



Karaty, Raymond <rkaraty@sbpsnj.org>

OPRA request - Contract-Champions

1 message

Michael Windsor <opra+request-10147-47276b6a@requests.opramachine.com>
To: OPRA requests at Saddle Brook School District <rkaraty@saddlebrookschoools.org>

Mon, Mar 2, 2020 at 12:08 PM

Dear Saddle Brook School District,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

1) Most recent Contract of the vendor Champions which is the before and after school vendor for the school district.

Yours faithfully,

Michael Windsor

Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-10147-47276b6a@requests.opramachine.com

Is rkaraty@saddlebrookschoools.org the wrong address for OPRA requests to Saddle Brook School District? If so, please contact us using this form:

https://opramachine.com/change_request/new?body=saddle_brook_school_district

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://opramachine.com/help/officers>

View this OPRA request & responses online:

https://opramachine.com/request/contract_champions

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.

Response: Approved

Contract emailed - OPRA request satisfied

Raymond Karaty
Business Administration

ENRICHMENT PROGRAM AGREEMENT

The following Enrichment Program Agreement ("Agreement"), effective on the date as shown on the attached **Exhibit A** ("Effective Date"), is between **KCE Champions LLC** ("Champions") and the School or School District ("School") as shown on the attached Exhibit A. The parties agree as follows:

1. RESPONSIBILITIES OF CHAMPIONS.

A. Champions will provide Before and/or After School and Enrichment Programs ("Program"), as set forth in attached Exhibit A.

B. Tuition and fees charged by Champions for Program enrollment are set forth in Exhibit A. Champions, in its sole discretion, may increase the tuition and fees charged for the Program after providing 90 days' prior written notice. Except as otherwise set forth on Exhibit A, Champions will operate the Program on regular school days, all conference days, and school holidays (and during summer, if included). Except as otherwise set forth on Exhibit A, the Program will be closed on the following national holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the day after Thanksgiving, and Christmas Day.

C. Champions will comply with all applicable state and federal laws and regulations governing the Program and its employees. Champions further agrees to immediately apply for all necessary licenses in order to operate the Program. Obtaining all such licenses will be a condition precedent to Champions' obligations under this Agreement. Once obtained, Champions agrees to maintain all such licenses for the duration of this Agreement.

D. Champions agrees to:

- i. Provide all necessary curriculum, materials, staffing, and management to operate the Program effectively.
- ii. Leave the Program location(s) in a neat and clean condition at the end of each Program session.
- iii. Maintain appropriate communication with the Principal at each Program location.
- iv. Maintain appropriate communication with families of enrolled children and provide a Parent Handbook.
- v. Repair, replace, or reimburse School for any equipment, furniture or fixtures damaged by Champions in the course of its operation of the Program as mutually agreed by School and Champions, except that Champions will not be responsible for reasonable wear and tear, casualty, or acts of God.

2. RESPONSIBILITIES OF SCHOOL.

A. School will be responsible for and provide at its cost the following items:

- i. Licensable space(s) sufficient to accommodate the Program. The licensable space(s) will include a separate telephone line, which will be connected and utilized at Champions' expense. The specific space(s) agreed to by the parties are set forth in Exhibit A.
- ii. Furniture, fixtures, and equipment appropriate and sufficient for the Program including a minimum of five tables with appropriate seating.
- iii. Approximately 150 square feet of secure equipment storage space that is convenient to the Program location.

- iv. Safety equipment (including fire extinguishers) and building safety features required by state or local authorities.
- v. Access to the gymnasium and outdoor playground, when available, both of which must meet applicable licensing requirements.
- vi. Utilities including, but not limited to, heating, lighting, power, toilet facilities and supplies, and hot and cold water.
- vii. General cleaning and maintenance of the Program space including refuse removal.
- viii. Access to a facsimile and copy machine/scanner at each location at which Champions is to provide the Program.
- ix. Repair, replacement, or reimbursement to Champions for any Champions equipment or materials damaged by School as mutually agreed by School and Champions, except that School will not be responsible for reasonable wear and tear, casualty, or acts of God.
- x. A completed and signed IRS form W-9.

B. At Champions' request, School will promptly provide to Champions copies of all current school floor plans and a copy of any documentation required in order for Champions to obtain its childcare license and government agencies for each location at which Champions is to provide a Program including, but not limited to: certificate of occupancy and fire, health and safety inspections including lead, asbestos, and other environmental or site testing results. The specific documentation required in the relevant jurisdiction is set forth in Exhibit A.

