

ALTERNATIVE EDUCATION FOR DISRUPTIVE YOUTH

ACT 48 Program Agreement for Services

Official public school name: Wattsburg area School District

Official approved private provider name: BETHESDA LUTHERAN

SERVICES AND NOW, this 16th day of March, 2020, BETHESDA LUTHERAN

SERVICES

(hereinafter referred to as "Bethesda") with a principal place of operations located at 15487 State Highway 86, Meadville, Pennsylvania 16335, and the WATTSBURG AREA SCHOOL DISTRICT (hereinafter referred to as "Wattsburg area School District") with its administrative offices located at 10782 Wattsburg Road, Erie, Pennsylvania 16509 enter into this Act 48 (hereinafter referred to as the "Act") Program Placement Agreement as follows:

WHEREAS, Bethesda's primary operations is an approved independent contractor for the delivery of alternative education services for disruptive youth and has been since 1997.

WHEREAS, Wattsburg area School District and Bethesda Lutheran Services have entered into a contractual arrangement, as further described herein, wherein Wattsburg area School District will have certain placement rights regarding its students, who are "disruptive youth", as defined in the Act, that Wattsburg area School District desires to place into Bethesda's program for educational and counseling services.

NOW THEREFORE, in accordance with the aforesaid recitals, Bethesda and Wattsburg area School District, intending to be legally bound, agree as follows:

1. **DEFINITIONS:** The following definitions apply regarding the text of this Agreement:
 - a. **"TERM"**. For purposes of this Agreement, "Term" shall be defined as the 2020-2021 school year;
 - b. **"PROGRAM"**. For purposes of this Agreement, "Program" shall be defined as the Bethesda Act 48 program;
 - c. **"PUBLIC SCHOOL"**. For purposes of this Agreement, "PUBLIC SCHOOL" shall collectively be defined as all schools of Wattsburg area School District, acting by and through their authorized employees, agents and representatives; and
 - d. **"STUDENT"**. For purposes of this Agreement, "Student" shall be defined as a male or female in middle school, high school, or an area-

vocational school at Wattsburg area School District who has been officially enrolled and designated as a "disruptive youth" in accordance with the Act.

- e. **“CAEP SEATS”**. For the purposes of this Agreement, Wattsburg shall reserve two (2) Erie County Technical School seats and four (4) seats at Bethesda’s West 18th Street Education Center.
2. **MATRICULATION RIGHTS:** Wattsburg area School District shall have the right to matriculate students into the program, under the following terms and conditions:
- a. Wattsburg area School District shall certify to Bethesda that the student is "disruptive" as defined in the Act and provide all pertinent information to Bethesda regarding said student.
3. **COST/PAYMENT:** Wattsburg area School District shall compensate Bethesda for the program services rendered to students as set forth in Exhibit A, which is attached to this Agreement.
4. **DURATION:** This Agreement will commence on the first day of school for the 2020-2021 school year and continue through the last day of classes of the 2020-2021 school year. This Agreement will terminate on the day after the last day of classes of the 2020-2021 school year.
5. **COMPLIANCE -PDE GUIDELINES:** During the entire term of this Agreement, Bethesda and Wattsburg area School District warrant to each other that they shall both be and remain in compliance with Act 30, Act 48, 2003/2008 Guidelines regarding Private Alternative Education Institutions or any other requirements issued by the Commonwealth of Pennsylvania, Department of Education, or any other applicable statute or ordinance regarding all aspects of the Act 48 Program referenced herein. In addition, the following specific warranties and assurances apply.
- I. FACILITIES/ENVIRONMENT HEALTH AND SAFETY:**
- a. Bethesda warrants that its educational facility conforms to all applicable State and local statutes, regulations and building and safety code requirements, in addition to fire and panic requirements of the Commonwealth of Pennsylvania and Erie County, and that said facility has been approved by the Licensing and Inspection Bureau of Erie County, and that a valid Certificate of Occupancy has been issued by said Department of Labor and Industry AND IS ON DISPLAY AT EACH FACILITY.
 - b. Bethesda shall provide to Wattsburg area School District upon written request, any original licenses for review.
 - c. Bethesda warrants that its educational facility currently complies with all

physical welfare and safety statutes, regulations, ordinances or mandates prescribed or issued by the Department of Environmental Protection and any applicable local governmental authority, and that said facility shall be and remain in compliance with all such physical welfare and safety statutes, regulations, ordinances or mandates during the entire term of this Agreement.

- d. Bethesda warrants that its educational facility meets all state and local statutes regarding environmental health and safety and that artificial lighting facilities, heating facilities, ventilation and cleanliness standards are being provided in concert with 24 P.S. 7-736 and 7-737, 7-738, 7-739, and 7-740.
- e. Bethesda has written procedures on file for student and parental/guardian concerns and that complaints are referred to Wattsburg area School District immediately.

