

**INTERGOVERNMENTAL AGREEMENT
BETWEEN Yorkville District 115 AND CUSD 308 FOR
ACCESS TO SPECIAL EDUCATION PROGRAMS AND SERVICES
2022 - 2025**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into on the date on which it is fully signed, by and between Yorkville School District No. 115 (“D115”) and Oswego Community Unit School District No. 308 (“D308”) (individually, each a “Party,” and collectively, “Parties”).

WHEREAS, this Agreement is authorized by, and entered into in compliance with, Article VII, Section 10 of the Illinois Constitution and the Illinois *Intergovernmental Cooperation Act*, 5 ILCS 220/1, *et seq.*; and

WHEREAS, D308 operates the East View Academy (EVA) Program, a public K-12 therapeutic day school designed to provide an academic curriculum with intensive behavioral and emotional supports; the SKILLS program for students in need of behavioral supports; the Deaf and Hard of Hearing (DHH) Program; and the STARS Program for students with autism; (collectively, “Programs”), and

WHEREAS, D115 desires to send a student(s) to D308’s:

_____	EVA Program
_____	SKILLS Program
<u> x </u>	DHH Program
_____	STARS Program

during the 22/23, 23/24, 24/25 school years; and

WHEREAS, the Parties believe it is in their best and mutual interests to agree to such access as set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions contained in this Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Term.**
The term of this Agreement is three (3) years, beginning July 1, 2022 and terminating on June 30, 2025 or at the end of the 24/25 D308 ESY session, whichever is later.
2. **D115’s Access to D308 Programs.**
 - a. During the term of this Agreement, D115 may place a student in D308’s EVA Program, SKILLS Program, DHH Program, or STARS Program upon approval by the D308 Executive Director of Education, provided that: (i) D115 completes and

submits the Student Referral Process Form, attached hereto as Exhibit D, to D308's Executive Director of Special Education or designee for approval, (ii) sufficient space is available in the program as determined by D308, and (iii) the student meets the program admission's criteria as determined by D308.

- b. D115 shall submit to D308 all pertinent case study and student record information including the most current IEP for each student that D115 seeks to enroll in a D308 program. D308 shall notify D115 within seven school days whether D308 will accept the student into one of its programs. If additional time is needed, the parties will mutually agree upon a reasonable timeframe within which a decision will be made.
- c. D115 students placed in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program also have access to Extended School Year ("ESY") services if indicated in the student's IEP. By April 15 of each year, D115 will communicate with D308 regarding its students' attendance for the upcoming ESY term. This communication will be by email to the lead administrator for the program (e.g., the Assistant Director of Deaf/ Hard of Hearing for the DHH Program).

D308 will rely on this information to make staffing decisions. If D115 indicates that a specific student will attend ESY and the student does not attend ESY, D115 will be billed for the full ESY term. In the event a student's placement for the following school year is changed after April 15, D115 will not be responsible for the student's ESY tuition unless the student attends the D308 ESY Program.

3. Program Services. For D115 students placed in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program:

- a. Program services will be provided by D308 in accordance with each student's IEP, except as otherwise stated herein.
- b. Assessments and reevaluations will be conducted by D308, with the exception of IEEs requested by a parent/guardian or other party, or private evaluations at public expense agreed upon through an IEP team decision. In these instances, D115's local educational agency representative will determine approval for such an evaluation, and D308 shall have no responsibility to conduct or pay for such evaluation.
- c. IEP meetings will be attended by appropriate D308 program staff and a representative of D115 who will serve as the local educational agency representative.
- d. D115 is responsible for providing any individual assistive technology devices or equipment, including audiological equipment, identified in a student's IEP, and for providing any related training. Any such device or equipment will be procured by and remain the property of D115. D115 will reimburse D308 for the costs incurred

by D308 for all audiological services and any costs to replace or repair such devices or equipment.

- e. D308 will supply an individual (1:1) aide for any D115 student who has an IEP providing for such an aide, subject to reimbursement from D115 as set forth below.
- f. D308 must obtain written approval from D115 for any additional specialized services, evaluations or equipment provided to D115 students (e.g., O&M or bilingual special education evaluation). If approved by D115, D308 shall provide the required specialized services or items, and invoice D115 for its direct cost.
- g. D115 shall provide any individual equipment and supports (e.g., technology or materials) including equipment repairs, or reimburse D308 for the provision of any such equipment, supports or repairs identified by D308 as necessary should D308 go to a remote learning program. Any such equipment and supports will be procured by and remain the property of D115.
- h. Transportation to and from D308's programs will be secured and funded by D115.

