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Details: Public Hearing – January 17, 2008

(FORM UPDATED: 07/12/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Education (SC-Ed)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
 - Clearinghouse Rules ... **CRule**
 - Hearing Records ... bills and resolutions
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution)
 - Miscellaneous ... **Misc**
- (**ajr** = Assembly Joint Resolution)
(**sjr** = Senate Joint Resolution)

MB



SB 396 ?

Contact: Jennifer Kammerud, 266-7073

Virtual Schools, Charter Schools, Open Enrollment

Problem Description

On December 5, 2007, the Wisconsin Court of Appeals issued a ruling in the case of *WEAC/Burmester v the Northern Ozaukee School District's Wisconsin Virtual Academy*. The ruling found statutory violations in the operation of the Wisconsin Virtual Academy (WIVA).

The Court of Appeals found that the Wisconsin Virtual Academy was found to be in violation of the following statutes:

- WI Stat 118.40(3)(c). Charter Schools: “[a] school board may not enter into a contract for the establishment of a charter school located outside the school district.” WIVA has administrative offices within the Northern Ozaukee School District; however, the large majority of its teachers and students live outside the district and do not enter the district to go to school. Surely, the administration of a school is a part of that school, but the plain and ordinary meaning of the statutory term “school” obviously cannot *exclude both teachers and students*.
- WI Stat 118.51. Open Enrollment: there is dispute whether a nonresident pupil enrolled in WIVA triggers the open enrollment statute’s provisions, including a shift in funding from the resident school district to the Northern Ozaukee School District. The disagreement boils down to whether a WIVA pupil “attends school” in the District.

The Court of Appeals explained, “WIVA is, in part, located outside the district, and so it is of no import whether the statute requires a student to be in the district attending school or merely to attend a school that is in the district. WIVA’s nonresident pupils attend school outside the district. They also attend a school outside the district. This is true whether one gives a broad or constricted meaning to the verb “attend.””

- WI Stat 118.19. Teacher Certification: “[a]ny person seeking to teach in a public school, including a charter school ... shall first procure a license or permit from the department.” The word “teach” is undefined in WI Stat 118.19, but DPI has promulgated a definition in WI Admin Code PI 34.01(59): “Teaching” means improving pupil learning by planning instruction, diagnosing learning needs, prescribing content delivery through classroom activities, assessing student learning, reporting outcomes to administrators and parents and evaluating the effects of instruction.

It is clear that the parents of WIVA pupils have the primary day-to-day responsibility for implementing the pupils’ education. The question the Court considered was “not whether and how a parent may assist his or her child with schoolwork; rather, [it is] whether the District can establish a public school, using public funds, that relies upon unlicensed individuals as the primary teachers of the pupils. The problem is not that the unlicensed WIVA parents teach their children, but that they “teach in a public school.””

The decision handed down by the Court of Appeals clearly stated, “If, as its proponents claim (and its opponents dispute), WIVA has hit upon a bold new educational model that educates pupils in a way equal to traditional school at a fraction of the cost, then the legislature may well choose to change the law to accommodate WIVA and other schools like it. However, as the law presently stands, the

charter school, open-enrollment, and teacher certification statutes are clear and unambiguous, and the District is not in compliance with any of them.”

The Department of Public Instruction (DPI) has been working with the Legislature to address the issues of virtual schools and the court case. DPI encourages the use of technology in student learning and would like to ensure the Wisconsin statutes protect valuable education tools while also ensuring the quality of a public education is maintained. DPI supports Senator Lehman's E-Learning Options and Accountability proposal as discussed below.

Background/Analysis

1. Virtual schools are becoming a fact of life both nationally and in Wisconsin.
2. In the 2007-2008 school year, more than 2,000 students, up to maybe 3,000 students are receiving their schooling from twelve to fifteen virtual schools in Wisconsin. This number has been steadily increasing since the first virtual schools were created in Wisconsin in 2002 and 262 students were enrolled in four schools.
3. Based on the records at DPI, it was not clear how many of the pupils enrolled at virtual charter schools were attending a virtual charter school in their resident school district versus open enrolling to a virtual charter from a different district. DPI has, however, begun an informal survey to collect this data (early respondents have shown full-time enrollments to be as follows: WI Virtual Academy in Northern Ozaukee County = 7 residents, 783 non-residents; WI Connections Academy in Appleton = 20 residents, 404 non-residents; Monroe Middle School = 2 residents, 35 non-residents; Monroe High School = 48 residents, 304 non-residents).
4. The 2007-08 estimated open enrollment transfer amount in Wisconsin is \$6,043.
5. It can be argued that virtual charter schools are simply a different form of charter school. The language of the statutes makes clear, however, that the legislature simply did not envision a virtual school when promulgating them.
6. Families choose virtual charter schools for a variety of reasons including: their pupil can succeed better when not in a traditional school environment (social anxiety, competition, inability to work with others), they prefer a more home-based situation, distance from perceived school violence, peer pressure, pupil is medically homebound, expelled, etc.
7. Two virtual charter schools in Wisconsin work with Virginia-based K-12, Inc. to provide curriculum, programs, and resources for their pupils and teachers.
8. Individuals can directly obtain course materials from K-12, Inc. for approximately \$1,000 per year for full-time enrollment. Schools typically provide pupils a computer and the necessary software to access courses. Computers are then returned upon leaving the virtual school.
9. According to K-12 Inc.'s prospectus, the Wisconsin Virtual Academy (the subject of the court case noted on page 1) is expected to pay K-12, Inc. approximately \$5.0 million in fiscal year 2008 (approximately 2.7% of K-12, Inc.'s revenues).
10. K-12, Inc., the largest operator of online schools across the country, filed for its initial public offering in late July. Its prospectus discusses the company's growth, from 11,000 students in fiscal year 2005 to 27,000 in FY 2007, an annual growth rate of 35%.

11. The difference between "Online Programs" and "Virtual Schools" is that online programs usually offer courses to school districts, while virtual schools usually offer courses directly to students.
12. Many Wisconsin students take online courses within their traditional school. For example, since 2001, CESA #9 has been managing a program that provides online courses to middle and high school students. They have been providing a steadily increasing number of virtual courses to local school districts throughout the state for a number of reasons including for students to make up credits, schedule conflicts, accelerated pace, the experience of online learning, limited curriculum offerings, homebound status, study abroad, special education needs, expulsion, teen parents and gifted students. CESA #9 trains Wisconsin—certified teachers to facilitate its online courses. In 2002, schools reported that 1,330 students took online courses for credit. In 2006, that number reached 4,135. In addition, more and more Internet resources for are becoming available for students and teachers in traditional classrooms.
13. As of September 2007, 42 states have significant supplemental online learning programs (in which students enrolled in physical schools take one or two courses online), or significant full-time programs (in which students take most or all of their courses online), or both. Only eight states do not have either of these options, and several of these states have begun planning for online learning development.
14. In addition to the spread of online learning programs to most states across the country, the majority of existing online programs show considerable growth in the number of students they are serving.
15. The increase in online learning has created countless new educational opportunities for students to take courses that were not previously available to them, in subjects ranging from core courses to electives such as Mandarin Chinese.
16. Virtual education has allowed small and rural school districts to provide access to highly qualified teachers in courses that the districts could not previously offer.
17. Data to evaluate online programs against face-to-face education are lacking, in part because of shortcomings of state data systems and in part because online student populations are at most only 1-2% of the total.
18. According to *Keeping the Pace with K-12 Online Learning 2007*, "Funding for most online charter schools and full-time, multi-district programs comes from state public education funding formulas. Online charter schools may receive charter school specific funding at a different rate (usually lower) than the typical district rate. In some states a lower funding level is applied to online schools regardless of whether they are charter schools or not." See below.
19. In Minnesota, the Omnibus K–12 Education Act of 2003 (amended in 2007) sets forth a number of policies directly affecting online education. It directs online learning providers to report annually to the state, so the MN Department of Education is able to provide on its website a list of approved online programs and a list of courses and programs that it has reviewed and certified.
 - Effective FY 2006, Minnesota provides general education revenue for online students. For students taking online courses from the district in which they are enrolled, funding

is the same as if the students were taking all their courses in physical classrooms. For students taking supplemental online courses from outside their enrolling district, the online learning program receives basic revenue for 88% of one twelfth of an average daily membership (ADM) per completed semester course, weighted based on grade level. The other 12% goes to the student's enrolling district and generates general education revenue unless the student's total ADM has exceeded 1.0 (1.2 for students enrolled in learning year programs). Funding for supplemental courses is generated only for students who complete the online course.

- Funding is tied to the program meeting all requirements of the law.
- Minnesota annually certifies public school online learning programs.
- Courses and programs must be rigorous, aligned with state academic standards, and contribute to grade progressions in a single subject. Online courses must have equivalent standards or instruction, curriculum, and assessment as other [non-online] courses.
- A highly qualified teacher with a Minnesota license is required to be the person that assembles and delivers instruction to online learning students. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.
- Unless the commissioner grants a waiver, a teacher providing online learning instruction must not instruct more than 40 students in any one online learning course or program.
- Actual teacher contact time or other similar communication, including frequent assessment, is an expected online learning component and the online learning provider must "demonstrate expectations for actual teacher contact time or other student-to-teacher communication." The MDE requires that programs describe the methods and frequency of course interactivity, teacher contact, ongoing instructional assistance and assessment of student learning to comply with the law.

20. Almost all online education activity in Illinois is through the Illinois Virtual High School (IVHS), a non-credit granting program of the Illinois State Board of Education, operated by the Illinois Mathematics and Science Academy. IVHS serves a high proportion of students from low-income areas; in some cases, IVHS provides scholarships to cover these students' tuition. For school year 2006–2007, 48% of IVHS students were from low-income schools.