II. SCHOOL FOOD SERVICE:

Bethesda shall provide all food service and meet the requirements of Appendix 3 of the 2003/2008 Guidelines regarding Private Alternative Education Institutions set forth on page 36, items 21-2c and all state and local statutes regarding food safety, inspections, and sanitation for students at the West 18th Education Center. The Erie County Technical School will provide all food services for students at that location.

III. STAFFING:

- a. Bethesda warrants that all members of its staff are of good moral character and are at least 18 years of age, that they have been examined by a physician, have had tuberculosis testing, and that each member of the staff has a certificate from a physician on file verifying the examination and results of said examination in accordance with the aforesaid representation.
- b. Bethesda warrants that all employees and members of its staff are citizens of the United States of America.
- c. Bethesda warrants that all employees and members of its staff have applied for and received all applicable and appropriate background information, including Criminal History Records as required by 24 P.S. 1-111 and Pennsylvania Child Abuse History Clearances as required by 23 P.S. 6354, and that all records received show no evidence of a criminal background or a background of child abuse.

IV. STUDENT ATTENDANCE:

- a. Wattsburg area School District warrants that it shall maintain records of student attendance in accordance with Appendix 3 of the 2003/2008

Guidelines regarding Private Alternative Educational Institutions as set forth on page thirty six (36), items number 4a, 4b and 4c and the pupil attendance provisions under Chapter 11 of the State Board of Education Regulations. The specific method for maintaining attendance records shall be by daily physical check of each student through Bethesda's administrative and teaching staff, documentation of said daily physical check in a written attendance log, kept on file at Bethesda, with daily contact to each parent or guardian of said student if said student is not present when school is in session.

V. STUDENT AND PROGRAM RECORDS:

- a. Bethesda warrants that during the entire term of this Agreement, Wattsburg shall receive a written progress report for each student of Wattsburg area School District, who has matriculated into Bethesda in accordance with Appendix 3 of the 2003/2008 Guidelines regarding Private Alternative Educational Institutions. The written progress reports shall include subject and credit information, progress grade information, attendance information, discipline records, student health, teacher and staff comments regarding said student's educational progress, and any applicable staff comments regarding the student's behavior, conduct or other pertinent issue regarding or related, in any way, with the education of said student.
- b. Bethesda and Wattsburg area School District, their agents and employees shall perform their respective duties to ensure that records, names, and identities, shall remain confidential as required for fulfillment of the terms of this Agreement.

VI. TRANSPORTATION:

- a. Wattsburg area School District will be responsible for transportation of said students to Bethesda in accordance with 24 P.S. 13-1361 and 67 Pa. Code Chapter 171.

VII. REQUIREMENTS UNDER SAFE SCHOOLS:

- a. Bethesda warrants that its Act 48 program complies with all provisions of Article XIII-A of the Public School Code as follows:

All new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances, or possession, use or sale of alcohol or tobacco by any person on Bethesda's property shall be addressed by Bethesda's administrative staff immediately, the student's parents and/or guardians shall be immediately notified and consulted, appropriate disciplinary action shall be taken by Bethesda's administrative staff, and a written report shall be completed by Bethesda. Administrative staff shall set forth the name of the student and all pertinent information regarding the incident. A copy of said report shall be placed into the student's file and submitted to the Pennsylvania Department of Education.

All new incidents involving acts of violence, possession of a weapon and convictions or adjudication of delinquency for acts committed at Bethesda's educational facility, shall be processed and handled in compliance with 24 P.S. 13-1307-A (Appendix 3 of the 2003/2008 Guidelines regarding Private Alternative Educational Institutions; Page 37, item 7).

Bethesda shall follow the Violence Policy with regard to all arrangements with local law enforcement when an incident involving an act of violence occurs, at or near Bethesda's educational facility.

VIII. SCHOOL HEALTH SERVICES

Student Health Services will be provided by Wattsburg area School District. Bethesda will do basic first aid and if more is required medical personal will be called to assist.

IX. ACADEMIC STANDARDS AND ASSESSMENTS:

Bethesda warrants that it complies in full with the academic standards and assessment under Chapter 4 of the State Board of Education Regulations and the academic standards for Reading, Writing, Speaking and Listening, and Mathematics that were adopted by the State Board of Education and published in the Pennsylvania Bulletin on January 16, 1999.

