

RESOLUTION #19-0304-08

Authorize Agreement with the Delaware Area Career Center for Training

WHEREAS, Liberty Township Fire Department works cooperatively with the Delaware Area Career Center for education and training purposes, and

WHEREAS, a reciprocal agreement with the DACC will allow DACC students to work with the Liberty Township Fire Department as part of their educational track and will allow Liberty Township Fire Department to have access to the DACC facilities for training and educational purposes as needed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO authorizes the attached Affiliation Agreement Between the Delaware Area Career Center and the Liberty Township Fire Department to allow for the reciprocation of educational and training resources.

Motion made by M. Leneghan and seconded by M. Gemperline

Vote: yes Mrs. Eichhorn yes Mr. Gemperline yes Mrs. Leneghan

This Resolution shall be in force and become effective immediately upon its execution.

Mar. 4, 2019
Date

Melanie Leneghan
Melanie Leneghan, Trustee

CERTIFIED BY:

Nancy Deputte
Nancy Deputte, Fiscal Officer

Mike Gemperline
Mike Gemperline, Trustee
Shyra Eichhorn
Shyra Eichhorn, Trustee

**AFFILIATION AGREEMENT BETWEEN
DELAWARE AREA CAREER CENTER**

AND

**LIBERTY TOWNSHIP FIRE DEPARTMENT,
DELAWARE COUNTY, OHIO**

Parties to the Agreement

THIS AFFILIATION AGREEMENT (the "Agreement"), for emergency medical provider or firefighter students (the "Students"), is made and entered into this FIRST day of MARCH, 2018 ("Effective Date"), by and between the Delaware Area Career Center, whose current address is 1610 State Route 521, Delaware, Ohio 43015. Permanent address will be 4565 Columbus Pike, Delaware, OH 43015 as of August 1, 2019. (The "DACC"), and the Liberty Township Fire Department, whose address is 7761 North Liberty Road, Powell, Ohio 43065 (the "Affiliate") (hereinafter, individually referred to as "Party" and collectively referred to as the "Parties").

Preliminary Statements

WHEREAS, it is the mutual desire of DACC and the Affiliate to provide high quality clinical education programs that meet or exceed standards established by accrediting bodies; and

WHEREAS, DACC and Affiliate have mutually agreed to collaborate and cooperate in order for the Students to acquire valuable experience in Affiliate's facilities.

Statement of the Agreement

NOW THEREFORE, in consideration of the above premises and the terms set forth herein, DACC and Affiliate do hereby mutually agree as follows:

I. TERM AND RENEWAL

1. The term of this Agreement shall become effective on and be inclusive of the date the last Party signs this Agreement and continue through April 30, 2022, unless otherwise terminated as provided in this Agreement.

Upon written agreement of the Parties, this Agreement may be renewed for successive one (1) year periods up to three (3) times for a maximum total term of six (6) years subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties.

II. RESPONSIBILITIES OF THE PARTIES

- A. DACC shall:

1. bear sole responsibility for the education of its Students, establishment of its curriculum, credentialing of its volunteer clinical faculty, plus all its other operations and functions.
2. appoint an Administrator who will be responsible for overseeing DACC academic programs and will collaborate with designated representatives of the Affiliate to designate preceptors to supervise and facilitate clinical training for students, and address matters of mutual interest and concern.
3. shall carry and maintain throughout the term of the Agreement, without lapse, the following policies of insurance with the following minimum coverage limits:
 - a. **General Liability Coverage:** DACC shall maintain general liability insurance of one million dollars (\$1,000,000.00) each occurrence with an annual aggregate of two million dollars (\$2,000,000.00).
 - b. **Proof of Insurance:** Prior to the commencement of any work under this Agreement, DACC shall furnish Affiliate with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the Affiliate. DACC will replace certificates for any insurance expiring prior to completion of work under this Agreement.
4. instruct Students about the importance of patient privacy and confidentiality as well as inform them of the various laws regarding the use and disclosure of Protected Health Information ("PHI"), written and electronic.
5. make Students aware that they are responsible for transportation costs; must wear appropriate attire and identification; will not be paid for their participation in this program; are not entitled to employee benefits; and may be removed from service for violations of federal, state, or local laws or policies of the Affiliate.
6. assure that all Students placed with Affiliate are in good standing and qualified for such assignments.
7. have final responsibility for determining the Students' academic status and participation in available experiences.
8. conduct criminal background checks on all Adult Education Students and report the results to Affiliate.
9. ensure that the Student is informed that he/she must:
 - a. adhere to rules, regulations, policies and procedures of DACC and Affiliate;

