

**Memorandum of Agreement
Between the Albemarle County School Board and
The Albemarle Foundation for Education**

This Memorandum of Agreement("MOA") is entered into this ____ day of _____ 2026, by and between the Albemarle County School Board ("the School Board") and the Albemarle Foundation for Education ("the Foundation").

RECITALS

WHEREAS, the School Board is a body corporate vested with authority under the Virginia Constitution to supervise and operate the public schools of Albemarle County ("Albemarle County Public Schools" or "ACPS"), and

WHEREAS, pursuant to Va. Code § 22.1-212.2:2, the School Board is also vested with the authority to establish or contract with a nonstock, nonprofit corporation established for the express purpose of implementing a public/private partnership to implement public school improvement projects that are consistent with the educational mission of the School Board, and, as set forth herein, subject to the School Board's prescribed veto powers, and

WHEREAS, the Foundation is a nonstock, nonprofit charitable organization existing to promote partnerships between the School Board and the community to fund and promote educational initiatives that enable ACPS to achieve its strategic goals by helping each child in Albemarle County Public Schools thrive, and

WHEREAS, the School Board wishes to create and maintain mutually beneficial community partnerships and relationships with businesses and other donors to fund and promote educational initiatives that support student success and ensure every child in ACPS thrives, and

WHEREAS, the Foundation wishes to assist in the funding of such School Board-approved initiatives by obtaining business, governmental, civic, charitable, foundation or private donors, sponsors, and/or grantors to provide funding for innovative educational initiatives within ACPS, and

WHEREAS, the Foundation also desires to perform other functions for the purpose of furthering transformational initiatives and student success within ACPS, including, but not limited to, the provision of grants, awards, and scholarships from the Foundation, assistance in obtaining outside grants through the Foundation, and arranging partnerships, sponsorships, and other beneficial relationships between the community and ACPS, and

WHEREAS, many grants are conditioned upon a recipient's affiliation with a 501(c)(3) non-profit organization, as well as proper allocation and accounting of costs, and the Foundation is a 501(c)(3) entity, qualified and willing to provide such services in order to facilitate the education of ACPS students and foster the collective good of the community, and in such capacity shall be referred to as a "Fiscal Agent."

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good consideration, the receipt and sufficiency of which are hereby acknowledged, the School Board and the Foundation hereby agree as follows:

1. REVOCATION OF PREVIOUS AGREEMENTS: This Agreement shall supersede and replace all prior MOAs, supplemental agreements and understandings, oral or written, between the School Board and the Foundation.
2. SCOPE: This MOA governs the roles and responsibilities of the School Board and the Foundation with respect to the purposes described in the foregoing Recitals.
3. DURATION: This MOA shall take effect after both parties have caused it to be signed by persons authorized to act on the parties' behalf, and it shall continue in full force and effect until expressly terminated by one or both parties, as provided below.
4. FOUNDATION DUTIES: the Foundation shall create key partnerships within the community to raise donated funds and in-kind resources that support educational initiatives for the ACPS community. Such initiatives shall include but are not limited to capital projects, non-capital projects, grant awards, sponsors, partnerships, scholarships, and endowments.
 - a. **Strategy**: In coordination with the School Board and ACPS leadership, the Foundation will develop and implement a comprehensive fundraising strategy including annual campaigns, planned giving, grants and awards, and corporate partnerships and sponsorships, to secure financial support for ACPS priority programs and transformational initiatives.
 - b. **Donors/Benefactors**: the Foundation will support School Board approved initiatives through fundraising efforts aimed at cultivating long-term donors.
 - i. The Foundation will screen potential donors and sponsors in accordance with applicable laws and School Board policy.
 - ii. The Foundation will provide donor/sponsor recognition in the nature and amount determined appropriate by the Foundation.

- iii. The Foundation shall annually submit to the School Board, in writing, a report which includes a list of sponsors and donors (using "Anonymous" to protect donor privacy when requested), a summary of fundraising activities undertaken, and a summary of all sponsored schools and initiatives and recognition for the previous school year. The purpose of this report is to ensure transparency and financial accountability only.
- iv. The Foundation will receive all donations and shall use such donations only to support Foundation operations and to fund initiatives/provide services for the benefit of the ACPS student/teacher/staff community, consistent with the donors' intentions.

c. **Capital Projects:** Capital Projects are all major initiatives approved by the Foundation for multi-year funding in amounts that exceed \$50,000.00 annually.