- As of September 2006, Chicago Public Schools and Illinois State Board of Education approved a charter for an online charter school in Chicago serving grades K-8, which is operated by K-12, Inc. The Chicago Virtual School requires students to meet at a physical location once a week in order to address a legal provision that charter schools not be home-based. In the 2006-2007 school year, Chicago Virtual had 248 students enrolled in its program. There is a cap of 600 students for the 2007-2008 school year.

21. Ohio has many online charter schools with a combined enrollment of over 20,000 students.

- Ohio's online charter schools receive state funds directly from the state; these funds have been transferred from school district allocations.
- These schools no longer are eligible to receive poverty-based funding.
- Beginning in FY 2007, each school shall spend a designated amount for pupil instruction or face a possible fine of up to 5% of state payments to the school.
- Each virtual school must have an "affiliation" with at least one "teacher of record" licensed by the Ohio State Board of Education. The "teacher of record is responsible for the overall academic development and achievement of a student and not merely the student's instruction in a single subject."
- No teacher of record can be responsible for more than 125 students.

- Each online virtual school must provide a minimum of 920 hours of “learning opportunities” to students per school year. Only 10 hours in any 24-hour period can count toward this total.
- Online virtual schools can count student learning in terms of days instead of hours; in this case, a “day” must consist of at least five hours.

22. Missouri Virtual School will comply with all state laws and regulations applicable to school districts, including but not limited to the Missouri school improvement program (MSIP), adequate yearly progress (AYP), annual performance report (APR), teacher certification, and curriculum standards.

- For the school year beginning July 1, 2008, a parent residing in a poor performing school district may enroll their child in the Missouri virtual school if the child first enrolls in the school district of residence. The school district shall include the child’s enrollment in the virtual school in determining the district’s average daily attendance. The board of the home district shall pay to the virtual school the amount required under current law to be paid for other students enrolled in the virtual school.
- The new virtual public school was funded for setup costs of \$100,000 for 2006-2007. Missouri legislation has appropriated \$5.2 million for 2007-2008 for the first year operations and services. The virtual school is a separate appropriation and not included in the foundation formula that financially supports Missouri schools. Missouri funds its schools using an FTE model divided into sixths.
- For every course taken online through the virtual public school, the enrolling district will receive 15% of the funding and the virtual public school the remaining 85%.

23. The Kansas State Department of Education (KSDE) has perhaps the most-developed and well-documented system for tracking online programs of any state.

- Only students who reside in Kansas are eligible for FTE funding, with some exceptions for out-of-state students.
- Verifying “enrolled and attending” students in a virtual course is done through an Academic Activity Log or Documentation of Virtual/Online Activity.
- Online programs are tracked by the state. The required annual reports and desktop audits allow KSDE to have more information regarding online activity across Kansas than any other state education agency across the country.
- The KSDE accredits schools and districts. If an online program is a program within the district it must be integrated into the district Quality Performance Accreditation (QPA)/NCA plan.
- Courses must be aligned to state standards.
- Course delivery must be based on ‘accepted’ good practice for online learning. This may include but is not limited to clearly communicating course expectations, grading policies, required/supplemental materials, etc.; establishing timelines; and regular communications with students and parents.
- Access to academic content licensed personnel must be available to provide answers to student/parent questions for every online course.
- Opportunities for students to participate in group activities must be provided. These may include some face-to-face activities such as (but not limited to): field trips, study sessions, additional orientation/training assistance, open houses, conferences, end-of year celebrations, use of parent resource center, and teacher face-to-face instructions for labs or virtual teaming opportunities.
- Online communication opportunities must be provided enabling students to share with others; i.e. discussion boards, chats, virtual classrooms, e-mails, group online projects.
- Students/families must be provided a response within a 24-hour turn-around during school days, and a backup plan must be established for handling communication if a teacher isn’t available.

- A person or contracted entity must be designated to implement and evaluate training provided to all staff, students and parents in the use of the online program.
- An assessment coordinator must be designated who will ensure that: all students 18 and under take all required state assessments for their grade level; all data is reported as part of the state's QPA requirements, the federal NCLB requirements (e.g. Adequate Yearly Progress), and NCA requirements, if appropriate; and all state assessments proctored are by a licensed educator.

24. Michigan is at the forefront of K-12 online education, led by state directed Michigan Virtual School. In 2006, Michigan's Legislature passed a requirement that students have an "online learning experience" before graduating. This requirement means students must accumulate a minimum of twenty hours either: taking an online course, participating in an online experience, or participating in online experiences incorporated into each of the required credit courses of the Michigan Merit Curriculum.

Senator Lehman's LRB 3144/6

1. Exempt from the teacher certification requirement anyone who teaches at a virtual charter school until July 1, 2009. This will give virtual charter schools a transition period to get things in place. Without this change, based on the Court of Appeals decision, all of Wisconsin's virtual schools would have to shut down immediately. Parents will still have the primary day-to-day responsibilities of working with their pupil(s); however, in connection with item 8a(4) below, school boards will ensure that pupils are also receiving interaction with a licensed teacher each day and by July 1, 2009 all teachers will be required to have a license.
2. Define a virtual charter school as a charter school that provides an online learning program.
3. Modify WI Stat 118 regarding charter schools to exempt virtual charter schools from the requirement that a charter school established by a school district must be located in a school district. Since virtual charter schools operate from a variety of locations across the state, dependent on where pupils log on to the internet, such a modification is necessary.
4. Beginning in 2009-10 school year, allow no more than 85% of the pupils attending the virtual charter school to do so through Open Enrollment. This requirement would ensure that at least 15% of the pupils enrolled at the virtual charter school are residents of the chartering school district which helps to maintain local control.
5. Prohibit virtual charter schools from allowing more pupils to attend through open enrollment in 2008-09 than the number that attended through open enrollment in 2007-08.
6. Beginning in 2009-10, the amount of state aid for a pupil attending a virtual charter school through open enrollment is 50% of the amount determined for other pupils. Since there are not bricks and mortar costs to operating a virtual school, it can be argued that this reduction will result in payment for the non-resident pupils being closer to the actual educational costs.
7. Prohibit the establishment of new virtual charter schools until the 2009-10 school year. Prohibiting new virtual charter schools from starting up in this transition year (when virtual schools are coming into compliance with the new standards put forth in current legislation) will ensure that all virtual schools are operating under the same provisions by the 2009-10 school year by which time the administrative rules should be in place.
8. Direct DPI to make online courses available for any pupil across the state.

a) School boards (or chartering entity) would:

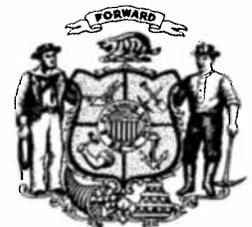
1. Determine which pupils may enroll in an online course, which online courses are available, and the number of online courses a pupil may take.
2. Provide a safe and secure online environment, ensure the confidentiality of pupil coursework and records, and verify the authenticity of pupil coursework.
3. Assign an appropriately licensed teacher for each online course, except for teachers in virtual charter schools in existence on the bill's effective date.
4. Ensure that pupils enrolled part-time in online courses have direct contact with a teacher, each week school is scheduled, for at least 20 minutes for each online course; ensure that elementary school pupils who are enrolled full-time in online courses have direct contact with a teacher for at least two hours each day that school is scheduled; and ensure that high school pupils enrolled full-time in online courses have direct contact with a teacher for at least 30 minutes each day that school is scheduled.
5. Determine the average equivalency hours for online courses.
6. Ensure that only pupils who reside in this state enroll in online courses.

By having these decisions and responsibilities rest with the local school board, each board maintains control of its virtual education program and ensures the integrity of virtual programming. Further, it is against federal and state law to charge tuition to out-of-state residents wishing to attend a charter school so enrollment must be limited to state residents only.

9. The bill provides that beginning July 1, 2013, no person may teach an online course in a public or charter school unless he or she has completed a professional development program, approved by DPI, that is designed to prepare a teacher for online teaching.



WISCONSIN STATE LEGISLATURE



SB 396 ?

**CHARTER SCHOOL AGREEMENT
INITIATED BY
THE BOARD OF EDUCATION OF THE
NORTHERN OZAUKEE SCHOOL DISTRICT**

THIS AGREEMENT is adopted this 4 day of February 2003 by the **BOARD OF EDUCATION OF THE NORTHERN OZAUKEE SCHOOL DISTRICT** (hereinafter the "District"), a public school district located at 401 Highland Avenue, Fredonia, Wisconsin, 53021, to create and operate a charter school.

WHEREAS, the School Board (hereinafter the "Board") of the District is authorized by Subsection 118.40(2m)(a), Wis. Stats. to contract, on its own initiative, with a "person" to operate a school as a charter school; and

WHEREAS, the Board desires to create a charter school as an instrumentality of the School District and authorizes the District Administrator to manage and provide educational services through a virtual charter school to be called the Wisconsin Virtual Academy (hereinafter the "Charter School"); and

WHEREAS, the District has created the Charter School through this Agreement which, in accordance with Subsection 118.40(2m)(a), Wis. Stats., contains all of the provisions specified under Subsection 118.40(1m)(b), Wis. Stats., as well as additional provisions;

NOW, THEREFORE, the District hereby states as follows:

**ARTICLE I
CHARTER SCHOOL SPONSOR**

The Board has elected, on its own initiative, to create a charter school as an instrumentality of the Northern Ozaukee School District. The District will operate, manage and staff a virtual charter school for students who are residents of the District and those attending through open enrollment. The Board may contract with an outside, third-party vendor to provide certain educational, administrative, and technical services necessary for the operation of the Charter School.