- b. provide evidence of receiving required immunizations (e.g., rubella, rubella, mumps, varicella, hepatitis B) and having diagnostic tests (e.g., tuberculosis) in accordance with DACC policy which takes into consideration guidelines published by the Centers for Disease Control ("CDC") and Prevention, if requested by Affiliate;
 - c. show demonstrated immunity with documented positive serum antibody titers for certain infectious diseases if requested by Affiliate;
 - d. have received training for universal infection control precautions in accordance with the requirements of the Occupational Safety and Health Administration ("OSHA") and the Public Health Service if requested by Affiliate;
 - e. undergo, submit to, and pay for, an additional background (criminal records) check, if requested by Affiliate, at no expense to Affiliate;
 - f. maintain in strict confidence all confidential information obtained in the performance of duties and will not, unless otherwise required by law, disclose such confidential information to any third party without the prior written consent of the Affiliate; and
 - g. relinquish the rights and privileges established herein by failure to comply with requirements or otherwise adversely affecting the health or safety of the patients or personnel of Affiliate.
10. ensure that Students are informed, when participating in this program, that they are not employees, agents or representatives of Affiliate.

B. Affiliate shall:

- 1. determine the number of Students to be accepted on assignment at its clinical training facilities and may refuse to accept, or revoke the acceptance of any Student prior to his/her entry into the clinical training experience.
- 2. orient Students adequately and make available to them the full range of experiences available at its training site(s).
- 3. ensure that all personnel and staff that will interact with Students have undergone criminal background checks, and that no one who has committed a prior criminal offense against a minor or a sexual criminal offense will interact with Students.
- 4. ensure that all assigned Students are learning under the direct supervision of an appropriately credentialed, medical staff.
- 5. provide safe physical facilities and an environment needed for proper instruction.
- 6. permit Students' use of available training site facilities (e.g., conference rooms, lounges, break rooms, cafeterias/vending areas, parking lots/garages, lockers, etc.) and inform them of any associated expenses.

7. provide emergency medical care at its customary rate, if available, for Students who are in need of it while participating in the education program at Affiliate's training site(s); such costs is the Student's sole responsibility.
8. refer Students to the nearest emergency room for immediate precautionary treatment consistent with current medical practice in the event any Student is exposed to potentially infectious material; such costs is the responsibility of the Student.
9. ensure that a written performance evaluation is completed for each assigned Student using the form provided and within the timeframe specified by DACC, if requested by DACC.
10. permit DACC to inspect training site(s) related to the Students' experience upon request and continue to meet and/or exceed professional standards including standards set by the appropriate accrediting agency(ies).
11. appoint an individual who will serve as a liaison to, and be the primary contact for, the Administrator appointed pursuant to Section II.A.2.
12. remove any Student from his/her assigned training experience whenever the Affiliate determines, in its sole judgement and discretion, the Student's performance is unsatisfactory and/or his/her behavior is disruptive or detrimental to Affiliate and/or patients.

III. INDEMNIFICATION

The Parties are political subdivisions of the state of Ohio or are boards, departments, entities, or parts thereof. As such, the Parties lack authority to indemnify. Therefore, the Parties understand and agree that each Party is and shall be responsible for its own negligence, actions, or omissions and/or the negligence, actions, or omissions of their respective boards, board members, officials, officers, employees, agents, representatives, servants, and/or volunteers, resulting from or related in any manner to the performance of this Agreement. The Parties agree to be individually and solely responsible for any and all liability, loss, damages, injury, including death, penalties, costs, fines, fees, and/or related expenses that each may incur as a result of its own negligence, actions, or omissions and/or the negligence, actions, or omissions of its respective boards, board members, officials, officers, employees, agents, representatives, servants, and/or volunteers in the performance of this Agreement.

IV. REMUNERATION

The general purpose of this Agreement is strictly educational. No monetary consideration or remuneration is involved because of the mutual benefits inherent in the clinical education program provided.

V. TERMINATION

This Agreement may be terminated as follows:

A. Termination for the Convenience:

The Parties may terminate this Agreement at any time and for any reason upon the mutual written consent of the Parties. A Party may unilaterally terminate this Agreement for any reason with ninety (90) days advance notice to the other Party.