C. In the event that any governmental authority requires changes or repairs to School facilities to operate the Program, School will be solely responsible for promptly making such changes or repairs at its own cost and expense. School has the option to terminate this Agreement or the Program session with 15 days' prior written notice if it elects not to incur the cost of the repairs or changes.

D. School will make information regarding Champions available to School families each year. School will also add Champions as a link to School's website. School will provide Champions with guest access to School's wireless network along with School IT support for potential network upgrades or issues in accessing Champions' Horizon applications through School's network.

3. INSURANCE. Each party will list the other as an additional insured under the party's general commercial liability insurance policy(ies) and, upon request, will furnish the other party with a certificate of insurance evidencing the liability insurance policy coverages as well as an additional insured endorsement.

4. INDEMNITY.

A. School indemnifies and holds Champions and Champions' affiliates and their respective members, managers, shareholders, officers, directors, agents, employees, successors and assigns harmless from and against any and all third-party claims, demands, liabilities, and expenses, including reasonable attorneys fees and litigation expenses, arising from the negligent acts or omissions or willful misconduct of School or its agents, employees, or contractors. In the event any action or proceeding is brought against Champions by reason of any such claim, School will defend the same at School's expense by counsel selected by Champions.

B. Champions indemnifies and holds School and School's nominees, officers, directors, agents, employees, shareholders, successors and assigns harmless from and against any and all third-party claims, demands, liabilities, and expenses including reasonable attorneys fees and litigation expenses, arising from the performance of the direct services of Champions and/or the negligent acts or omissions or willful misconduct of Champions or its agents, employees, or contractors. In the event any action or proceeding is

brought against School by reason of any such claim, Champions will defend the same at Champions' expense by counsel selected by School.

5. TERM AND TERMINATION. The term of this Agreement will be as written on Exhibit A, as may be amended from time to time, unless:

A. School fails to comply with any material term or condition of this Agreement within 60 days after written notice from Champions specifying the nature of the failure with particularity; or

B. Champions fails to comply with any material term or condition of this Agreement within 60 days after written notice from School specifying the nature of the failure with particularity; or

C. Either party terminates this Agreement or a specific Program session, with or without cause, by giving 90 days' prior written notice to the other; or

D. Either party terminates this Agreement as otherwise permitted by this Agreement.

6. MISCELLANEOUS.

A. **Intellectual Property.** School acknowledges it does not have any rights whatsoever in or to any trademarks, trade names, copyrights, names, logos or other intellectual property of Champions or its affiliated companies, and will not use or cause or allow others to use the same or any variations thereof without the prior express written permission of Champions. Champions reserves all rights to its intellectual property rights, past, present and future.

B. **Intellectual Property.** Champions acknowledges it does not have any rights whatsoever in or to any trademarks, trade names, copyrights, names, logos or other intellectual property of School, and will not use or cause or allow others to use the same or any variations thereof without the prior express written permission of School. School reserves all rights to its intellectual property rights, past, present and future.

C. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IN NO EVENT WILL SCHOOL OR CHAMPIONS BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, LOST PROFITS, LOST SALES OR ANTICIPATED ORDERS, OR DAMAGES FOR LOSS OF GOODWILL UNDER THIS AGREEMENT, EVEN IF A PARTY WAS INFORMED OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS, EXCEPT FOR: (i) DAMAGES OR LOSSES ARISING FROM THIRD-PARTY INDEMNITY LIABILITY, OR (ii) DAMAGES OR LOSSES ARISING FROM A PARTY'S WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR RECKLESS CONDUCT. THIS LIMITATION APPLIES REGARDLESS OF WHETHER SUCH DAMAGES, CLAIMS OR LOSSES ARE SOUGHT BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, OR ANY OTHER LEGAL OR EQUITABLE THEORY.

D. **Survival.** The terms and conditions of Sections 3, 4, 5, and 6 will survive expiration or termination of this Agreement for any reason.

E. **Personal Property.** The parties agree that Champions is the sole owner of any equipment provided by Champions to operate the Program. Upon termination of this Agreement (for any reason), all such equipment will remain the property of Champions, and Champions will have access to the School facilities for the purpose of removing the equipment.

F. **Personal Property.** The parties agree that School is the sole owner of any equipment provided by School to operate the Program. Upon termination of this Agreement (for any reason), all such equipment will remain the property of School, and Champions will return to School any School property in its possession.