**ARTICLE II
CHARTER SCHOOL ADMINISTRATIVE SERVICES**

A. Administrator(s). A Principal, to be employed by the District, will be responsible for the daily operations of the Charter School and will work closely with the District Administrator, staff members of the Charter School, and any outside vendor to ensure that the educational goals established for the Charter School are being attained. The Principal, in conjunction with the District Administrator and the Board, shall be responsible for meeting the terms of this Agreement, as well as for financial accountability. The Principal shall oversee the

educational programs, handle student discipline, oversee clerical activities including attendance, correspondence and record maintenance, supervise and oversee teachers and other staff, administer assessment and evaluation programs, monitor achievement of educational goals, and serve as primary contact with the outside, third-party vendor to monitor the services provided. The Principal may also provide some teaching and/or training services; the duties and responsibilities of the Principal will vary with the level of enrollment achieved and with the growth of the Charter School over time.

B. Governing Body. The Charter School shall be governed by the Board which will develop, adopt, and implement effective school policies, procedures, and resources.

ARTICLE III EDUCATIONAL PROGRAM

A. Purpose. The Charter School is designed as a virtual school where most learning and educational opportunities are provided remotely. The goal of the Charter School is to provide an innovative, high quality, interactive, family-centered educational program. The purpose for the development and operation of the Charter School is to provide students and their families with a comprehensive academic program and learning environment delivered online.

B. Students Served. The Charter School will educate students in grades kindergarten through seventh grade, beginning with the 2003-04 school year, in at least the following areas: language arts, math, science, and history. The Charter School may offer additional grades and additional classes in future school years. All students will attend school remotely using computer technology and the Internet to facilitate instruction.

C. Philosophy/Mission. Interaction among parents, students, and teachers is central to the philosophy of the Charter School. The mission of the Charter School is to provide excellence in education through innovative technology and a strong school community. An essential principle of the Charter School is flexibility and adaptability to meet the unique learning needs of each student and to focus on academic results, not micromanaging processes.

D. Curriculum. The Charter School will offer a comprehensive curriculum aligned with Wisconsin standards and delivered online in core academic subject areas listed in Paragraph B, above. The curriculum will be approved by the Board. The Charter School will implement a web-based approach that uses computers as a learning tool, but also includes the use of textbooks, workbooks, and instructional materials. All students will have access to a licensed teacher for guidance, support and advice. Curriculum materials and teaching strategies will be approved by the Board.

ARTICLE IV METHODS OF ATTAINING EDUCATIONAL GOALS

A. Student and Program Goals. The goals of the Charter School are to provide excellence in education by delivering curriculum and instructional tools via the Internet. This instructional technique will allow for parent or other designated caring adult involvement and

individualized student achievement. Teachers will monitor student achievement and will be available to work with individual students on an as needed basis. Parents and other designated caring adults will work to support each student's learning program and goals.

B. Program Components. The Charter School will emphasize individualized instruction. Parents and other designated caring adults are expected to actively participate in the instructional program. Lessons, progress and planning tools, assessments and learning aids will be provided over the Internet, and will be enhanced with information and supplemental learning materials, including books, workbooks, CDs, and videos. Teachers will be available to assist students on a daily basis.

C. Curriculum Standards. Educational services will be provided in accordance with the educational goals, curriculum, methods of pupil assessment, and academic achievement set forth in the Program Description (see Exhibit 1), herein approved by the Board.

ARTICLE V METHODS OF MEASURING STUDENT PROGRESS

A. Student Testing. Students will participate in any state-mandated testing programs and will be subject to any other standardized test mandated by the Board. The Board will be provided with, and have access to, the academic records of those students who are enrolled in the Charter School.

B. Student Evaluations. Parents will be able to access their students' progress data online. Progress reports will be designed to indicate the student's progress in meeting the goals and objectives outlined in the Charter School's curriculum.

C. Grade Level Advancement Options. Credit toward grade level advancement will be awarded by the Charter School.

ARTICLE VI GOVERNANCE STRUCTURE

A. Governance Method. The Charter School is an instrumentality of the School District and, except as otherwise set forth in this Agreement, shall be governed in accordance with the policies and procedures established by the Board. It is the intent of the Board to adopt new policies and procedures applicable to the Academy. The Principal, teachers, and other employees of the Charter School shall be subject to the direction and control of the Board. The District may contract with an outside, third party vendor for certain educational, administrative, or technology services to support the operation and functioning of the Charter School.

B. Family Involvement. Active family involvement in the educational plan is crucial. Parents or other designated caring adults are expected to play an active role in the educational program provided to all students, working collaboratively with certified teachers employed by the District.

**ARTICLE VII
STAFF AND STAFF QUALIFICATIONS**

All instructional staff of the Charter School must satisfy the requirements for instructional personnel as established by the State of Wisconsin. In addition to instructional staff, all persons employed or working at the Charter School shall be screened as required by law. All employees of the Charter School shall be employees of the District.

A. Instructional Staff. The District shall staff the Charter School with full-time and/or part-time instructional staff. All teachers must satisfy the licensing requirements for instructional personnel as established by the State of Wisconsin. In addition, all instructional employees shall be screened as required by law.

B. Administrative Support. The District shall staff the Charter School with support staff as it determines necessary. All teaching assistants must satisfy the licensing requirements for teaching assistants as established by the State of Wisconsin. In addition, all support staff shall be screened as required by law.

C. Principal. The District shall staff the Charter School with a full-time administrator. This Principal must satisfy the licensing requirements for administrative personnel as established by the State of Wisconsin. In addition, the Principal shall be screened as required by law.

**ARTICLE VIII
STUDENT HEALTH AND SAFETY**

All state and local health and safety regulations and building code standards will be followed for the District's administrative offices, as well as at any other District location where instruction may be provided from time to time or which are within the physical control of the District.

**ARTICLE IX
MEANS OF ACHIEVING RACIAL/ETHNIC BALANCE**

All students who are residents of the District are eligible to enroll in the Charter School. Further, students will be accepted pursuant to the Open Enrollment Law in accordance with Section 118.51 of the Wisconsin Statutes. Students will not be selected for the Charter School based on their race or ethnicity. Students who require special education services will also be eligible to enroll in the Charter School.

**ARTICLE X
ADMISSION REQUIREMENTS**

A. Non-discrimination. The Charter School shall not discriminate in admission or deny participation in any program or activity on the basis of a student's sex, race, religion,

national origin, ancestry, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability.

B. Entry Criteria. All students who are residents of the District are eligible to enroll in the Charter School. Further, students from outside the District are eligible to enroll in the Charter School in accordance with the Open Enrollment Law (Section 118.51, Wis. Stats.).

ARTICLE XI ANNUAL AUDITS - FINANCIAL AND PROGRAMMATIC OPERATIONS

A. Financial Records. All Charter School funds will flow through the District. The District shall maintain financial records of the Charter School, which shall be available at all times for inspection and copying by the Board and any outside, third party vendor with whom the District contracts and its auditors or accountants. Additionally, the Charter School shall provide financial reports to the public in accordance with the Wisconsin Public Records Law.

B. Student Records. Copies of standardized test results and all records required by this Agreement or by state or federal pupil records laws shall be maintained by the Charter School. Such records shall be maintained and available for review as permitted by law.

ARTICLE XII STUDENT DISCIPLINE

All students enrolled in the Charter School will be subject to Board policies on appropriate student behavior. All students, upon enrolling in the Charter School, will be notified of their rights, responsibilities and expectations while attending the Charter School.

ARTICLE XIII PUBLIC SCHOOL ALTERNATIVES

Attendance at the Charter School is voluntary. Students who are not admitted to the Charter School may attend a school within their home school district, or may make alternative arrangements with other educational institutions.

ARTICLE XIV FACILITIES/INSURANCE

A. Facilities. The Charter School's administrative offices will be located within the physical property of the District, 401 Highland Avenue, Fredonia, Wisconsin, 53021. The District will ensure that the building meets all building code and other requirements for a public school facility.

B. Liability Insurance. The District shall insure all reasonable exposures related to the Charter School including coverage for liability, property, workmen's compensation, comprehensive and collision, as well as errors and omissions coverage types.

**ARTICLE XV
RESPECTIVE LIABILITIES**

A. Transportation. Generally, no transportation will be needed for students attending the Charter School because students are not required to report to a physical school building. However, transportation will be provided to the extent required by law.

B. Budgeted Items. The cost of all salaries, benefits, rents, utilities, supplies, equipment, and similar items shall be detailed and included in the budget of the Charter School. The Principal of the Charter School shall develop an annual budget and submit it to the Board for approval. The Charter School's fiscal year will be from July 1 to June 30.

C. Facility Maintenance. The District shall maintain the Charter School's administrative office.

D. School Calendar. The Board shall determine the Charter School's calendar.

E. Miscellaneous. The District will employ, compensate, and evaluate all instructional staff of the Charter School. All District employees assigned to the Charter School shall be entitled to all of the rights and benefits of other similarly situated employees of the District. All supplies and equipment of the Charter School shall be requisitioned, purchased, and/or leased by the District or an outside, third party vendor.

**ARTICLE XVI
DUTIES AND RESTRICTIONS**

A. Non-Sectarian. The Charter School shall be non-sectarian in its programs, referrals, employment practices, and all other operations. The school faculty, staff, equipment, and supplies shall be free of all religious or other sectarian symbols or influences.

B. Tuition. The Charter School shall not charge any tuition. The Charter School may charge "activity fees" provided the Board has approved of the activity and corresponding fees in advance.

**ARTICLE XVII
TERM; RENEWAL; TERMINATION OF AGREEMENT**

A. Term. Pursuant to the provisions of Section 118.40(3)(b), Wis. Stats., the term of this Agreement (hereinafter "Term") shall be for a period of five (5) years commencing on the 1st day of July, 2003 and shall expire at midnight, June 30, 2008, unless terminated or extended pursuant to the terms hereof.

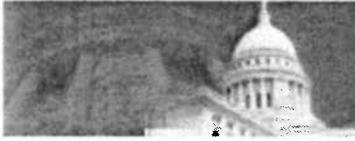
B. Renewal. Pursuant to Section 118.40(3)(b), Wis. Stats., upon expiration of the Term, the Board may renew this Agreement for such additional terms of up to five years each as the Board deems appropriate.