X. SPECIAL EDUCATION SERVICES AND PROGRAMS:

Bethesda and Wattsburg area School District will collaborate in the development of an individualized instruction program for all students and the implementation of special education services for students identified therein. Special Education Services and provisions required under Chapter 14 of State Board of Education regulations will be strictly followed, including without limitation: (a.) a consultation with the student, parents/guardian will occur securing the student, parents/guardians written approval to enroll the student in the program (34 CFR 300.345(c)); (b.) the student's I.E.P. will be updated to reflect the decision to enroll the student in the program. Wattsburg area School District will also update the Evaluation Report prior to admission (34 CFR 300.343); (c.) any services that are not provided by Bethesda or cannot be provided by Bethesda during the period of enrollment will be the responsibility of Wattsburg area School District and the student shall be considered as a "dual enrollment" under applicable law; (d.) if a student is enrolled and it is later determined that the student should be evaluated under applicable Special Education provisions, including the I.D.E.A. "Child Find" provisions and related reporting (34 CFR 300.125), Bethesda will forward a copy of the Evaluation Report to Wattsburg area School District. Wattsburg area School District agrees to fully comply with the applicable law regarding the identification and evaluation of said student for Special Education Services; (e.) once a Special Education Student is enrolled, Bethesda will ensure that the student's I.E.P. is updated by Wattsburg area School District prior to enrollment and once the I.E.P. is received, both parties will ensure that all provisions

of the I.E.P. are implemented during the education of the student through the use of a Certified Special Education Teacher, or a designee from Wattsburg area School District will monitor special education provisions, and ongoing communication with the student, parents/guardians, relevant teaching staff and administration. Bethesda agrees to update the student I.E.P. annually via a conference with student, parents/guardians, and a designated special education representative from Wattsburg area School District in accordance with applicable law.

XI. IDENTIFICATION OF ELIGIBLE STUDENTS:

In accordance with Appendix 3 of the 2003/2008 Guidelines regarding Private Alternative Educational Institutions, specifically the provisions set forth in 24 P.S.

Section 1901-0(5), Wattsburg area School District shall set forth its internal policies to identify those students of Wattsburg area School District, who are eligible for Bethesda's Act 48 Program, and said internal policies shall comply with the informal hearing procedures set forth in 22 Pa. Code 12.8(c).

XII. PERIODIC REVIEW OF STUDENTS:

Wattsburg area School District and Bethesda shall together ensure that a review committee reviews each student for return to the regular classroom, at a minimum, at the end of every semester.

XIII. ANNUAL REPORT

Bethesda shall submit in a timely manner an End-of-Year Report for Private Alternative Education Institutions to the Pennsylvania Department of Education on an annual basis.

EXEMPTION FROM STATUTORY REQUIREMENTS:

Bethesda warrants that it complies with those statutory requirements identified in 24 P.S. 1902- E(3) and all additional statutory provisions, regulations, ordinances or legal mandates regarding Bethesda's operations as a private high school or Act 48 Alternative Educational Services Provider (Appendix 3 of the 2003/2008 Guidelines regarding Private Alternative Educational Institutions; Page 39).

CHALLENGES: Bethesda confirms and agrees that it shall be fully liable for any and all damages and costs of any kind resulting from any legal challenge(s) regarding Bethesda Act 48 Program and/or the actions of Bethesda as the Private Alternative Education Institution. Wattsburg area School District and its Board of School Directors shall not be liable for any activity or operation related to Bethesda.

HOLD HARMLESS/INDEMNIFICATION: Bethesda and Wattsburg area School District agree to hold each other harmless and indemnify each other from all claims, causes of actions, or litigation, including expenses, costs and attorneys fees, said indemnification including without limitation Bethesda's Board of Directors, Officers,

Shareholders and Wattsburg area School District's Administrators, Board Members, as follows: (a.) To the extent that any claim is asserted regarding the compliance or failure to comply with the I.D.E.A. or other applicable Special Education requirement, or to the extent that Wattsburg area School District fails to fulfill any term, covenant or condition of this Agreement, Wattsburg area School District agrees to hold Bethesda harmless and indemnify it regarding any claims related to the same, including all costs and attorney fees; (b.) to the extent that any claim of negligence is asserted by a third party regarding Bethesda's failure to comply with applicable State statutes or regulations or Bethesda fails to fulfill any term, covenant or condition of this Agreement, causing Wattsburg area School District to be a Defendant in litigation by a third party, Bethesda agrees to hold Wattsburg area School District harmless and indemnify Wattsburg area School District including costs and attorney fees.

INSURANCE: Bethesda will carry liability insurance for its employees and the program. A Class "A+" liability insurance policy carrying an Aggregate Limit of \$5,000,000.00 and \$3,000,000.00 limit per occurrence shall be maintained by Bethesda throughout the entire term of this Agreement. The term for this policy runs yearly. A copy of the insurance policy providing liability coverage is available to Wattsburg area School District upon request and is on file in the administration office of Bethesda at 15487 State Highway 86, Meadville, Pennsylvania 16335.

