

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the "Agreement") dated March 10, 2014, by and between the Fairfax County School Board which operates the Fairfax County Public Schools including ( Herndon High School) ("FCPS") and Herndon High School Band Parents Association ("Booster Organization") provides as follows:

### I. Purpose

FCPS recognizes the contribution and support, which its athletics, extracurricular activities and educational programs receive from parents and members of the community through booster organizations.

Both FCPS and the Booster Organization agree that the Booster Organization may provide valuable assistance to both the school and the parent community by acting at the direction of FCPS to participate in the implementation of FCPS-sponsored activities that are part of the marching band program, including assisting in the collection and disbursement of student fees. The purpose of this Agreement is to specify terms and conditions under which a booster organization may provide that support to a school when requested to do so by the school principal.

### II. General Terms and Conditions

The assistance to be provided by the Booster Organization pursuant to this Agreement is limited to volunteer services relating to the implementation of FCPS-sponsored marching band activities provided to FCPS and performed under the supervision of FCPS staff. Such volunteer services may include ministerial acts pertaining to the collection and disbursement of student fees (hereinafter, "FCPS funds") that have been approved by FCPS pursuant to the current versions of Regulation 5922, Student Fees, and Notice 5922, Revenue, Tuition, and Fees – Student Fees. Generally, these fees will be for consumables and optional field trips.

Ministerial acts shall include only those actions that are performed at the direction of the school principal or the principal's designee, do not require independent decision making, and are in accordance with procedures set forth in FCPS directives or the current version of the FCPS Guidelines for Use of Band Booster Organizations in the Collection and Disbursement of Student Fees. Booster volunteers acting at the direction of the school principal or the principal's designee and in accordance with these guidelines shall be covered by the FCPS liability plan.

Both FCPS and the Booster Organization recognize that the Booster Organization is an independent entity and distinct from FCPS. This Agreement is not intended to regulate activities such as the Booster Organization's fundraising activities, its accounting for, or expenditure of, Booster Organization funds, and its implementation of Booster-sponsored activities (i.e., activities for which the booster is fully responsible for controlling and managing). The accountability and confidentiality requirements described in Sections III and IV below are intended to apply only to the Booster Organization's actions and records associated with providing volunteer services to FCPS.

under this Agreement. Nothing in this Agreement shall be interpreted to affect or restrict the Booster Organization's status as a tax-exempt, charitable organization within the meaning of the United States Internal Revenue Code and the implementing Internal Revenue Service regulations, including the ability of the Booster Organization to assess and collect optional membership assessments/dues and to solicit and receive tax-deductible charitable donations.

### **III. Accountability of Funds Collected at the Direction of FCPS**

The Booster Organization understands that all collection and disbursement of FCPS funds is the responsibility of the school principal and that such funds must remain under control of the school. Accordingly, the school principal and his or her designee shall have decision making and supervisory authority over the collection and disbursement of FCPS funds. The school principal and his or her designee may direct the Booster Organization to perform ministerial tasks associated with the collection and disbursement of FCPS funds. In performing these tasks, the Booster Organization will adhere and agree to the following requirements:

1. Process receipts and disbursements of FCPS funds in accordance with FCPS policies and regulations and the current version of FCPS Guidelines for Use of Band Booster Organizations in the Collection and Disbursement of Student Fees.
2. Deposit FCPS funds in an FCPS controlled bank account and ensure receipts collected after normal banking hours are safely secured at the school site.
3. Adhere to FCPS internal control procedures for safeguarding the receipts and disbursements.
4. Obtain authorization from the school principal for all disbursements and provide proper supporting documentation.
5. Adhere to FCPS regulations for procuring goods and services and the current version of the FCPS Guidelines for Use of Band Booster Organizations in the Collection and Disbursement of Student Fees.
6. Work with the band director to obtain the written approval of the school principal for an annual budget, which estimates fund collections and planned disbursements for the academic year, before making any purchases with, or otherwise expending, such FCPS funds. Also, obtain the written approval of the school principal before implementing any deviations from such annual budget.
7. Prepare detailed lists of FCPS funds collected from students or parents, to include amount, type of fee, date and form of payment by student.
8. Keep accurate financial records in an FCPS system of all receipts and disbursements associated with FCPS funds and provide a detailed accounting report to FCPS staff on a monthly basis or upon request.
9. Refund monies to parents and/or students according to FCPS refund policy as

described in the current version of FCPS Guidelines for Use of Band Booster Organizations in the Collection and Disbursement of Student Fees.

