

**INTERGOVERNMENTAL AGREEMENT
BETWEEN PLANO AREA SPECIAL EDUCATION COOPERATIVE AND CUSD 308
FOR
ACCESS TO SPECIAL EDUCATION PROGRAMS AND SERVICES
2023-2026**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into on the date on which it is fully signed, by and between the Administrative and Fiscal Agent of Plano Area Special Education Cooperative (PASEC) and the Board of Education of Oswego Community Unit School District No. 308 (“D308”) (individually, each a “Party,” and collectively, “the 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; and

WHEREAS, PASEC wishes to have access to send students to D308’s EVA Program, SKILLS Program, DHH Program, and STARS program, and D308 wishes to allow such access by PASEC on the terms as set forth in this Agreement; and

WHEREAS, the Parties believe it is in their best and mutual interests and 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, 2023 and terminating on June 30, 2026. If either Party does not intend to renew the Agreement beyond June 30, 2026, that Party shall notify the other Party by January 15, 2026.
- 2. PASEC’s Access to D308 Programs.**
 - a. During the term of this Agreement, PASEC may place its students in D308’s EVA Program, SKILLS Program, DHH Program, or STARS Program upon request, provided that: (i) sufficient space is available in the program as determined by D308, (ii) the student meets the program admissions criteria as determined by D308, and (iii) the request for placement form is submitted to D308’s Executive Director of Special Education for approval.
 - b. PASEC shall submit to D308 all pertinent case study and student record information including the most current IEP for each student that PASEC seeks to enroll in a D308 program. D308 shall notify PASEC within five 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.

- c. PASEC students placed in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program also have access to Extended School Year ("ESY") services. By April 15 of each year, PASEC will communicate with D308 (via the ESY student registration form) regarding its students' attendance for the upcoming ESY term.

3. Program Services. For PASEC 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.
- c. IEP meetings will be attended by appropriate D308 program staff and a representative of PASEC who will serve as the local educational agency representative.
- d. PASEC is responsible for providing any individual assistive technology devices or 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) PASEC.
- e. D308 will supply an individual (1:1) aide for any PASEC student who has an IEP providing for such an aide, subject to reimbursement from PASEC as set forth below.
- f. D308 will seek approval from PASEC for any additional specialized services or evaluations provided to their students (e.g., O&M or bilingual special education evaluation). If approved by PASEC, D308 shall provide the required services and invoice PASEC for the direct cost of the service.
- g. Transportation to and from D308's programs will be secured and funded by PASEC.

4. Tuition and Reimbursement.

- a. For each PASEC student enrolled in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program, PASEC 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.
- b. In addition, for each PASEC student enrolled in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program, PASEC will reimburse D308 for the

following costs: salary and benefits for all individual (1:1) aides assigned to any PASEC student.

- c. A 3% administrative fee will be added annually to the June invoice.

5. Billing Statements and Payments.

- a. By February 1 of each year, PASEC will notify D308 of the PASEC students anticipated to attend each D308 program for the upcoming school year.
- b. By June 30 of each year, D308 will notify PASEC of the total projected cost (tuition and reimbursement) for each student accepted by D308 for the upcoming school year.
- c. By October 1 of each year, D308 will issue an invoice to PASEC for 75% of the total projected costs. PASEC 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 PASEC. Any such balance will be paid by PASEC in accordance with the *Local Government Prompt Payment Act* (50 ILCS 505/1, *et seq.*).
- e. In the event that PASEC's initial payment exceeds the actual final costs (resulting in an overpayment by PASEC), D308 will issue a refund to PASEC by July 15.
- f. D308 will annually issue an invoice to PASEC for the cost for each student who accesses ESY services at the conclusion of the ESY program. PASEC will pay the invoice in accordance with the *Local Government Prompt Payment Act* (50 ILCS 505/1, *et seq.*).

- 6. Responsibility Retained by PASEC.** The terms of this Agreement notwithstanding, for each PASEC student placed in D308's EVA Program, SKILLS Program, DHH Program, or STARS Program, PASEC 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 due process or other litigation costs associated with the student's placement. However, in the event of a due process complaint or other complaint or legal proceeding against PASEC, D308 will cooperate with any reasonable requests made by PASEC related to its defense of the complaint or proceeding.

- 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.** PASEC 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. Tuition/fee accrual for services for the student will terminate immediately after the student's last day of attendance in the program. A Notice of Withdrawal form will be submitted via the Directors of Special Education.
9. **Student Records.** The Parties will prepare records and reports in accordance with the *Individuals with Disabilities Education Act* and Article 14 of the *Illinois School Code* and furnish such documents to each other for each PASEC student attending a D308 program.
10. **Notice of Decreased Staffing Needs.** PASEC and D308 will cooperative 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 PASEC by February 1 each year (regarding PASEC 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 PASEC fails to give timely notice of non-returning students, PASEC 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 PASEC 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, PASEC 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 PASEC 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 PASEC 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. **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 PASEC: Executive Director
Plano Area Special Education Cooperative
800 S. Hale
Plano, IL 60545

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

IN WITNESS WHEREOF, the Governing Board of the Plano Area Special Education Cooperative 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 COUNTY, ILLINOIS**

By: _____
President

Date: _____

Attest: _____
Secretary

Date: _____

**PASEC Administrative and Fiscal Agent
BOARD OF EDUCATION of PLANO COMMUNITY UNIT DISTRICT NO. 88
KENDALL COUNTY, ILLINOIS**

By: _____
President

Date: _____

Attest: _____
Secretary

Date: _____

Exhibit A

ISBE form 50-66A -- Special Education Tuition Cost Sheet

(Attached)