C. Termination. This Agreement may be terminated by the Board if it finds that the Charter School violated this Agreement, or if the Charter School fails to comply with generally accepted accounting principles, if enrolled pupils fail to make sufficient progress in attaining educational goals, or if any employee of the Charter School has violated any other statute, ordinance, or Board policy with respect to the operation of the Charter School provided that the District shall have first provided written notice to the Charter School and any applicable third-party vendor detailing the violation, which was not cured thirty (30) days after receipt of the notice.

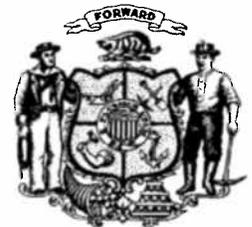
IN WITNESS WHEREOF, the Board has caused this Agreement to be executed by its duly authorized representatives as of the date first above written.


Board President
Board of Education
Northern Ozaukee School District


Board Clerk
Board of Education
Northern Ozaukee School District



WISCONSIN STATE LEGISLATURE



SB 396 ?

EDUCATIONAL, ADMINISTRATIVE, AND TECHNOLOGY
SERVICES AGREEMENT

Between the
Northern Ozaukee School District
and K12 Inc.

This Education, Administrative, and Technology Services Agreement (the "Agreement") is made and entered into as of the ___ day of March, 2003, by and between K12 Inc., a Delaware corporation ("K12"), and the Northern Ozaukee School District ("District"), the governing authority of the Wisconsin Virtual Academy ("Academy"), a Wisconsin charter school.

RECITALS

A. The Academy has been authorized by a charter (the "Charter") granted by the District on _____, 2003 (attached as Exhibit A), allowing it to operate a school for students in kindergarten up through high school graduation.

B. The Northern Ozaukee School District Board of Education is the governing authority ("Governing Authority") of the Academy. The Governing Authority may carry out any act and ensure the performance of any function by the Academy that is in compliance with the Wisconsin Constitution, applicable Wisconsin statutes, other federal, state, or local statutes and regulations, orders, and rulings applicable to Wisconsin charter schools and chartering entities and the Charter (collectively, "Applicable Law").

- C. K12 was established, among other things, for the following purposes:
- 1) promoting and encouraging new methods of effective education; and
 - 2) implementing innovative and effective instructional systems in elementary and secondary education.

D. The District and K12 seek to create an enduring educational relationship whereby the District will govern and oversee, and K12 will provide educational, administrative, and technology services necessary for the operation of a virtual charter school to be called the Wisconsin Virtual Academy, as permitted by Applicable Law.

E. This Agreement sets forth the agreement of the parties related to the provision of educational, administrative, and technological services to the Academy. The parties may enter into additional agreements for the leasing of equipment or provision of ancillary services beyond those described herein.

NOW, THEREFORE, the parties mutually agree as follows:

ARTICLE I
STATUS AND NATURE OF PROGRAM TO BE OFFERED

1.01 General. For and during the Term of this Agreement (as defined in Article III), and upon approval of the Governing Authority as provided herein, K12 shall provide those services set forth in Article II below in support of the Academy and consistent with the Academy's mission, vision, and educational philosophy as determined by the Governing Authority and in accordance with Applicable Law and this Agreement.

1.02 Duties and Responsibilities of the Academy's Governing Authority. The Governing Authority acknowledges and agrees that K12, in its provision of the services set forth in Article II, will recommend various policies related to the operation of the Wisconsin Virtual Academy. Such policies shall be recommended in writing and adopted only by action of the Governing Authority. Upon adoption of such policies, K12 will recommend procedures consistent with the policies adopted by the Governing Authority, and the Governing Authority or its designee will adopt Academy procedures in compliance with Board policies relating to the Academy. Academy policies and procedures may be presented by K12 and adopted by the Governing Authority at the same time. The Governing Authority shall retain ultimate responsibility for adopting Academy policies in compliance with Applicable Law. The cost of legal services related to the review of proposed policies and procedures as necessary in the opinion of the District shall be included in and paid from the budget for the Academy. The Governing Authority agrees to provide K12 written copies of all adopted policies and procedures related to the Academy, and the Governing Authority agrees to notify K12 promptly in writing of any changes and to provide K12 with updated copies of all policies and procedures.

ARTICLE II
EDUCATIONAL, ADMINISTRATIVE, AND TECHNOLOGY SERVICES

2.01 Educational Services.

(a) K12 recognizes its obligation to comply with Applicable Law regarding curriculum and assessment and all other matters covered herein, and to conform its performance under this Agreement with the terms of the Wisconsin charter school law, except to the extent expressly waived by the Wisconsin Department of Public Instruction.

(b) During the Term, K12 will (except as otherwise specified below) provide or cause to be provided to the Academy the following educational services (the "Educational Services"):

(i) Curriculum. Curriculum for grades K-7 in the 2003-04 school year in substantial conformance with the description attached as Exhibit B, and as may be made generally available thereafter and as may be mutually agreed by the parties, in at least the following areas: Language Arts, Math, Science, and History. Art and Music may also be offered by K12, as may be made generally available thereafter and as may be mutually agreed by the parties;

(ii) Instructional Tools. Such instructional tools and supplies, including textbooks, multi-media teaching tools, and additional tools and supplies as K12 determines to be necessary in its reasonable discretion in order to make the Academy academically successful for its students and to deliver the curriculum that K12 has designed;

(iii) Computers. K12 will lease or cause to be leased to the Academy such computers, monitors, and software as are necessary to deliver the Program to students and in substantial conformance with the specifications listed on Exhibit C. The costs of all leases for such computers, monitors, and software shall be included in the Academy Budget; and

(iv) Additional Educational Services. Any other services (A) described in Exhibit D of this Agreement or (B) necessary or expedient for the provision of teaching and learning for students enrolled in the Academy, as agreed to from time to time between the parties, or (C) required by the Wisconsin Department of Public Instruction from time to time.

(c) The Educational Services will be provided in accordance with the educational goals, curriculum, methods of pupil assessment, admissions policy, school calendar, and age and grade range of pupils to be enrolled at the Academy (the "Educational Program"). Attached as Exhibit E is a copy of the proposed Educational Program. Such Educational Program shall be subject to legal review and modified as necessary to conform with Applicable Law. Material changes to the Educational Program will be reviewed and approved by the Governing Authority in writing.

(d) Subject to this Agreement and Applicable Law, K12 may by written agreement with the District modify the Educational Services, it being understood that an essential principle of this Agreement is its flexibility and adaptability to meet the unique learning needs of each student, and that the District and K12 are focused on academic results, not micromanaging processes.

2.02 Administrative Services.

(a) During the Term, K12 will provide or cause to be provided to the Academy the following administrative services ("Administrative Services"):

(i) Management of Contractors and Services. Management of all applicable K12 personnel and/or contractors providing Educational Services,

Administrative Services, and Technology Services, and services as requested by the District in relation to District employees;

(ii) Facility Management. Management of the administrative facility ("Facility") of the Academy consistent with any and all leases or other documents pertaining to the Facility;

(iii) Business Administration. Administration of all business aspects and day-to-day management of the Academy. These services shall include but not be limited to:

(A) Consulting and liaison services with the District, the Wisconsin Department of Public Instruction, and other applicable governmental offices and agencies;

(B) Advisory services regarding special education programs, processes, and reimbursements;

(C) Drafting of forms, manuals, handbooks, and policies and procedures, as necessary;

(D) Consultation, monitoring, and oversight of state reporting systems;

(E) Assistance in applying for grants for the Academy; and

(F) Business Management Services. K12 will assist the Academy with the drafting of the annual budget for review by the Principal and for adoption by the Governing Authority; setting up third-party accounting software; loading the Academy's chart of accounts according to state guidelines; assistance with the performance of accounting services for the Academy; assistance with the administration of federal entitlement programs; fundraising and revenue enhancements for the Academy.

(G) Operations Management Services. K12 will assist the Academy with arranging for the negotiation, selection, contracting, distribution, leasing or purchase, and return (as necessary) of computers and printers for families, administrators, and teachers; arranging for the negotiation, selection, contracting, rollout, and reimbursement process (as needed) for Internet Service Provider (ISP) service for families, administrators, and teachers; arranging for the negotiation, selection, contracting, distribution, and return (as necessary) of instructional materials for students, administrators, and teachers; and creation and

dissemination of K12 login and password accounts to students, teachers, and administrators as well as management of changes to those accounts.

(H) Other reasonable administrative and consulting services as requested and mutually agreed upon by K12 and the District.

(iv) Budgeting and Financial Reporting.

(A) Beginning with the 2003-2004 school year, preparation of a proposed annual budget. Future annual budgets will be proposed by K12 and reviewed and revised by the Principal as he or she deems necessary or appropriate (the initial and future annual budgets are hereinafter sometimes collectively referred to as the "Budgets"). An annual Budget will include, but not be limited to, the financial details, including projected revenues and expenditures, relating to the administration and operation of the Academy. The parties agree that the Academy budget already submitted to the District and attached hereto as Exhibit F is sufficient to carry out all activities and deliver all services contemplated in this Agreement and shall serve as the approved initial annual budget required hereunder. The Budget for subsequent years will be submitted by the Principal to the Academy on or before April 1st prior to the start of the applicable school year. All Budgets shall be reviewed and approved by the Governing Authority prior to implementation by the Academy.

(B) Detailed statements of all revenues received, from whatever source, with respect to the Academy and detailed statements of all direct expenditures for services rendered to or on behalf of the Academy, whether incurred on-site or off-site, on a quarterly basis.

(C) Reports on the finances of the Academy upon the request of the Governing Authority, the Wisconsin Department of Public Instruction, or as required by Applicable Law.