G. **Employees.** During the term of this Agreement, should either party to this Agreement hire an employee of the other party, such that the employee will no longer be able to continue working his or her regularly scheduled hours for the other party, then, prior to that employee's effective hire date, the hiring party will give the other party 30 days' notice so that the other party may make reasonable efforts to hire and train a replacement employee.

H. **Force Majeure.** Neither party will be liable for its failure to fulfill any term or condition of this Agreement if fulfillment has been delayed, hindered or prevented by event of force majeure including, but not limited to, civil commotion, strike, lockout or other industrial dispute, acts of God, inability to obtain equipment, power, necessary governmental licenses or permits, materials or transportation, or any other circumstances beyond such party's reasonable control. Should such an event of force majeure continue for a commercially unreasonable period of time, this Agreement may then be terminated immediately upon written notice by either party.

I. **Notices.** All notices given pursuant to this Agreement will be in writing, addressed to the recipient as shown on Exhibit A, and will be (i) mailed, postage prepaid, certified or registered with return receipt requested, (ii) delivered in person or by nationally recognized overnight courier, or (iii) sent by facsimile or electronic transmission. Any notice sent by mail, in person or by courier will be deemed given when delivery is first attempted; any notice given by facsimile or electronic transmission will be deemed given when receipt has been confirmed electronically.

J. **Independent Contractor.** Champions is, and will remain at all times, an independent contractor with exclusive control of the Program, including but not limited to the selection of and hiring of Champions' employees, and is not an agent, servant, or employee of School. Champions' engagement with School is limited solely to the operation of the Program. Neither party has the authority to act in any capacity on behalf of the other party. As an independent contractor, Champions acknowledges and agrees that it is responsible for paying Social Security taxes, Federal income taxes, New Jersey income taxes, and any other taxes related to compensation, either individually or owed by the Champions's business. Champions employees will not be eligible for: worker's compensation insurance for any injuries suffered while performing services for the School; to receive unemployment benefits; any benefit plans, medical insurance plans or programs which the School maintains for its employees; and / or vacation, sick, personal or holiday pay.

K. In the course of performing his services, Champions agents, contractors and employees shall be required to comply with any and all applicable School District Policies. In the event Champions has witnessed or has reliable information that a student has been subject to, harassment, intimidation or bullying during the event, he/she shall report the incident to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying.

L. Champions will be required to keep all student information strictly confidential in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and its implementing regulations at 34 C.F.R. 99.1 et seq. and N.J.A.C. 6A:32-7.1 et seq

M. Champions will maintain all documentation related to this transaction for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request pursuant to N.J.A.C. 17:44-2.2

N. Pursuant to N.J.S.A. 18A:6-7.1, Champions shall provide to the School (Director of Facilities or School Business Administrator/Board Secretary) evidence or proof that each worker assigned to the project that comes in regular contact with students, has had a criminal history background check, and that said check indicates that no criminal history record information exists on file for that worker. The determination of "regular contact with students" will be made by the school district. Failure to provide a proof of criminal history background check for any employee coming in regular contact with students may be cause for breach of contract. If it is discovered during the course of the contract that a contractor or subcontractor employee has a disqualifying criminal history or the employee has not had a criminal history background check, that employee is to no longer be assigned to the District.

O. **General.** This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey without regard to its conflicts of law principles. This Agreement reflects the entire agreement between the parties regarding the subject matter of this Agreement. Any and all claims, disputes or other matters in question between Champions and School arising out of or relating to this Agreement or alleged breach hereof, shall be subject to and determined by a court of competent jurisdiction venued in Bergen County, New Jersey. No other previous agreement, statement or promise made by the parties that is not contained in this Agreement will be binding or valid with respect to the Program(s) being provided under this Agreement. Any modifications, amendments or changes to this Agreement must be in writing and signed by an authorized representative or officer of the parties. This Agreement will be binding upon the parties' successors and permitted assigns. The section headings in this Agreement are solely for convenience of reference and are not to be construed or considered in interpreting this Agreement. If any provision of this Agreement is deemed invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this Agreement will not be affected. Failure of either party at any time to require performance of any provision of this Agreement will not limit the party's right to enforce the provision. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision. Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement will be deemed to have been negotiated and prepared at the joint request, direction and construction of the parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to either party. This Agreement may be executed in counterparts and delivered by facsimile or electronic transmission, each of which will be deemed to be an original, and such counterparts will, together, constitute and be one and the same instrument. Such counterparts taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized officers or representatives as of the Effective Date.

