

**ConnectED Library Challenge
Between Durham County and Durham Public Schools**

This Memorandum of Agreement (“MOU” or “Agreement”) between Durham County, a local political subdivision of the State of North Carolina, (“County”) for and on behalf of the Durham County Library (“DCL”) and the Durham Public Schools (“DPS”) is entered into this the 6th day of March, 2018 for the purpose of partnering in the ConnectED Library Challenge to provide DPS students with access to the learning resources available through the DCL.

Whereas, both the County and DPS agree that providing Durham County students wider access to learning resources will promote access to scholarly materials, promote reading fluency, comprehension and critique, support the development and application of research skills, support the development of effective writing skills, support self-management and self-directed learning, support skills development, responsibility related to the use of contemporary technologies, to promote family involvement, and the love and joy of reading; and

Whereas DCL and DPS have a long history of working together as educational partners, with the DCL serving as an extension of the classroom by providing students with access to books, computers, reading programs and dozens of other important educational resources during out-of-school time; and

Whereas both organizations are committed creating a community of readers, empowering individuals with free access to information, building a welcoming place where reading, learning and imagination thrive, educational opportunities are maximized and every child is prepared to lead a rich and productive life; and

Whereas the ConnectED Library Challenge will create an infrastructure that will allow all DPS students to have easy access to both the DCL’s electronic and other materials, thus leveraging the educational resources available to DPS students through both the DCL and DPS; and

Whereas the County and DPS desire to partner together, as contained within this MOU, to provide services to DPS students through the ConnectED Library Challenge.

Now, therefore, in consideration of the mutual promises set forth in this Memorandum of Agreement, the parties do mutually agree to the following:

1. Durham County’s Responsibilities:

- a. Durham County Library will streamline student access to online databases and electronic materials by permitting DPS students who register for Electronic Card (eCard) Access instant access to DCL databases and electronic materials.

- b. DCL shall not assess overdue fines or fees to DPS students or their parents/legal guardians for materials accessed through the eCard Access program.
- c. DCL shall offer support and training to DPS students and staff on the full scope of services available to them through the eCard Access program.

2. Responsibility of DPS:

- a. DPS will support implementation of the ConnectED Library Challenge by distributing information on an annual basis to parents about the eCard Access program and registration information for the program.
- b. Upon receipt of written parental consent, DPS will provide DCL the following information in a mutually agreed upon format and through a Secure File Transfer Protocol (sFTP) connection: Student ID Number, student's first and last name, parent's first and last name, birthdate, school, grade, home address, primary phone number, and email address (if available).

3. Confidentiality of Student Records:

- a. The County and DCL agree that any student records or personally identifiable student information obtained in the course of providing services under this agreement, including any information obtained pursuant to Paragraph 2(b), shall be subject to the confidentiality and disclosure provisions of applicable federal and state statutes and regulations, and DPS policies. The DCL shall comply with all applicable laws, regulations, and DPS policies, including but not limited to laws, regulations and policies regarding access to confidential student records. The DCL may have access to confidential student records or to any personally identifiable information of any DPS student only to the extent allowed under the Family Educational Rights and Privacy Act (FERPA) and applicable DPS policies and procedures, which require either a legitimate educational interest or written consent from the parent/adult student before records may be viewed. Nothing in this agreement provides the DCL, its employees or its agents the right of access to any individual student's records. All student records shall be kept in a secure location preventing access by unauthorized individuals. DCL shall not forward to any person other than the parent/adult student or DPS any student record, including, but not limited to, the student's identity, without the written consent of the parent/adult student and DPS.
- b. All DCL staff with access to confidential records under this Agreement shall sign a statement in which they agree to keep confidential all DPS student record information.