(D) Other information on a periodic basis as reasonably necessary and appropriate to enable the Governing Authority to monitor the performance of the Academy under this and related agreements, including the effectiveness and efficiency of its operation.

(E) Annual audits by independent certified public accountants chosen by the Governing Authority in its reasonable discretion or other financial statements as required by and in compliance with Applicable Law. K12 and its auditors or accountants shall have the right to inspect and copy Academy financial records during normal business hours upon prior written notice.

(F) Other information on a periodic basis reasonably necessary to enable the District to monitor K12's performance under this and related agreements including the effectiveness and efficiency of its operations at the Academy.

(v) Legal. Legal review and advice, as needed and in conjunction with Academy counsel.

(vi) Maintenance of Financial and Student Records.

(A) K12 will maintain accurate financial records pertaining to its operation of the Academy and retain all such records for a period of seven (7) years (or longer if required by Applicable Law) from the close of the fiscal year to which such books, accounts, and records relate

(B) The District will maintain accurate student records pertaining to students enrolled at the Academy as is required and in the manner provided by Applicable Law, and retain such records on behalf of the Academy and at the Facility, until this Agreement is terminated. K12 will be provided with such information regarding enrolled students as may be necessary to allow K12 to perform the services required of it pursuant to the Agreement. K12 may be provided with summarized student achievement data, redacting information which could identify the students to which specific records pertain. In no event will K12 make available to any third party any individual academic information related to students enrolled at the Academy to any third party without the District's prior written consent. K12 and the District will maintain the proper confidentiality of personnel, students, and other records as required by Applicable Law.

(C) All Academy financial records will be available to the District, the Wisconsin Department of Public Instruction, and such other persons as may be required by law for inspection and copying upon reasonable request. Academy financial records will be maintained for seven (7) years or other such period as required by Wisconsin law. No Academy financial records shall be destroyed by K12 without prior written notice to the District, providing the District with a minimum of sixty (60) days within which to request delivery of all or any portion of such records for retention by the District.

(D) The District shall be entitled at any time upon reasonable notice to K12 to audit the books and records of the Academy pursuant to this Agreement.

(vii) Pupil Recruitment. Recruitment of students into the Academy in compliance with the Academy's application and enrollment policies and procedures;

(viii) Admissions. Implementation of the Academy's admissions policy, including management of the application and enrollment process, in compliance with all nondiscrimination requirements and other Applicable Law;

(ix) Student Discipline. Provision of necessary information to and cooperation with the District in handling all student disciplinary matters as required by Applicable Law, applicable District policies, and Academy policies. In all events, the District will undertake all disciplinary actions related to Academy students. The cost associated with such actions shall be included within the Academy budget;

(x) Monthly Reports. Provision to the District on a monthly (or more often if necessary for the District to satisfy its obligations under Applicable Law) basis of a report detailing (A) the Academy's students' academic performance, and (B) performance of the Educational Services, Administrative Services, and Technology Services;

(xi) District Policies. Assistance to the Academy in complying with all applicable District policies as reasonably interpreted to apply to the Academy. K12 will enforce the procedures adopted for the Academy in a manner that does not conflict with District policies, this Agreement, or Applicable Law.

(xii) Instructional Equipment. K12 shall propose and implement, and the Governing Authority shall adopt, policies and procedures regarding the responsible use of computer equipment and other instructional equipment;

(xiii) Public Relations. Advertising and public relations with the community and the media, in conjunction with designated District officials;

(xiv) Subcontracting. K12 reserves the right to subcontract any and all aspects of the services it provides to the Academy. K12 shall provide names and information available regarding particular subcontractors to the Governing Authority upon request. Such subcontracting shall be only with the prior written consent of the District except that no consent shall be necessary in regard to entities that are wholly-owned subsidiaries of K12 or its wholly-owned subsidiaries. The parties acknowledge that K12 contracts with numerous vendors for instructional materials and equipment and that this provision shall only apply to subcontractors providing substantial service elements and not vendors who provide assets, such as instructional materials and equipment, or ancillary services. The District's consent to the subcontracting of any portion of this Agreement shall not relieve K12 of its obligations to perform any subcontracted functions under this Agreement. Should a party with whom K12

subcontracts for the performance of services fail to perform in accordance with the terms and conditions set forth in this Agreement, the District may pursue all remedies available under this Agreement and the law from K12;

(xv) Nondiscrimination Requirements. Compliance with all general and specific nondiscrimination requirements imposed by Applicable Law or District or Academy policies; and

(xvi) Additional Administrative Services. Any other services (A) described in Exhibit D to this Agreement, or (B) reasonably necessary or expedient for the effective administration of the Academy.

(xvii) Special Educational Assistance. Assistance with such special education services as shall be mandated by Applicable Law. All costs of providing special education services under Applicable Law shall be included in the Academy budget.

(b) The Administrative Services will be provided in accordance with the Educational Program, Applicable Law, and this Agreement.

(c) Subject to this Agreement and Applicable Law, K12 may modify details of the methods, means, and manner by which such Administrative Services are provided, provided that such details continue to comply with the requirements set forth in this Agreement and does not violate any policy adopted by the Governing Authority on behalf of the District or the Academy.

(d) The Governing Authority shall work and cooperate with K12 in developing procedures, rules and regulations, programs, and budgets to implement the Governing Authority's adopted policies relating to the Academy, which K12 shall follow and implement.

2.03 Technology Services. During the Term, K12 will provide or cause to be provided to the Academy the following technology services ("Technology Services"):

- (a) Integrate technology and data systems with the Academy's curriculum;
- (b) Monitor and analyze data, as necessary;
- (c) Report on pupil academic performance using K12's standard formats;
- (d) Seek and secure competitive pricing and discounts on behalf of the Academy for its technology needs, as available;
- (e) Train school staff, and parents and students, as deemed appropriate and necessary by K12, on technology systems;

- (f) Develop, design, publish, and maintain the Academy-specific interactive web site;
- (g) Supervise the installation of the Academy's internal computer and telephone network;
- (h) Negotiate contracts with system vendors, software vendors and office set-up vendors on behalf of the Academy, as necessary;
- (i) Develop community and interactive tools on the Academy-specific web site;
- (j) Determine configurations (including hardware, software, and operating systems) for the Academy's technology needs;
- (k) Technology Management Services. Management and operation of the Academy's technology systems;
- (l) Support the Academy's administration in troubleshooting system errors;
- (m) Other technology support services (A) described in Exhibit D to this Agreement or (B) requested and mutually agreed upon by the Governing Authority and K12.

2.04 Provision of Computer Hardware, Software, and Internet Access. K12 shall provide each family with a student enrolled in the Academy with the use of such computer hardware, software, and Internet access as may be necessary to access the Academy's programs and curriculum (collectively referred to as "Technology Tools"). Such Technology Tools will be provided free of charge to the family of each enrolled student and in accordance with the minimum requirements set forth in Exhibit C. The cost of providing Technology Tools shall be incorporated with the Academy budget.

2.05 Accountability to the Governing Authority. K12 will be responsible for and accountable to the Governing Authority for the provision of the Educational Services, Administrative Services, and Technology Services in accordance with this Agreement.

2.06 Place of Performance, Provision of Offices. K12 will maintain and keep the records and books of the Academy at the Facility. K12 may maintain electronic or paper copies of records and provide other services elsewhere, unless prohibited by Applicable Law. K12 recognizes and agrees that, for purposes of the Family Educational Rights and Privacy Act, the Individuals with Disabilities Education Act, the Wisconsin open meetings law, and the Wisconsin public records act, administrative officials of both the Academy and the District are school officials with legitimate educational interests for purposes of disclosure of student records maintained by K12 as to Academy students.

2.07 District Expenses. The District will be responsible for paying and discharging, only from revenues allocated to the Academy, the following debts, liabilities, and obligations incurred by the District or by K12 on behalf of the Academy (collectively, "District Expenses"). District Expenses shall include: general liability insurance associated with the Academy, if applicable; salaries and benefits, travel, phone, conferences, and other reimbursable expenses for District employees providing services to the Academy (including employees who split their time between District functions and Academy functions) to the extent associated with their work for the Academy (as defined in Article VI below); and all other District discretionary expenses approved in the Budget submitted by K12 to the Governing Authority from time to time. District expenses incurred at a variance of five percent (5%) or more above the budgeted amount must be approved in writing by K12, except that any legal fees and related costs and expenses deemed necessary or appropriate by the Governing Authority in order to preserve charter school status for the Wisconsin Virtual Academy or collecting state, local, and/or federal funding related to such charter school status shall not require approval of K12. All Academy legal costs shall be included in the Academy budget. Notwithstanding the above, certain legal expenses of the District shall not be subject to budgetary limitations to the extent that K12 is required to indemnify the District for such expenses pursuant to Section 9.01(b) below.

2.08 Academy Loans. During the Term of this Agreement, K12 shall be required to pay on the Academy's behalf any properly incurred Academy Expenses, including but not limited to District Expenses related to Academy operations. Any payments that K12 may make on behalf of the Academy will then become a loan from K12 to the District evidenced by loan documents containing terms mutually agreed upon by K12 and the Governing Authority under the following terms and conditions: (a) the Academy is unable to pay said Academy Expense without incurring a deficit, (b) the Governing Authority has duly authorized and approved said Academy Expense, (c) the Academy Expense is submitted in writing to K12, (d) the maturity date of the loan shall be ten (10) days following the date on which the District receives payment from the State of Wisconsin under the State of Wisconsin's open enrollment policies (e) the loan shall be interest free and (f) the loan shall be forgiven in the event that the Academy does not receive sufficient funds from the State with which to repay the loan. K12 may ask the District to, and the District may, but shall not be required to, borrow at its lower cost of capital and make such funds available to the Academy. No such District Borrowing shall take place without the provision of an unconditional guarantee of any such Borrowing by K12. In all events, all payments relating to such District Borrowing shall be payable from Academy funds, or by K12 if Academy funds are insufficient to satisfy all costs of borrowing and debt service. In no event shall District funds other than those received for Academy open enrollment purposes be utilized in the payment of any District Borrowings under this provision. It is specifically understood by K12 that the operation of the Academy shall not result in cash outflows from the District's general operating funds unrelated to the Academy. K12 shall hold the District harmless for all expenses incurred in relation to Academy operations except to the extent that such expenses may be satisfied from Academy funds. Nothing in this Section 2.08 shall constitute a waiver of any rights or remedies that K12 or the Academy may have against any party other than

the District for payment to the Academy of Wisconsin state open enrollment funds owing from enrollment of Academy pupils in the school's program.

