions of postsecondary education. Participants will have the opportunity to come to Partner’s South Orange campus two (2) Saturdays a month during the school year to engage in the Upward Bound Program.

**ADDITIONAL TERMS**

**1. New Jersey Law** - The MOU shall be governed by and construed in accordance with the laws of the State of New Jersey. Any and all proceedings relating to the subject matter hereof shall be maintained in the courts sitting in New Jersey, which courts shall have exclusive jurisdiction for each purpose. The parties agree that any and all claims arising under this Agreement, or related thereto, shall be heard and determined in a court of competent jurisdiction in New Jersey. The parties waive any trial by jury.

**2. Criminal History Background Checks** - Partner shall ensure that each worker(s), subcontractors(s), agent(s) and representative(s) assigned to a school location or 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. Partner must ensure that said background checks are performed no later than thirty (30) days after execution of this MOU. The services under this MOU shall not begin or proceed until Partner complies with the requirements of this section. Failure to ensure that criminal history background check(s) are performed within said time limitation shall be deemed a material breach of this agreement by Partner, and as such, serves as a basis for the Newark Board of Education to immediately terminate this MOU.

**3. Funding** - This MOU is not a commitment of funds. No monies will be exchanged between the parties for the services rendered or received. It is expressly understood by the parties that the Board's voluntary participation in this MOU does not require any monetary payment of any kind from the Board in exchange for the services being provided by Partner, its subcontractor, agent or representative under this MOU.

**4. Confidentiality** – Partner and/or its agents agree to maintain all staff and student information confidentially in accordance with all New Jersey state and federal laws and regulations, including but not limited to, the Children's Online Privacy and Protection Act ("COPPA"), 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). To the extent that any services are performed by Partner virtually using the internet or some other remote means of electronic transmission, Partner shall ensure that any online internet providers, platforms or other remote means of electronic transmission that it may use to deliver said services are sufficiently secure and adequately safeguard student information, is compliant with all relevant state and federal laws including COPPA, and must be compatible with and comply with the technical requirements of the Board's computer network and/or must be on a Board pre-approved online platform.

**5. Indemnification** - In addition to any liability or obligation to the Board that may exist under any other provision of this MOU or by statute or otherwise, Partner hereby agrees to indemnify, save and hold harmless the Newark Board of Education, the Superintendent, its Board and any of its employees, agents and representatives from and against any and all damages, lawsuits, claims, liabilities and expenses, including reasonable attorney's fees and court costs, which the school district or the Board may sustain, be subject to or be caused to incur by virtue of or as a result of any settlement approved by Partner or of an adverse determination of any claim, demand, suit, proceeding, action or cause of action for any matter or claim involving personal injury or property damage to the extent arising from a negligent act or omission by Partner, its trustees, regents, employees or officers, in connection with their responsibilities under this MOU.

**6. Term/Termination for Convenience** – The term of this MOU shall be in effect for the 2021/2022 school year. Either party may terminate the service provided by Partner at any time, without penalty and for convenience, upon ten (10) days written notice to the other party.

**7. Commercial Insurance** - Partner shall procure and maintain for the duration of the MOU commercial insurance against claims for injuries to persons and/or damages to property which may arise from or in connection with the performance of work hereunder by Partner, or its agents,

representatives, employees or subcontractors. Partner represents and warrants that all work provided hereunder will be performed by persons who are licensed, certified and experienced to furnish the Board with these services. This MOU shall be contingent upon proof of insurance coverage for the entire term, notwithstanding that the Newark Board of Education may accept any in place of coverage at the time of the execution of this agreement which may be due to expire prior to the completion date of this agreement.

The Newark Board of Education is to be added as an **additional insured** but only as our interests may appear on all Certificates of Insurance as indicated below.

#### MINIMUM SCOPE AND LIMITS OF INSURANCE

- A. Comprehensive General Liability Insurance including Completed Operations Coverage, covering bodily injury, personal injury and property damage. Limits of Liability shall be not less than \$1,000,000 Combined Single Limit.
- B. Workers' Compensation and Employers Liability Insurance as required by the State Law of New Jersey and as indicated in I.5.1.
- C. Commercial Automobile Liability Insurance, with limits of liability not less than \$1,000,000 Combined Single Limit.

**8. Independent Entities** - None of the provisions of the MOU are intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purposes of effecting the provisions of the MOU. Neither of the parties, hereto, nor any of their respective officers, directors or employees, shall be construed to be the agent, employee or the representative of the other.

**9. Compliance with local and federal laws** – Both parties agree to comply with all federal, state, and local laws applicable to this MOU. Partner also agrees that it will not discriminate under federal and New Jersey state law based on race, color, religion, sex, sexual orientation, national origin or physical or mental handicap.

**10. Compliance with Board Policies and Procedures** - Partner shall ensure that each worker(s), subcontractors(s), agent(s) and representative(s) assigned to a school location or to a project involving contact with children will comply with the Board's Conduct policy as well as all local, state and federal laws and regulations, including those related to public health. Partner also agrees to abide by any safety regulations, executive orders and/or state mandates that may be issued by any state or federal agency governing and/or relating to maintaining the public health and safety including, but not limited to, the use of temperature checks, masks, gloves and social distancing. Should any of Partner's worker(s), subcontractors(s), agent(s) and/or representative(s) violate any Board policy or public health and safety policy, the Board retains the right to request and have Partner remove said worker(s), subcontractors(s), agent(s) and representative(s) from the school location and/or the program altogether.

**11. Modifications** - This MOU may only be amended or modified by mutual written consent of the parties.

**IN WITNESS WHEREOF**, Partner has caused these Certifications, Representations and Special Conditions to be signed by its authorized officer.

SETON HALL UNIVERSITY

NEWARK BOARD OF EDUCATION

By: \_\_\_\_\_  
Stephen Graham Date

By: \_\_\_\_\_  
Date

Print Name: Stephen Graham

Dawn Haynes

Title: Vice President for Finance and CFO

Board President