- c. The County shall develop, implement, maintain and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted data received from or on behalf of DPS. The County agrees that it will protect data received from DPS against loss, destruction, and unauthorized uses or disclosures no less rigorously than it protects its own confidential information. In the event of a data breach or unauthorized disclosure, the DCL will notify the DPS Project Coordinator in writing by the end of the same business day if possible, and no later than the following business day.
4. **Lunsford Act/Criminal Background Checks:** All parties acknowledge that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school or other facility dedicated to the care of minors. DCL shall conduct criminal background checks on all DCL Personnel who, pursuant to this Agreement, interact with DPS students or provide services on DPS property or at DPS events. Such checks shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. DCL shall provide documentation to DPS of criminal background checks before assigning its employees or agents to provide services under this Agreement. DCL shall likewise provide documentation to DPS of its annual checks of the aforesaid sex-offender registries. The mandatory sex-offender registry checks may be completed by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>. Under no circumstances shall any DCL Personnel be assigned to work with any student or on DPS property or at DPS events if (1) said worker appears on any of the aforesaid sex-offender registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of students or school personnel. Upon request, DCL will furnish DPS with sufficient information to allow DPS to perform its own criminal background checks on the DCL Personnel. Failure to comply with this provision shall be grounds for immediate termination of the Agreement.

5. General Provisions:

- a. **Term.** This Agreement shall be in effect from March, 2018 through June 30, 2018 and may be renewed annually from July 1 to June 30 each year thereafter upon written agreement.

- b. **Project Coordinator.** The Project Coordinator shall be the Parties representative in connection with performance under this Agreement and fully authorized act on behalf of the Parties. The parties have designated the following to be the Project Coordinators.

For Durham County:
Tammy Baggett
Library Director
Durham County Libraries
300 Roxboro Street
Durham, NC 27701

For DPS:
Ron Wahlen
Director of Digital Teaching and Learning
Durham Public Schools
511 Cleveland Street
Durham, NC 27702

- c. **Expenses.** Any expenses related to the provision of services incurred by the County shall be the sole responsibility of the County.
- d. **Termination.** Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party. At any time, either party may terminate this Agreement immediately and without prior notice if either party is dissatisfied with the quality of services provided.
- e. **Relationship of the Parties.** The County is an independent contractor of the DPS. Neither the DPS nor any employee of DPS shall be deemed to be an officer, employee or agent of the Durham County Library or Durham County Government. Durham County Library's personnel shall not be employees of, or have any contractual relationship with the DPS.
- f. **Intent to be Bound.** The parties have read this Agreement, including the Memorandum of Agreement attached and any amendments hereto, and agree to be bound by all of its terms, and further agree that the documents constitute the complete and exclusive statement of the Agreement between the parties.
- g. **Amendments or Modification.** This Agreement shall not be altered, amended or modified, except by an agreement in writing executed by the duly authorized officials of both parties.
- h. **Subcontract or Assignment.** DCL shall not sub-contract out any of the services provided for in this Agreement or make any assignment of this Agreement (including rights to payments) without the prior written consent of the DPS.
- i. **Governing Law.** The laws of North Carolina shall govern the validity and interpretation of the provisions, terms and conditions of this Agreement. Any

controversy or legal problems arising out of this Agreement and any action involving the interpretation of any rights hereunder shall be submitted to the jurisdiction of the Courts of General Justice in Durham County, North Carolina.

- j. **Severability.** Unless otherwise expressly provided herein, the rights of the parties hereunder are several rights, not rights jointly held with each other or with any other party. Any invalidity, illegality or limitation of the enforceability of any part of this Agreement, whether arising by reason of law or otherwise, shall in no way affect or impair the validity, legality or enforceability of this Agreement in all other respects.

- k. **Non-Appropriation.** DPS acknowledges that County is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to the County immediately upon written notice to School of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis. In the event of a change in the County's statutory authority, mandate and/or mandated functions, by state and/or federal legislative or regulatory action, which adversely affects County's authority to continue its obligations under this Agreement, then this Agreement shall automatically terminate without penalty to County upon written notice to School of such limitation or change in County's legal authority.

[SPACE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed by its duly authorized officials.

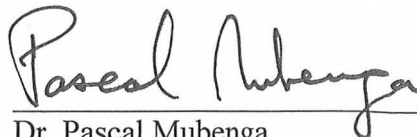
FOR AND ON BEHALF OF:
DURHAM COUNTY



Wendell Davis, County Manager

DATE: Feb. 7, 2018

FOR AND ON BEHALF OF:
THE DURHAM PUBLIC SCHOOLS



Dr. Pascal Mubenga
Superintendent, Durham Public Schools

DATE: _____

FOR AND ON BEHALF OF:
DURHAM COUNTY LIBRARY



Tammy Baggett
Director, Durham County Library

DATE: 2-7-18