

**62575**

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, MD  
Commissioner of Health

DATE: April 10, 2018

RE: Authorization to amend a Resolution approved on February 26, 2015, as amended, which authorized the County of Westchester to enter into agreements with New York State Education Department Approved Providers of Special Education Preschool Services, Pursuant to Section 4410, Part 200 of the New York State Education Law, for the Period July 1, 2015 through June 30, 2020, with each Provider to be reimbursed at Rates established by the New York State Education Department, in order to add one approved provider, Life-Skills Home Training Tutorial Program for Preschoolers, Inc. effective 04/01/18

On February 26, 2015 your Honorable Board approved a Resolution (the "February 26, 2015 Resolution") which authorized the County of Westchester, acting by and through its Department of Health ("WCDH"), to enter into agreements with the listed New York State Education Department ("NYSED") approved providers of Special Education preschool services, pursuant to Section 4410, Part 200 of the New York State Education Law, and its subsequent amendments, for the period from July 1, 2015 through June 30, 2020, in the total aggregate amount not to exceed \$277,155,714, with each provider to be reimbursed at rates established by the NYSED.

On April 30, 2015, the February 26, 2015 Resolution was amended to add one new NYSED approved provider to the list, The Clarke School for the Deaf, in order to enter into agreement on the same terms and conditions as specified in the February 26, 2015 Resolution. This agreement has been executed.

On August 19, 2015, the February 26, 2015 Resolution was again amended to add one new NYSED approved provider to the list, ACDS Inc., in order to enter into agreement on the same terms and conditions as specified in the February 26, 2015 Resolution. This agreement has been executed.

On February 22, 2018, the February 26, 2015 Resolution was further amended to add one new NYSED approved provider to the list, Jawonio Inc. in order to enter into agreement on the same terms and conditions as specified in the February 26, 2015 Resolution. This agreement has been executed.

Agreements with qualified and NYSED approved providers of Special Education preschool services, which include agencies and individuals, are exempt from the Westchester County Procurement Policy under Sections 3(a) viii, 3 (a) ix and 3(a) xvii.

Accordingly, authorization is hereby respectfully requested that the February 26, 2015 Resolution be further amended in order to add one NYSED approved provider to the list, Life-Skills Home Training Tutorial Program for Preschoolers, Inc. in order to enter into agreement with this provider commencing April 1, 2018 on the same terms and conditions as specified in the February 26, 2015 Resolution. The New York State Education Department regulations **200.2 (e)(3)** mandates the county to contract with NYSED approved 4410 preschool programs within the county in which the district is located and preschool programs in adjoining counties when there is no availability within the county of residence.

The Westchester County Department of Health has been advised by the NYSED that the “subject to County appropriations” language and the New York State budget language are “impermissible” in these New York State Education Law Section 4410 agreements. As stated by the New York State Education Department, “...Education Law Section 4410 (5)(f) mandates that the counties contract and pay for preschool special education services in the first instance with reimbursements by the State.”

These agreements will promote the public health, safety and welfare of Westchester County’s children with special needs by enabling their daily participation in special needs programs and other community settings that typically developing children attend. On an annual basis, approximately 4,300 children are served by the 4410 Special Education preschool programs.

The goals and objectives of these programs are to:

- Provide appropriate educational services to children from three (3) to five (5) with developmental disabilities in accordance with their approved Individualized Education Plan.
- Provide these services in the child’s least restrictive setting.

Providers will be monitored, as per their contract requirements and the Health Department’s performance measurement indicators, for the provision of services through program site visits and review of their clinical session and progress notes, and accuracy of billing by monthly reviews of submitted documentation.

Except as otherwise stated herein, all other terms and conditions of the February 26, 2015 Resolution as amended shall remain the same.

An appropriate resolution has been attached herewith for your Board’s consideration and approval.

SA/my/dc

Attachments

## RESOLUTION

Upon a communication from the Commissioner of Health, be it hereby

**RESOLVED**, that the Resolution approved by This Honorable Board on February 26, 2015 (the "February 26, 2015 Resolution"), as amended, which authorized the County, acting by and through its Department of Health, to enter into agreements with New York State Education Department approved Providers of Special Education Preschool Services for children with disabilities from ages three (3) to five (5), be hereby amended in order to add one new approved provider, Life-Skills Home Training Tutorial Program for Preschoolers, Inc., to the list effective April 1, 2018 on the same terms and conditions as stated in the February 26, 2015 Resolution; and, be it further

**RESOLVED**, that except as otherwise stated herein, all other terms and conditions of the February 26, 2015 Resolution as amended shall remain the same; and, be it further

**RESOLVED**, that the County Executive or his duly authorized designee be and hereby is authorized and empowered to execute and deliver all instruments and to take all actions necessary or appropriate to accomplish the purpose of this resolutions.

Department of Health  
 County of Westchester  
 10 County Center Road, 2<sup>nd</sup> Floor  
 White Plains, New York 10607  
 April 10, 2018

Original Agreement	\$
First Amendment	\$
<b>This Amendment</b>	<b>\$</b> _____
TOTAL	\$

Agreement #

Account to be Charged/Credited	Fund	Dept	Major Program, Program & Phase or Unit	Object/ Sub-Object	Trust Account	Dollars
	N/A					
Budget Funding Year(s) _____ Start Date _____ End Date _____						
Funding Source		Tax Dollars	_____			
		State Aid	_____			
		Federal Aid	_____			
(must match resolution)		Other	_____			