2.09 Standards of Discretion and Performance. It is understood by both parties that the services provided by K12 under this Agreement, including Exhibit D, will be provided to the extent deemed necessary and appropriate by K12 in its professional judgment and reasonable discretion.

ARTICLE III TERM

3.01 Term. This Agreement will become effective July 1, 2003 and will end on June 30, 2008 ("Termination Date") unless sooner terminated under Article VII ("Term"). Notwithstanding anything to the contrary in this Agreement, the Agreement will not become effective and binding unless the Academy's Charter issued is effective and valid.

3.02 Renewal. Upon renewal of the Academy's Charter, the Term of this Agreement will automatically renew for additional, successive one-year renewal terms unless one party notifies the other party at least six (6) months prior to the expiration of the then-current initial or renewal term of its intention not to renew this Agreement.

ARTICLE IV RELATIONSHIP OF THE PARTIES

4.01 Status of the Parties. K12 is not a division or any part of the District or Academy. The District and the Academy are bodies corporate authorized under Applicable Law, and neither the Academy nor the District is not a division or a part of K12. The relationship between the parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement and those of any other agreements that may be created in the future from time to time between the parties. K12 shall operate as an independent contractor to the District and shall be responsible for delivering the services required by this Agreement. Nothing herein will be construed to create a partnership or joint venture by or between the Academy and K12. Neither party shall be the agent of another except to the extent otherwise specifically provided by this Agreement where K12 is authorized to take action on behalf of the Academy or Governing Authority. The District shall in no case represent to third parties, and shall whenever needed disclaim to such parties, any ability to bind K12 to any duty imposed by contract, other than this Agreement. All personnel performing educational or administrative services for K12 shall comply with all applicable licensure or other requirements of Applicable Law and any regulations promulgated thereunder, and shall be entitled to all perquisites provided thereby, except as otherwise provided in this Agreement.

4.02 No Related Parties or Common Control. K12 will not have any role or relationship with the District that, in effect, substantially limits the Governing Authority's ability to exercise its rights, including cancellation rights, under this Agreement. None of the voting power of the Governing Authority will be vested in K12 or its directors, trustees, members, managers, officers, shareholders, or employees, and none of the voting power of the Board of Directors or Shareholders of K12 will be vested in the District or its directors, trustees, members, managers, officers, shareholders (if any), or employees. Furthermore, the District and K12 will not be members of the same control group, as defined in Section 1.150(f) of the regulations under the Internal Revenue Code of 1986 as amended (or its successor), or related persons, as defined in Section 144(a)(3) of the Internal Revenue Code of 1986 as amended (or its successor).

4.03 Other Schools. K12 agrees that, during the Term of this Agreement, K12 and any entity controlled by K12 will not enter into any other agreement providing for the operation of any other virtual school utilizing the K12 curriculum within the State of Wisconsin. The parties acknowledge that this arrangement is not exclusive outside the State of Wisconsin and that K12 will have the right to render similar services to other persons or entities including other public or private schools or institutions outside of the State of Wisconsin and other non-virtual schools within Wisconsin ("Other Schools"). K12 will maintain separate accounts for reimbursable expenses incurred on behalf of the Academy and Other Schools, if any. All grants or donations received by the Academy, or by K12 for the specific benefit of the Academy, will be maintained in separate accounts and used solely for the Academy. K12 further agrees that, beginning on the date that K12 has notified the District of its intention not to renew this Agreement, the District shall have the first right of refusal. At such time as K12 has a final negotiated offer to provide Educational, Administrative, and Technology Services to a virtual school program accepting students through open enrollment within the state of Wisconsin, K12 will provide the District with written notification of the negotiated terms and conditions, and the District shall have the right to enter into a new agreement with K12 under the same terms and conditions or to negotiate a mutually acceptable agreement within thirty (30) days of receipt of such notice. If the District and K12 do not enter into a mutually acceptable agreement within such thirty (30) day period and K12 signs a definitive agreement with a third party on the terms and conditions outlined in the written notice, then the District's right of first refusal shall lapse.

ARTICLE V CONSIDERATION

5.01 Academy Gross Revenues. State per-pupil dollars, Academy designated contributions, Academy designated grants, and other income generated as a result of Academy operations shall comprise the Academy's Gross Revenues (hereinafter "Gross Revenues"). One hundred percent (100%) of the Academy's Gross Revenues shall flow first to the District, from which the District will retain a District Oversight Fee, pay its obligations to other parties, including K12 and other Academy service providers or vendors in the order set forth below.

(a) First Priority - District Oversight Fee. From the Academy's Gross Revenues, the District shall retain five percent (5%) of the Gross Revenues as a District Oversight Fee ("District Oversight Fee") in the Academy's first year (2003-04), four percent (4%) in the Academy's second year (2004-05), and three percent (3%) in the Academy's third year (2005-06) and beyond, to cover central administrative costs associated with the Academy, in particular, the expenses associated with overseeing the quality of the Academy's academic, operational, and financial performance.

(b) Second Priority - Funds for District Expenses. From the Academy's Gross Revenues available after reduction for the District Oversight Fee, the District shall pay the costs of District Expenses identified in Section 2.07 of the Agreement, including: general liability insurance associated with the Academy, if applicable; salaries and benefits, travel, phone, conferences, and other reimbursable expenses for District employees providing services to the Academy (including employees who split their time between District functions and Academy functions) to the extent associated with their work for the Academy (as defined in Article VI below); and all other District discretionary expenses approved in the Budget submitted by K12 to the Governing Authority from time to time or within the 5% variance set forth in Section 2.07 or otherwise agreed to or expended by K12. The District Oversight Fee and the Funds for District Expenses shall comprise a significant portion of the Academy's Gross Revenues. The District Oversight Fee does not include compensation for specific services, which may be mutually agreed upon in writing by both parties and compensated at fair-market value.

(c) Third Priority - Education, Administrative, and Technology Service Fees Payable to K12 and its Related Entities. For the term of this Agreement, the District will pay to K12 the balance of the Academy's Gross Revenues after subtracting the District Oversight Fee and the Funds for District Expenses. The parties hereby acknowledge that the fee paid to K12 pursuant to this subparagraph (c) is the full amount payable by the District to K12 and K12 shall be responsible for paying all costs incurred by it in providing the Educational Services, Administrative Services, and Technology Services referenced in Section 2.01, 2.02, 2.03, and 2.04 of this Agreement including payments to third-party vendors and contractors, such as computer, printer, software, service providers, and school-supply vendors.

(d) Timing of Payments. The District shall remit all payments required under this Article V on or before the 15th day after receipt of the corresponding payment from the State and an invoice from K12 (including all payments due for services rendered during the Term, even though payment may be made beyond expiration of the Term).

(e) Assumption of Risk. Except as otherwise set forth in this Agreement, K12 assumes the risk that its fees will not allow it to operate profitably nor to fully cover the costs of business during any given period.

(f) Value of Services Rendered. The parties hereto acknowledge and agree that the amounts allocated above in this Section 5.01 are reasonable, necessary, and fair-market value compensation for services rendered.

5.02 Time and Priority of Payments.

(a) The District will satisfy its payment obligations under this Article to K12 by paying the oldest amounts due first. To the extent amounts due are affected by information newly available, the amount adjusted due to such information shall be payable in the month immediately succeeding the month in which the information became reasonably available.

(b) Any payment required under this Article V that is not paid when due will be subject to interest on the amount in arrears calculated at the prime rate of interest announced by Bank of America as its prime rate plus 2% per annum, for the time overdue; provided that the total interest and late fees shall not exceed the amounts allowed by Applicable Law. Notwithstanding anything to the contrary contained in this subsection (b), no interest or no late fee shall be required if untimely payment is the result of an act or omission by K12 or the regular State open enrollment payment schedule, in which the State forwards payments to Districts for open enrollment students at the end of their corresponding school year. It is understood by both parties that K12 will advance at no cost to the Academy sufficient funds to cover the expenses associated with operating the Academy's program until receipt of State open enrollment revenues each year for the Academy, and that the interest and late fees referenced above shall only begin to accrue fifteen (15) days after the District has received its State open enrollment funding for the Academy. The parties specifically agree that the District's payment to K12 (including the District's obligations to repay any loans advanced by K12) shall be limited to the amount received by the District from the State of Wisconsin, the Federal Government, and any other governmental sources ("Outside Funding") for operation of the Academy and related to Academy enrolled students less the applicable District Oversight Fee set forth in Section 5.01(a). In no event shall the District be responsible for payment of funds to K12 from its general operating funds or other funds related to the operation of traditional schools by the District.

5.03 Other Revenue Sources.

(a) The District and K12 may, together or independently, solicit and receive grants and donations from public funds through competitive grant processes or through private sources, in the name of the Academy, provided, however, that any solicitation of such grants by K12 shall be subject to the prior approval of the Academy.

(b) Nothing in this Section 5.03 will be construed to prohibit K12 from soliciting funds or grants solely for its own general corporate purposes and using such funds or grants solely for such purposes. Notwithstanding the above, there shall be no solicitation of donated funds from the families of students enrolled in the Academy without the prior written consent of the District.