B. Breach or Default:

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the specified time period, this Agreement may, at the election of the aggrieved Party, be immediately terminated. The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.

C. Waiver:

The waiver of any occurrence of breach or default is not and should not be interpreted as a waiver of any such subsequent occurrences. The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies. If any of the Parties fail to perform an obligation or obligations under this Agreement and such failure(s) is (are) waived by the other Parties, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive other failure(s). Waiver by any of the Parties shall be authorized in writing and signed by an authorized representative(s) of the waiving Party.

Termination pursuant to this section shall relieve the Parties of any and all further obligations under this Agreement, except students who are in progress at Affiliate's training site(s) at the time this Agreement is terminated will be permitted to complete their education programs.

VI. GOVERNANCE

- A. In fulfilling the obligations and duties of this Agreement, both Parties shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity. Both Parties shall not in any way or manner discriminate on account of race, color, religion, sex, age, ancestry, disability, handicap, sexual orientation, gender identity, or military status. Both Parties shall agree to abide by the terms of the Americans with Disabilities Act ("ADA").

- B. Both Parties shall make all services/programs provided pursuant to this Agreement accessible to the disabled/handicapped. Both Parties shall comply with any and all applicable federal, state, and/or local laws mandating accessibility and Section 503 of the Rehabilitation Act of 1973, as amended ("29 U.S.C. 794"), all requirements imposed by the applicable Health and Human Services ("HHS") regulations ("45 CFR 8;4"), and all guidelines and interpretations issued pursuant thereto.
- C. Both Parties shall comply with the provisions of the Family Educational Rights and Privacy Act ("FERPA") and will use Student information only for the purpose for which it was disclosed and will not make such information available to any third party without first obtaining the respective student's consent.
- D. Both Parties agree that the Affiliate is a "covered entity" as that term is defined under the Health Insurance Portability and Accountability Act of 1996 ("Public Law 104-191") and the rules and regulations promulgated hereunder, as well as guidance issued by the United States Department of Health and Human Services (collectively such Act, rules, regulations, and guidance is referred herein as "HIPAA"). Accordingly, DACC shall use its best efforts to comply with, and emphasize to Students the importance of complying with, the Affiliate's written policies and procedures implemented pursuant to HIPAA.
- E. This Agreement is non-exclusive and both Parties have the right to enter into similar affiliations with other institutions, entities, and organizations.

VII. MODIFICATIONS

- A. This Agreement may be modified only by written amendment signed by DACC and Affiliate.
- B. All signed written amendments shall be attached as an Addendum.

VIII. NOTICES

All notices, consents, and/or written communications which may or are required to be given by this Agreement or by operation of law, shall be in writing and shall be deemed duly given if personally (hand) delivered, sent by certified or registered United States mail, return receipt requested, sent via nationally recognized and reputable overnight express courier, return receipt requested, via facsimile, confirmation of delivery, or email, confirmation of delivery, to the following individuals at the following addresses or facsimile numbers and shall be effective when sent or transmitted:

To Delaware Area Career Center:

Delaware Area Career Center
Attn: Mary Beth Freeman, Superintendent
1610 State Route 521
Delaware, Ohio 43015

Phone: (740) 201-3204
Email: freeman@DelawareAreaCC.org

*after August 1, 2019, DACC's address for Notice shall be:

4565 Columbus Pike
Delaware, Ohio 43015

To Affiliate:

Liberty Township Fire Department
Attn: Tom O'Brien, Fire Chief
7761 North Liberty Road
Powell, Ohio 43065
Phone: (740) 938-2021
Email: tobrien@libertytwp.org

IX. DRUG FREE ENVIRONMENT

The Parties agree to comply with all applicable state and federal laws regarding drug-free environment and shall have established and have in place a drug-free workplace policy. The Parties shall make a good faith effort to ensure that all their employees and Students will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

X. SEVERABILITY

The provisions of this Agreement are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions, to the extent enforceable, shall nevertheless be binding and enforceable.

XI. TOWNSHIP POLICIES

While participating in the programs contemplated by this Agreement, DACC Students shall be bound by, conform to, comply with, and abide by all current applicable Township policies (collectively "Township Policy"). The Affiliate may, in their sole discretion, immediately terminate this Contract for failure of DACC Students to comply with Township Policy. Copies of Township Policy are available upon request. The LibertyTownship Board of Trustees ("BOT") reserves the authority to change, amend, replace, enact, repeal, and/or rescind Township Policy at any time and without notice.