4. Tuition and Reimbursement.

- a. For each D115 student enrolled in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program, D115 will pay tuition equal to D308's per pupil cost for the program as calculated via ISBE form 50-66A (Special Education Tuition Cost Sheet), attached hereto as Exhibit A, and ISBE form 50-66C (Special Education Tuition Bill and Claim Computation), attached hereto as Exhibit B.
- b. In addition, for each D115 student enrolled in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program, D115 will reimburse D308 for the following costs: all salary, stipends and benefits for all individual (1:1) aides and/or Sign Language Interpreters assigned to any D115 student (minus the Evidence Based Funding-Personnel offset included on line 33 of D308's ISBE form 50-66A Special Education Tuition Cost Sheet) for the time such aides are providing services to D115 students.
- c. In the event a D115 student who is assigned an individual (1:1) aide and/or Sign Language Interpreter is no longer enrolled in a D308 program during the course of a year, D308 will make every attempt to reassign the aide. Reassignment of the aide will release D115 from responsibility for the costs associated in section 4b.
- d. A 3% administrative fee will be added annually to the final invoice of the year.
- e. D115 retains the right to submit Medicaid Fee for Service claims for all of their students enrolled in D308's programs. D308 shall cooperate with D115, without cost, in seeking such reimbursements.

5. Billing Statements and Payments.

- a. By February 1 of each year, D115 will notify D308 in writing of the number of the D115 student(s) anticipated to attend each D308 program for the upcoming school year.
 - b. By June 30 of each year, D308 will notify D115 of the total projected cost (tuition, administrative fee and aide reimbursement) for each student accepted by D308 for the upcoming school year. Projected costs will be calculated based on projected student enrollment and the ISBE form 50-66A Special Tuition Sheet from the previous school year plus an additional 2%.
 - c. By October 1 of each year, D308 will issue an invoice to D115 for 75% of the total projected costs. D115 will pay the invoice in accordance with the *Local Government Prompt Payment Act* (50 ILCS 505/1, et seq.).
 - d. By June 15 of each year, D308 will establish the actual final costs and issue a final invoice for any remaining balance to be paid by D115 using ISBE form 50-66C. Any such balance will be paid by D115 in accordance with the *Local Government Prompt Payment Act* (50 ILCS 505/1, et seq.).
 - e. In the event that D115's initial payment exceeds the actual final costs (resulting in an overpayment by D115), D308 will issue a refund to D115 by July 15.
- 6. Responsibility Retained by D115.** The terms of this Agreement notwithstanding, for each D115 student placed in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program, D115 remains the student's resident school district for all purposes, remains ultimately responsible for the student's educational services, remains responsible for providing the student with a free appropriate public education in the least restrictive environment, and remains solely responsible for any and all costs associated with due process, State complaint, mediation or other litigation costs associated with the student's placement. D308 will cooperate with any reasonable requests made by D115 related to its defense in the event of a due process complaint, State complaint, or other litigation.
- 7. Student Policies.** Students placed in one of the Programs identified in this Agreement are subject to all policies and procedures related to student rights and responsibilities applicable to students in the attendance center where the program is located.
- 8. Termination of Placement or Services.** D115 or D308 may terminate an individual student's placement in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program upon thirty (30) days' prior written notice to the other Party. A Notice of Withdrawal Form, attached hereto as Exhibit C, will be submitted to D308's Executive Director of Special Education. Except as required elsewhere in this Agreement, tuition/fee accrual for services for the student will terminate immediately after the student's last day of attendance in the program.

9. **Student Records.** The Parties will prepare records and reports in accordance with the *Individuals with Disabilities Education Improvement Act* and Article 14 of the Illinois *School Code* and furnish such documents to each other for each D115 student attending a D308 program.
10. **Notice of Decreased Staffing Needs.** D115 and D308 will cooperate with each other in determining staffing needs for the programs identified in this Agreement. The Parties acknowledge that D308 will consider the information to be provided by D115 by February 1 each year (regarding D115 students anticipated to attend each D308 program for the upcoming school year), and will make staffing decisions based on that information. In the event that D115 fails to give timely notice of non-returning students, D115 will remain responsible for associated costs of staff at then-current levels for one additional school year.
11. **Indemnification.** For purposes of this Section 11, "Loss" is defined as any and all liabilities, damages, claims, demands, judgments, causes of action, costs, expenses (including reasonable attorneys' fees), and losses relating to any D115 student placed in a D308 program and/or relating to any act or omission of either Party in implementing this Agreement and/or otherwise relating to this Agreement.