ARTICLE VI
PERSONNEL AND TRAINING

6.01 Administrative Personnel Responsibility.

(a) In furtherance of K12's obligations under Sections 2.01 and 2.02 above and subject to Applicable Law, K12 will have the responsibility and authority to recommend staffing levels for the Academy, which shall be subject to agreement by the parties. K12 shall also have the authority to recommend people for the Academy administrative and teaching positions listed below, including hiring, dismissal, discipline, and assistance with supervision, although both parties hereby agree that the Governing Authority shall make all final decisions about hiring, dismissal, and discipline for District employees providing services to the Academy, subject to all Applicable Laws and agreements the District has entered into. The personnel designated as District employees below working for the Academy shall be subject to the supervision of the District, which shall also retain the right to hire and dismiss them. Any K12 employees or contractors who provide services or tasks to the Academy shall be under K12's day-to-day supervision, and K12 shall retain the right to hire and fire them.

(b) Each party will be responsible for conducting criminal background checks on its respective employees to the extent required under Applicable Law. Upon request, each party will provide the other party evidence of such background checks or evidence of application therefore, subject to any confidentiality requirements of Applicable Law.

6.02 Principal. The District will employ a Principal to oversee the Academy's administration and operations and to supervise and discipline Academy employees. The District will determine the employment terms for the position of Principal. The District will have the authority to select, supervise, and dismiss the Principal and to hold him or her accountable for the success of the Academy. All costs associated with the employment of the Principal shall be included in and paid as a part of the Academy budget. The District agrees to collaborate with K12 on a Job Description for the position of Academy Principal and on performance criteria and recommendations about whether actual performance meets such criteria, given K12's experience and expertise in working with virtual schools across the country.

6.03 Director of Instruction and Staff Development. The District will employ and will determine the employment terms for the position of Director of Instruction and Staff Development. The District will have the authority to select, supervise, and dismiss the Director of Instruction and Staff Development. The District will loan the services of the Director of Instruction and Staff Development to the Academy for at least fifty percent (50%) of his or her time so that this position shall be deemed a District employee providing services to the Academy for purposes of this Agreement. All of the costs associated with the employment of the Director of Instruction and Staff Development shall be included in and paid as a part of the Academy budget. The District shall reimburse the Academy for such portion of the Director of Instruction and Staff

Development's time as is spent on matters unrelated to Academy operation with such allocation being made pro rata on the basis of time spent on Academy versus general District matters. The District agrees to collaborate with K12 on a Job Description for the position of Academy Director of Instruction and Staff Development and on performance criteria and recommendations about whether actual performance meets such criteria, given K12's experience and expertise in working with virtual schools across the country.

6.04 Manager of Special Education Services. The District will employ and will determine the employment terms for the position of Manager of Special Education Services. The District will have the authority to select, supervise, and dismiss the Manager of Special Education Services. The District shall have the right to contract with third-party service providers who are properly authorized to provide special education services in the State of Wisconsin on its behalf and to direct them to work in collaboration with the Academy's Manager of Special Education Services. All of the costs associated with the employment of the Manager of Special Education Services shall be included in and paid as a part of the Academy budget. The District agrees to collaborate with K12 on a Job Description for the position of Academy Manager of Special Education Services and on performance criteria and recommendations about whether actual performance meets such criteria, given K12's experience and expertise in working with virtual schools across the country.

6.05 Teachers. The District will employ Academy teachers. K12 will assist the District with the recruitment and supervision of teachers and may make recommendations to the District concerning hiring, dismissal, and discipline of teachers to the Principal, who shall act in accordance with Applicable Law and District agreements. The Principal shall determine the initial number and assignments of such teachers and shall make recommendations to the Governing Authority with respect to hiring, supervision, and dismissal of such teachers and their employment terms, in conjunction with District employment policies. The Principal shall determine, in the exercise of his discretion and in accordance with Applicable Law, an appropriate ratio of teachers to pupils for the Academy. Teachers may work on a full- or part-time basis. Each teacher assigned to the Academy must be qualified and state-certified and have applied for or undergone a criminal background check and unprofessional conduct check to the extent required under Applicable Law. Upon request, the District will provide K12 with documentary evidence of compliance with this Section 6.05, subject to any confidentiality requirements of Applicable Law.

6.06 Training. K12 will provide training in its instructional methods, curriculum, educational program, and support technology to the Academy's instructional personnel and applicable contractors on a regular basis. The District and K12 shall jointly be responsible for ensuring that all teachers have necessary in-servicing with respect to all pertinent requirements of federal or state law. Non-instructional personnel will receive such training as K12 determines to be reasonable and necessary under the circumstances. All costs related to such training shall be included in and paid from the Academy budget. The District shall not be responsible for payment of training costs not satisfied from such budget.

6.07 Dispute Resolution. In the event of a dispute related to operation of the Academy between Academy employees who are not subject to a collective-bargaining agreement with the District and K12 employees, the parties agree to convene a meeting (which may be telephonic) that will consist of two District employees and two K12 employees. The parties will work in good faith to resolve the dispute within two (2) business days of it arising. If the dispute cannot be resolved using the process outlined in this Section, either party may appeal to the Superintendent and/or the Board for a resolution of the matter at hand. If the dispute concerns an Academy policy, procedure, or budgeted item that has been previously approved by the Superintendent or Governing Authority, then the Superintendent will instruct the Academy administrative employee to comply.

ARTICLE VII TERMINATION OF AGREEMENT

7.01 Events of Termination.

(a) Termination upon Notice. Any party may terminate this Agreement prior to the end of the Term in the event that any other party fails to remedy a breach or non-fulfillment of any material condition, term, provision, representation, warranty, covenant, or obligation contained in this Agreement within ninety (90) days after written notice of such breach or non-fulfillment unless the breach or non-fulfillment cannot be reasonably cured within ninety (90) days, in which case the breaching party shall promptly undertake and continue efforts to cure said material breach within a reasonable time. Termination of this Agreement for any reason does not relieve the District of any obligations for payments outstanding to K12 for services rendered as of the date of termination. Termination under this subsection shall be effective at the end of the school year in which notice of breach and failure to cure occurs, unless earlier termination is necessary to protect the health, welfare, or safety of students.

(b) Termination by K12. Notwithstanding Section 7.01(a) and Section 7.02, K12 may at its option terminate this Agreement upon the occurrence of any of the following events or circumstances:

(i) The District is in default of any material condition, term, provision, representation, warranty, covenant, or obligation contained in the Charter;

(ii) A material reduction occurs in per-pupil funding available from the State of Wisconsin below the amount for the prior fiscal year.

Termination pursuant to this subsection (b) will not relieve the District of any obligations for payments outstanding to K12 as of the date of termination or other obligations that continue upon termination as provided in this Agreement. Termination under this subsection (b) shall be effective immediately upon the occurrence of one of the events described herein or such later date as determined by K12 (but in no event later

than the end of the current school year of the Academy).

(c) Termination by the District. Notwithstanding Section 7.01(a) and Section 7.02, the District may at its option terminate this Agreement upon the occurrence of any of the following events or circumstances:

(i) A material reduction occurs in per-pupil funding available from the State of Wisconsin below the amount for the prior fiscal year.

Termination pursuant to this subsection (c) will not relieve K12 of any obligations for payments outstanding to the District as of the date of termination or other obligations that continue upon termination as provided in this Agreement. Termination under this subsection (c) shall be effective immediately upon the occurrence of one of the events described herein or such later date as determined by the District (but in no event later than the end of the current school year of the Academy).

(d) Termination by Loss of Charter. This Agreement will terminate immediately upon the Academy ceasing to be a party to a valid and binding Charter or upon a final, non-appealable determination of a court of competent jurisdiction that the operation of a charter school on a virtual basis is not permitted under Wisconsin or other Applicable Law. Termination pursuant to this paragraph will not relieve the District of any obligations for payments outstanding to K12 as of the date of termination or other obligations that continue upon termination as provided in this Agreement.

7.02 Change in Accordance with Applicable Law or Anticipated Economic Results. If any Applicable Law makes the operation of the school illegal, this Agreement shall be terminated immediately. If any Applicable Law has a materially adverse effect on the ability of any party to carry out its obligations under this Agreement or would impose any costs on District taxpayers which cannot be satisfied from Academy funds or if the District's costs in overseeing and participating in the Academy program exceed its revenues generated by the Academy, the affected party, upon written notice to the other party, may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith. If the parties are unable to renegotiate and agree upon revised terms within ninety (90) days after such notice of renegotiation, then this Agreement shall be terminated immediately upon delivery of written notice by either party to the other.

7.03 Review of Services. The parties agree that in the month of March in each school year, they will undertake a review of services rendered by K12 and staffing in the Academy and determine if any adjustments should be made for the following school year as may be mutually agreed.

ARTICLE VIII
PROPRIETARY INFORMATION

8.01 Proprietary Materials. The District acknowledges and agrees that K12 owns all intellectual property rights and interests in its trade secrets, know-how, proprietary data, trademarks, tradenames, copyrighted documents, software, licenses, marketing materials, website design for K12 and for the Academy and curricular materials (collectively, "Proprietary Materials"). The District further acknowledges and agrees that it has no intellectual or property interest or claims in the foregoing Proprietary Materials of K12 other than a royalty-free, non-exclusive, non-transferable license during the Term, and that upon expiration or earlier termination of this Agreement, the Academy's license to use shall expire. Notwithstanding the above, K12 agrees that if this Agreement is terminated for any reason other than a material breach of its terms by the District, then K12 shall provide the District with the right to continue utilizing the K12 curriculum for the remainder of the then-current school year at a cost not to exceed the rate at which the curriculum is made generally available to other virtual schools. It is understood by the parties that this provision is intended to permit the District to maintain continuity of instruction at the Academy while alternative arrangements for the provision of services previously provided by K12 are pursued.