XII. FORCE MAJEURE

Neither Party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the Party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a Party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.

XIII. FINDINGS FOR RECOVERY

The Parties hereby respectfully certify that they are not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.

Mary Beth Freeman
Superintendent
DACC

Tom O'Brien
Fire Chief
Liberty Township Fire Department

XIV. INDEPENDENT CONTRACTOR

The Parties agree that they shall act in performance of this Agreement as independent contractors. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement.

Each Party respectfully assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with Workers' Compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue to that Party and/or become due by that Party as a result of any compensation received for services and/or deliverables rendered and/or received under or pursuant to this Agreement.

Neither Party nor their respective boards, board members, officers, officials, employees, representatives, agents, and/or volunteers are entitled to any benefits by employees of the other Party.

XV. INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/NO CONTRIBUTION TO OPERS

The Parties are public employers as defined in R.C. § 145.01(D). Each Party has classified the other as an independent contractor or another classification other than public employee. As a result, no contributions will be made by either Party to the Ohio Public Employees Retirement System ("OPERS") for or on behalf of the other Party and/or any of the other Party's boards, board members, officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to this Agreement. Each Party acknowledges and agrees that, in accordance with R.C. § 145.038(A), that it has been informed by the other Party of such classification and that as provided herein no contributions will be made to OPERS.

By signature below of its representative, each Party hereby certifies that it has five (5) or more employees and therefore is not required to complete and does not complete an OPERS Independent Contractor Acknowledgement Form:

Mary Beth Freeman
Superintendent
DACC

Tom O'Brien
Fire Chief
Liberty Township Fire Department

XVI. STUDENTS NOT CONSIDERED EMPLOYEES

Students shall not be considered employees of the Parties and the Parties shall not be responsible for the payment of any wages, payroll taxes, Social Security, Workers' Compensation insurance, malpractice insurance, or other benefits to or on behalf of such Students.

XVII. RESPONSIBILITY OF AUDIT EXCEPTIONS:

The DACC agrees to accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority that is in any way associated with this Agreement. The DACC agrees to reimburse the Affiliate and the Liberty Township Fire Department the amount of any such audit exception.

XVIII. ASSIGNMENTS

This Agreement shall not be assigned in whole or in part without the prior written consent of the DACC and Affiliate.

XIX. HEADINGS

The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

XX. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed and heard before the courts of Delaware County, Ohio.

XXI. INCORPORATION OF AFFILIATION AGREEMENT FOR FIELD INTERNSHIP

The Affiliation Agreement for Field Internship Form ("Form") is attached hereto as Exhibit A and by this reference is incorporated as part of this Agreement. Any term or language in the Form that contradicts this Agreement is superseded by this Agreement.

XXII. ENTIRE AGREEMENT

This Agreement represents the complete understandings of the parties and, therefore, may only be amended in a writing executed by the parties.

XXIII. DRAFTING, COUNTERPARTS, AND SIGNATURES

This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary. This Agreement may be executed in counterparts. Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

(Signatures on Page 11)

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be executed.

Delaware Area Career Center

Liberty Township Fire Department, Ohio

By: Mary Beth Freeman

By: Tom O'Brien

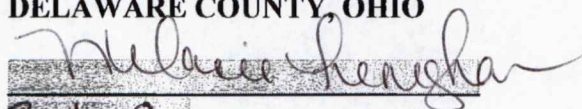
Its: Acting as DACC Authorizing Official
Superintendent

Its: Acting as Fire Chief

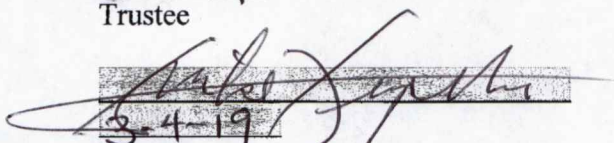
Date: _____

Date: _____


**BOARD OF TRUSTEES
LIBERTY TOWNSHIP,
DELAWARE COUNTY, OHIO**



3-4-19
Trustee



3-4-19
Trustee



3-4-19
Trustee

Attest:

3-4-19 Fiscal Officer

Date

Approved as to form

Carol O'Brien
Delaware County Prosecuting Attorney

FISCAL OFFICER'S CERTIFICATION (RC 5705.41(D)):

No actual funds are to be exchanged between the Parties in connection with this Agreement. No Fiscal Officer's Certification is required.