#### **IV. Disclosure and Exchange of Information and Records**

For purposes of providing volunteer services under this Agreement, members of the Booster Organization performing this function shall be considered to be school volunteers and "school officials" as that term is defined by the Family Educational Rights and Privacy Act (FERPA), 20 U.S. C. § 1232g.

Booster Organization members involved in providing volunteer services under this Agreement shall hold any personally-identifiable student information, other than directory information, provided to them by FCPS staff as confidential. The current version of the FCPS Guidelines for Use of Band Booster Organizations in the Collection and Disbursement of Student Fees will summarize FCPS requirements for confidentiality of personally-identifiable student information.

Booster Organization officials shall promptly notify the school principal of any breach or wrongful disclosure of this confidential personally-identifiable student information.

Any request to release records containing confidential personally-identifiable student information to anyone other than FCPS staff or the parent of the student who is the subject of the record must be referred promptly to the school principal for action.

Records held by the Booster Organization pertaining to volunteer services provided under this Agreement, including confidential personally-identifiable student information pertaining to the collection, maintenance, or expenditure of student fees shall be considered FCPS records. Such records shall be maintained as required by FCPS directives and the current version of the FCPS Guidelines for Use of Band Booster Organizations in the Collection and Disbursement of Student Fees.

To the extent not otherwise available to FCPS on the FCPS systems/network or at the school site, the Booster Organization shall make such records available to FCPS upon request so that it may carry out its business operations, including, but not limited to, responding to disclosure requests under the Virginia Freedom of Information Act (VFOIA) §§ 2.2-3700 to 3714, the Family Educational Rights and Privacy Act (FERPA) 20-U.S.C. §1232g, court orders and subpoenas, investigations and audits. The Booster Organization shall produce requested documents (to the extent they exist) to FCPS staff within five (5) business days. FCPS will extend the 5-day deadline if doing so does not impair FCPS' ability to carry out its business obligations.

#### **V. Termination**

Either party reserves the right to terminate this agreement by providing 30 days written notice. Upon termination, the Booster Organization shall immediately forward the balance of all collected fees and copies of all FCPS records to the school principal.

In the event of noncompliance with the terms of this agreement, FCPS reserves the right to terminate this agreement immediately and require the return of all collected fees and copies of all records within three business days.

## **VI. Term**

The Term of this Agreement is for a period from July 1, 2014 through June 30, 2015 and is applicable to the School Year 2014 - 2015. Unless terminated earlier in accordance with the provisions hereof, this Agreement shall terminate as of June 30, 2015.

## **VII. Notice**

All notices and other communication hereunder shall be in writing and shall be hand-delivered, sent by fax and duplicate copy transmitted by another method of delivery authorized herein, sent by certified first class mail, postage prepaid, or sent by nationally recognized express courier service. Such notices and other communications shall be effective upon receipt if hand-delivered or sent by fax (with a duplicate copy transmitted by another method of delivery authorized hereunder), five (5) days after mailing if sent by mail, and one (1) day after dispatched if sent by express courier, to the addresses or fax numbers of the parties as set forth beneath their signatures on this Agreement.

Either party may designate, by notice given to the other in the manner prescribed herein, any further or different addresses and/or fax numbers to which subsequent notices shall be sent.

## **VIII. No Assignment**

This Agreement may not be assigned by either party, in whole or in part, to any other entity without the prior written consent of the other party hereto.

## **IX. Nature of Relationship**

Nothing contained herein shall have the effect of establishing or creating any joint venture, legal partnership or employment relationship between the parties. Neither party is authorized to obligate the other party, unless such authorization is expressly granted in writing.

## **X. Compliance with Laws**

Each of the parties to this Agreement covenants and agrees that it shall abide by all laws, rules and regulations applicable to the conduct of its official activities and shall make and file all required reports, filings and affidavits required by federal, state or local law, rule or regulation.

## **XI. Entire Agreement; Amendment**

This Agreement contains the entire understanding of the parties regarding subject matter hereof and supersedes all prior agreements, arrangements and understandings with respect thereto. This Agreement may be amended only by an agreement in writing executed by all parties hereto.

## **XII. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date above.

**FAIRFAX COUNTY PUBLIC SCHOOLS**

School Name: Herndon High School

Principal Name: William Bates

Principal Signature: *William Bates*

Date: 3/31/14

Notices under Section VII should be directed to:

Fairfax County Public Schools  
9115 Gatehouse Road  
Falls Church, VA 22042  
Attn: Karen K. Garza, Ph.D.  
Superintendent of Schools  
Fax: 571-423-1007

Herndon High School Band Parents Association

(Booster Organization)

By: *Adrian Morgan*

Name: Adrian Morgan

Title: President

Address: [REDACTED]

Fax No.