SADDLE BROOK SCHOOL DISTRICT

KCE CHAMPIONS LLC

By: 
Printed Name: Raymond G. Karaty
Title: Business Administrator

By: 
Printed Name: Dan Figurski
Title: Chief Operating Officer

REVIEWED BY LEGAL (LP)
DATE: 6/12/2019
INITIALS: 60

ENRICHMENT PROGRAM AGREEMENT

EXHIBIT A

Effective Date: September 1, 2019

1. **School or District Name:** Saddle Brook School District ("School")
2. **Term:** This Exhibit A is made part of that certain Enrichment Program Agreement made as of the Effective Date. This Exhibit A commences on the Effective Date and will continue thereafter between the parties for a period of one year at the locations and on the dates and for those Programs shown as to this Agreement. This Agreement may, by mutual agreement, be renewed for up to (4) four (1) one-year extensions.
3. **Champions** will provide the Programs at the sites set forth below:

Site Location	Program	Hours of Operation
Franklin Elementary School 95 Caldwell Ave Saddle Brook, NJ 07663	Before School	7:15 a.m. – 8:45 a.m.
	After School	3:00 p.m. – 6:00 p.m.
	Summer	6:30 a.m. – 6:30 p.m.
Long Memorial School 260 Floral Lane Saddle Brook, NJ 07663	Before School	7:15 a.m. – 8:45 a.m.
	After School	3:00 p.m. – 6:00 p.m.
Helen I. Smith School 30 Cambridge Ave Saddle Brook, NJ 07663	Before School	7:15 a.m. – 8:45 a.m.
	After School	3:00 p.m. – 6:00 p.m.
Washington School 225 Market Street Saddle Brook, NJ 07663	Before School	7:15 a.m. – 8:45 a.m.
	After School	3:00 p.m. – 6:00 p.m.
	PreK Before	7:15 a.m. – 8:45 a.m.
	PreK After	3:00 p.m. – 6:00 p.m.

Projected Program Start Date: September 4, 2019

Facility Use Terms: School will provide Champions with access to the gymnasium, cafeteria, multipurpose room, or other appropriate spaces to operate the Programs, when available.

Tuition and Fees:

Program	1 Day Weekly Rate	2 Day Weekly Rate	3 Day Weekly Rate	4 Day Weekly Rate	5 Day Weekly Rate
Before School (all schools)	\$10	\$18	\$25	\$31	\$39
After School (all schools)	\$17	\$30	\$43	\$54	\$68
Before & After	\$22	\$38	\$54	\$68	\$86

Other Fees:

Student Registration	\$50.00
Family Registration	\$75.00
Drop-In Full Day	\$30.00
Drop-In After School	\$16.00
Drop-In Before School	\$12.00
In-Service Day	\$20.00
Early Release/Late Start	\$15.00
Non-School Full Day	\$40.00
Summer Camp	\$190/Weekly

Discounts:

School District Employee	10%
Military	10%
Multi-Session	20%
Multi-Child	10%

Revenue Share: 13% revenue share paid to district monthly, with a guarantee of \$50,000 paid to district annually

Minimum Enrollment: Champions requires a minimum enrollment of 25 children in each Program session. If daily attendance in any session fails to meet these target levels at any time, Champions may choose to terminate the Program session or this Agreement with two (2) weeks' advance written notice.

Documents Required for Licensing: *To be provided to Champions Legal by Champions Business Development at Time of Contract Creation*

4. **Additional Client Provided Services or Additional School Closure Days:** N / A

5. **Addresses for Notice:**

School: Saddle Brook Township
355 Mayhill St.
Saddle Brook, NJ 07663
Attn: Raymond G. Karaty
Phone: 201-843-1142 x2302
Facsimile: 201-843-0216
E-mail: RKaraty@sbpsnj.org

Champions: KCE Champions LLC
650 NE Holladay Street, Suite 1400
Portland, OR 97232
Phone: 503-872-1300
Facsimile: 503-736-1954
Attn: Vice President, Champions

With a copy to: Lane Powell PC
601 SW Second Avenue, Suite 2100
Portland, OR 97204
Phone: (503) 778-2100
Attn: KinderCare Education LLC Legal

SADDLE BROOK SCHOOL DISTRICT

KCE CHAMPIONS LLC

By: *Raymond G. Karatz*
Printed Name: Raymond G. Karatz
Title: Business Administrator

By: *Dan Figurski*
Printed Name: Dan Figurski
Title: Chief Operating Officer

REVIEWED BY LEGAL C/P
DATE: 8/12/2019
INITIALS: *DF*