Each Party agrees to indemnify, defend and hold harmless the other Party and its board members, employees, volunteers and agents, against and from any Loss to the extent the Loss arises out of the acts or omissions of the indemnifying party.

In addition, notwithstanding any other provision of this Agreement, to the extent permitted by law, D115 specifically agrees to indemnify, defend and hold harmless D308 and its board members, employees, volunteers and agents, against and from any Loss to the extent the Loss is based upon or arises out of claims relating to the placement, FAPE, or alleged procedural requirements applicable to any D115 student placed in a D308 program.
12. **No Third-Party Beneficiaries.** This Agreement is entered into solely for the benefit of the contracting Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party.
13. **Amendments.** This Agreement may be modified or amended only by a written agreement executed by D115 and D308.
14. **Contractual Capacity.** Each Party agrees that it has entered into this Agreement voluntarily and knowingly and with the full and complete authority and contractual capacity to do so.
15. **Effect of Agreement.** This Agreement inures to the benefit of and binds each of the Parties, as well as each of their respective successors and assigns.

16. **Complete Understanding.** This Agreement sets forth all of the promises, agreements, conditions, and understandings between the Parties related to the matters addressed in this Agreement. No other promises, agreements, or understandings, whether oral or written, expressed or implied, exist between the Parties.
17. **Governing Law.** This Agreement is to be construed in accordance with the laws of the State of Illinois.
18. **Execution.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile and PDF copies of the Parties' signatures on this Agreement shall be deemed originals.
19. **Insurance.** Each Party shall maintain the following types and minimum levels of insurance during the Term of this Agreement: (i) commercial general liability insurance with limits of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (ii) worker's compensation insurance in the statutorily required amounts and employer's liability insurance with limits of at least \$1,000,000 each accident for bodily injury by accident and each employee for bodily injury by disease; (iii) automobile liability insurance with a limit of not less than \$1,000,000 each accident and such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos); and (iv) umbrella or excess liability insurance on an occurrence basis in amount of not less than \$3,000,000 per occurrence and in the aggregate. The umbrella or excess insurance shall follow the form of the underlying policies.

Each Party hereto shall add the other Party's indemnitees identified in Paragraph 11 as additional insureds on all insurance policies required to be maintained hereunder, with the sole exception being the worker's compensation insurance. Within seven (7) days of the last Party to execute this Agreement, and upon request through the term of the Agreement, each Party shall provide the other with a certificate of insurance evidencing the insurance requirements.

20. **Compliance with Laws.** Each Party shall comply with all applicable laws, rules, regulations and ordinances while providing services under this Agreement.
21. **Notice.** Any notice required under or concerning this Agreement shall be in writing and will be deemed to be delivered when deposited in the U.S. Mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the Party at the address indicated below:

To D115: Superintendent
Yorkville School District
602 A Center Parkway
Yorkville, IL 60560

To D308: Executive Director of Special Education
Community Unit School District 308
4175 Route 71
Oswego, IL 60543

[SIGNATURE PAGE TO FOLLOW]

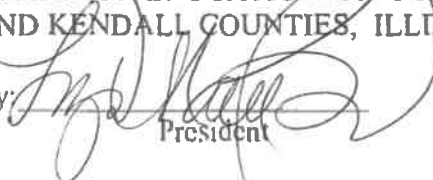
IN WITNESS WHEREOF, the Board of Education of Yorkville School District No. 115 and the Board of Education of Community Unit School District No. 308, by their duly authorized representatives, have signed and executed this Agreement on the date(s) indicated below.

BOARD OF EDUCATION OF COMMUNITY UNIT SCHOOL DISTRICT NO. 308,
KENDALL, KANE, AND WILL COUNTIES, ILLINOIS

By:  Date: July 11, 2022
President

Attest:  Date: July 11, 2022
Secretary

BOARD OF EDUCATION OF YORKVILLE SCHOOL DISTRICT NO. 115, KANE
AND KENDALL COUNTIES, ILLINOIS

By:  Date: 9/12/2022
President

Attest:  Date: 9-12-2022
Secretary