INSOLVENCY OF PUBLIC SCHOOL: If Wattsburg area School District is or becomes insolvent, is declared a Distressed District under applicable Pennsylvania law, or is unable to pay any amounts due hereunder as said payments become due, then this Agreement shall automatically terminate upon the election of Bethesda and all payments required hereunder for the remaining Term shall be accelerated and become automatically due and payable to Bethesda within ten (10) days. If said payment is not received, all Wattsburg area School District students shall not be entitled to continue to be matriculated at Bethesda and said student records shall be forwarded by Bethesda to Wattsburg area School District. If said payment is received, the matriculated Wattsburg area School District students shall be entitled to remain for the remainder of the applicable Term.

TERMINATION - PUBLIC SCHOOL: Bethesda agrees that Wattsburg area School District retains the right to terminate this Agreement, after written notice of default and a thirty-day opportunity to cure said default by Bethesda. Bethesda agrees that Wattsburg area School District has the right to not renew this Agreement.

TERMINATION - APPROVED PRIVATE PROVIDER:

- I. Bethesda retains the right to terminate this Agreement, after written notice of default and a thirty-day opportunity to cure said default by Wattsburg area School District for any of the following reasons:
 - a. One or more material violations of this Agreement;
 - b. Failure to timely comply with Bethesda's requests for information regarding any matriculated students, or failure to

cooperate with Bethesda's staff regarding matriculation procedures set forth herein;

- c. Failure to make any payment required hereunder or pay any invoice from Bethesda when due;
- d. Violations of any provision in Act 48 of the Pennsylvania Public School Code;
- e. Violations of any provisions of state or federal law from which Wattsburg area School District has not been exempted;
- f. Wattsburg area School District or any member of its Board of School Directors has been indicted for and convicted of fraud;

2. Wattsburg area School District agrees that Bethesda has the right to not renew this Agreement.

COMPLIANCE - STATE REGULATIONS:

Bethesda agrees that as a Private Alternative Education Institution it must comply with all of the statutory requirements identified in 24 P.S. 1902-E(3).

Wattsburg area School District agrees that it shall comply with all applicable Special Education requirements in accordance with State and Federal Law.

ASSIGNMENT: Bethesda agrees that this Agreement may not be assigned or transferred by either Bethesda or Wattsburg area School District and that this Agreement shall be binding upon and inure to the benefit of the successors and assigns of Bethesda and Wattsburg area School District.

COMPLIANCE: Bethesda agrees that this Agreement is subject to all applicable Federal, State and local laws and regulations, policies and procedures of the Commonwealth of Pennsylvania, Department of Public Education and the Federal Government.

SEPARABILITY: Bethesda agrees that in the event that any provision of this Agreement shall or become invalid or unenforceable in whole or in part for any reason whatsoever, the remaining provisions shall, nevertheless, be valid and binding as if such invalid or unenforceable provision had not been contained in this Agreement.

JURISDICTION AND VENUE: Erie County, Pennsylvania. This Agreement has been made in the Commonwealth of Pennsylvania and shall be interpreted and enforced under the laws of the Commonwealth of Pennsylvania. Both parties agree that the Court of Common Pleas of Erie County, Pennsylvania shall be the appropriate venue for any dispute involving this Agreement.

MISCELLANEOUS: This Agreement may be executed in counterpart. Facsimile copies of signatures shall serve as acceptable substitutes for original signatures, and shall be legally binding. By executing this Agreement, each party hereto ratifies that all

necessary Board action has been approved and obtained prior to the execution hereof and each party shall be entitled to rely upon the compliance with said rules, regulations and statutes. All notices required under this Agreement shall be delivered via certified mail, return receipt requested or Federal Express delivery service to the following parties at the addresses set forth below:

Bethesda Lutheran Services
15487 State Highway 86
Meadville, Pennsylvania
16335

Wattsburg Area School
District
10782 Wattsburg Rd
Erie PA 16509

ENTIRE AGREEMENT: This Agreement contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing, duly signed by all parties. No delay or forbearance by Bethesda in exercising any right or remedy hereunder or in undertaking or performing any act or matter which is not expressly required to be undertaken by Bethesda shall be construed, respectively, to be a waiver of Bethesda's rights or to represent any agreement by Bethesda to undertake or perform such act or matter thereafter.

NONDISCRIMINATION: Bethesda agrees that it will abide by all federal and state laws prohibiting discrimination in admissions, employment and operation on the basis of disability, race, creed, gender, national origin, religion, ancestry, need for special education services, subject to Bethesda's right to receive waivers from the same or Bethesda's rights of noncompliance as set forth in Act 48 or other legal standard.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the date and year first above written.

Ken Berlin, Superintendent
Wattsburg Area School District

Date

George Trauner, CEO
Bethesda Lutheran Services

Date

For Review