8.02 Proprietary Marks. The District acknowledges and agrees that K12 owns all intellectual property rights and interests in the trademarks, tradenames, and the name and logo of K12 and of the Academy (collectively, "Proprietary Marks"). The District further acknowledges and agrees that it has no intellectual or property interest or claims in the foregoing Proprietary Marks of K12 and has no right to use the Proprietary Marks relating to K12 unless expressly agreed to in writing by K12 but does have a royalty-free, non-exclusive, non-transferable license, during the Term, to use the Proprietary Marks relating to the Academy solely in connection with the Academy's operations as contemplated in this Agreement, and that upon expiration or earlier termination of this Agreement, the District's license to use shall expire. If this Agreement should terminate prior to the conclusion of an academic year due for any reason other than a material breach by the District, the District shall have a continuing license to use all rights related to the Academy Proprietary Marks through the end of the then-current school year without further charge.

8.03 Usage. The District shall use K12's Proprietary Materials and Proprietary Marks only as provided, and shall not alter them in any way, nor shall it act or permit action in any way that would impair the rights of K12 in them. The District's authorized use shall not create any right, title or interest in or to such Proprietary Materials or Proprietary Marks. K12 shall have the right to monitor the quality of the District's use, and the District shall notify K12 promptly in writing of any known infringement thereof. Any references or use of K12's Proprietary Materials or Proprietary Marks shall contain the appropriate trademark, copyright, or other legal notice provided from time to time by K12.

ARTICLE IX INDEMNIFICATION

9.01 Indemnification of the District.

(a) K12 will indemnify, defend, save and hold harmless the District and all of its employees, officers, board members, directors, trustees, subcontractors, and agents, their respective successors and permitted assigns, harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any (a) breach by K12 with any agreements, covenants, warranties, or undertakings of K12 contained in this Agreement, (b) violation by K12 of any Applicable Law, (c) breach of the representations and warranties of K12 contained in this Agreement, and (d) action or omission by K12 or any of its employees, officers, directors, trustees, subcontractors, and agents that results in injury, death, or loss to person or property; all except to the extent claims or losses arise out of actions or omissions of the District. The District agrees that it will give K12 notice within five (5) business days of any claim under this section, or as soon as reasonably practicable.

(b) K12 agrees that it will defend, indemnify, and save harmless the District, the Governing Authority, each Governing Authority board member, and all administrative personnel against any and all claims, demands, lawsuits, administrative proceedings, and costs of defense incurred by K12 resulting from any challenge to the validity of the virtual charter school or actions to collect state or federal payments customarily received by charter schools, provided that the defense of any such claim, demand, lawsuit, or administrative proceeding shall be under the control of K12 and its attorneys and that the District will act in good faith in authorizing K12 and its attorneys to propose and accept any reasonable settlement offer, provided that K12 will not have the authority to enter into settlement agreements on behalf of the District without its prior written consent. Nothing in this section shall preclude the District from participating in any legal proceedings challenging the validity of the Academy or establishing or enforcing the District's rights to obtain state or federal payments customarily received by charter schools and in open enrollment through legal representatives of its own choosing, provided that if the District does so participate, (i) K12 shall reimburse the District for its actual reasonable and necessary out-of-pocket legal costs and expenses, and (ii) should the District tender the challenge to its insurance carrier, K12 will satisfy any deductible applicable to such a tender. It is the intent of K12 to protect the District from any legal costs associated with a challenge to the validity of the Academy or its charter. It is specifically agreed by the parties that K12's obligations to indemnify the District pursuant to this Section 9.01 shall not be limited to any amounts included within the Academy budget. Notwithstanding any other provision of this Agreement, if the Academy continues to operate, but this Agreement is terminated, then K12's obligations under this section 9.01(b) shall cease.

9.02 Indemnification of K12. The District will indemnify, defend, save and hold harmless K12 and all of its employees, officers, directors, trustees, subcontractors, and agents, their respective successors and permitted assigns, against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any (a) breach by the District with any agreements, covenants, warranties, or undertakings of the District contained in this Agreement, (b) violation by the District of any Applicable Law (except as to matters relating to the establishment, validity, and funding of virtual charter

schools, which shall be subject to indemnification under Section 9.01(b) above), (c) breach of the representations and warranties of the District contained in this Agreement, and (d) action or omission by the Academy or any of its employees, officers, directors, trustees, subcontractors, and agents that results in injury, death, or loss to person or property; all except to the extent any claims or losses arise out of actions or omissions of K12. K12 agrees that it will give the District notice within five (5) business days of any claim under this section, or as soon as reasonably practicable.

9.03 Relation to Dispute Resolution; Satisfied by Insurance. The indemnification requirements of this Article may be met by the purchase of insurance and shall survive termination or expiration of this Agreement. The District agrees to reasonably seek indemnification, if possible, through insurance coverage before seeking recovery directly from K12.

ARTICLE X INSURANCE

10.01 Insurance Coverage. The District will initiate and maintain, at its own expense, general liability insurance and umbrella insurance coverage for District operations in the amounts required of the Academy under Applicable Law or as otherwise ordinary and customary in the circumstances and as necessary to comply with third-party covenants for its and for K12's protection.

10.02 K12 Insurance Coverage. K12 will maintain, in full force and effect at its own expense, general liability insurance and umbrella insurance coverage for its acts and omissions under this Agreement in an amount not less than \$1 million per occurrence, \$2 million aggregate for general liability coverage and \$10 million for umbrella coverage. Such coverage shall name the District as an additional insured for all matters related to Academy. K12 agrees that it will provide a certificate of insurance reflecting the above coverage and the inclusion of the District as an additional insured as soon as practicable following execution of this Agreement and upon the reasonable request of the District from time to time.

10.03 Workers' Compensation Insurance. The District and K12 separately will initiate and maintain workers' compensation insurance for their respective employees working at or for the Academy, as required by Applicable Law.

10.04 Cooperation. All parties will comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

ARTICLE XI REPRESENTATIONS AND WARRANTIES

11.01 Representations and Warranties of K12. K12 hereby represents and warrants to the District:

(a) K12 is a corporation duly organized, validly existing under the laws of the State of Delaware.

(b) K12 has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the valid and legally binding obligation of K12, enforceable against K12 in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

11.02 Representations and Warranties of the District. The District hereby represents and warrants to K12:

(a) The District is a public school district duly organized and validly existing under the laws of the State of Wisconsin.

(b) The District has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder on behalf of itself and the Academy. This Agreement constitutes the valid and legally binding obligation of the District, enforceable against the District in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and other laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

11.03 Mutual Warranties. Each party to the Agreement warrants to the other that there are no pending actions, claims, suits, or proceedings, to its knowledge, threatened against it, which if adversely determined, would have a material adverse effect on its ability to perform its obligations under this Agreement.

ARTICLE XII MISCELLANEOUS

12.01 Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the parties.

12.02 Force Majeure. Notwithstanding any other sections of this Agreement, no party shall be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike, or other acts beyond its reasonable control. In no event shall adjudication of the legal status of virtual charter schools be considered to be an act beyond the reasonable control of the parties.

12.03 Governing Law. The laws of the State of Wisconsin without regard to its conflict of laws provisions will govern this Agreement, its construction, and the

determination of any rights, duties, and remedies of the parties arising out of or relating to this Agreement.

12.04 Agreement in Entirety. This Agreement constitutes the entire agreement of the parties.

12.05 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.

12.06 Official Notices. All notices and other communications required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: certified or registered mail, postage prepaid, return receipt requested, (ii) facsimile (with confirmation of transmission by sender's facsimile machine), or (iii) personal delivery. Notice will be deemed to have been given two (2) days after mailing or on the date of personal delivery or on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the next succeeding business day). The addresses of the parties are:

For K12:

To: Gregg Vanourek
Senior Vice President, School Development
K12 Inc.
8000 Westpark Drive, Suite 500
McLean, VA 22102
(Fax) 703-288-6740

With a copy to:

Paula Atkinson
General Counsel
K12 Inc.
8000 Westpark Drive, Suite 500
McLean, VA 22102
(Fax) 703-288-6740

For the District:

To: William R. Harbron
Interim Superintendent
Northern Ozaukee School District
401 Highland Drive
Fredonia, WI 53021

(Fax) 262-692-6257

With a copy to:

Nancy L. Pirkey
Davis & Kuelthau, s.c.
111 East Kilbourn Avenue, Suite 1400
Milwaukee, WI 53202
(414) 276-9369 fax

12.07 Assignment. Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be arbitrary or capricious.

12.08 Amendment. This Agreement will not be altered, amended, modified, or supplemented except in a written document approved by the District and K12.

12.09 Waiver. No waiver of any provision of this Agreement will be effective unless in writing, nor will such waiver constitute a waiver of any other provision of this Agreement, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

12.10 Severability. The invalidity of any of the covenants, phrases, terms, conditions, provisions, or clauses in this Agreement will not affect the remaining portions of this Agreement, and this Agreement will be construed as if such invalid covenant, phrase, term, condition, provision, or clause had not been contained in this Agreement. To the extent that any of the services to be provided by K12 are found to be overbroad or an invalid delegation of authority by the District, such services will be construed to be limited to the extent necessary to make the services valid and binding.

12.11 Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns.

12.12 No Third-Party Rights. This Agreement is made for the sole benefit of the Academy and K12. Nothing in this Agreement will create or be deemed to create a relationship between the parties to this Agreement, or any of them, and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

12.13 Survival of Termination. All representations, warranties, and indemnities made in this Agreement will survive termination of this Agreement.

12.14 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

NORTHERN OZAUKEE SCHOOL DISTRICT,
a Wisconsin public school district

By: _____

Its: _____

K12 INC., a Delaware corporation

By: _____

Its: _____