- i. The proposed plan for funding such Capital Projects shall be presented to the School Board for their review at a regularly scheduled School Board meeting and shall be accompanied by a written report outlining the initiative and costs thereof.
- ii. The Foundation will follow the guidelines of the Board in accordance with § 22.1-175.3 of the Virginia Code.
- iii. The Foundation shall maintain appropriate records of all donations relating to each such Capital Project and shall provide copies of such records to the School Board upon request.

d. **Other Initiatives:**

- i. Non-Capital Projects: In addition, the Foundation shall fund smaller initiatives that do not meet the definition of a Capital Project but are consistent with the purposes set forth in the Recitals.
 - 1. The Foundation shall provide the School Board with information regarding such Non-Capital Projects on a regular basis throughout the year.
 - 2. The Foundation shall maintain appropriate records of all donations and expenditures relating to each such initiative and shall provide copies of such records to the School Board upon its request.
- ii. Grants and Awards
 - 1. Services Provided:

- a. The Foundation will pursue and apply for grants and awards for specific innovative educational initiatives approved by the School Board.
 - b. The Foundation shall provide an allocation and accounting of costs and shall be designated the Fiscal Agent for those grants and award funds. The Foundation is authorized by the School Board to act on its behalf in this regard and shall provide the School Board with information regarding such grants and awards on a regular basis throughout the year.
2. Responsibilities of the Foundation: As the Fiscal Agent, the Foundation accepts responsibility for the disbursement of grant funds and accounting of costs within the terms and conditions of the grant.
3. Responsibilities of the School Board: The School Board agrees to provide all supporting documents and reports pursuant to the terms and conditions of the grant, to include all cost and expenditure data.
4. Consideration: The parties recognize that any services performed by the Fiscal Agent shall require professional time and services and, therefore, the parties agree that the Fiscal Agent shall be compensated, where permitted by the grantor, for its actual cost of administration and overhead in overseeing the grant, from the grant award. Upon receipt of a grant and based on a mutually agreeable administrative fee, the Foundation may deduct an amount up to twenty percent (20%) of the total grant, based on its best judgment of the probable costs of administration and overhead, but this amount may be adjusted by mutual agreement on ninety (90) days' written notice to reflect actual costs.
5. Records: The Foundation shall maintain appropriate records of all donations and expenditures relating to each such grant or award and shall provide copies of such records to the School Board upon request but disclosure of records shall be for information purposes and viewing only. Nothing in this agreement shall be construed as granting the School Board or any government entity ownership of these records and all records should be returned within 10 days of receipt. The Foundation retains ownership of all records and the School Board's limited possession of such records shall not be construed as authorizing the release of such records under the Virginia Freedom of Information Act, § 2.2-3700 et seq. of the Code of Virginia.

e. **Sponsorships and Partnerships:**

- i. The Foundation, along with the School Board, shall promote and assist business and community organizations or individuals in creating mutually beneficial partnerships or sponsorship opportunities that enhance and enrich educational opportunities for ACPS constituents. All projects and activities undertaken by such partnerships and sponsors shall be consistent with the purposes stated in the Recitals, School Board policies, and the educational mission of the School Board.
- ii. The Foundation shall provide the School Board with information regarding the number of sponsors and partnerships on a regular basis throughout the year.

f. **Scholarships and Endowments:** The Foundation shall have the ability to establish scholarship or endowment funds, to be used solely for the purposes stated in the Recitals and for the benefit of ACPS students.

g. **Accounting and Reporting Duties:** The Foundation shall establish an appropriate system of accounting for all capital and non-capital projects, grants and awards, sponsorships and partnerships, scholarships and endorsements, and all other Foundation initiatives. Such accounting systems shall include an annual audit to be conducted by a qualified, outside auditor, and any other oversight measures established by the Foundation in accordance with Virginia Law.

5. **SCHOOL BOARD DUTIES:**

- a. The School Board and its employees shall use Foundation-generated funds only in support of those initiatives that are consistent with the educational mission of the School Board.
- b. To the extent the School Board excepts potential funding initiatives as a result of such initiatives being construed as inconsistent with ACPS's educational mission or as a result of the potential or current funders engaging in conduct that is violative of School Board policy, the School Board or its designee shall retain veto authority over such funding initiative. The Foundation shall be responsible for communicating such a veto to the donor.
- c. The School Board shall cooperate with the Foundation to ensure appropriate recognition to the Foundation and its donors and sponsors.
- d. The School Board shall coordinate with the Foundation Board of Directors in selecting and hiring the Foundation Executive Director.
- e. The School Board shall have the authority to hire, fire, and direct any other employee or contractor who designs, implements, or maintains any project or initiative benefiting ACPS.

- f. The School Board agrees to provide physical office space, including IT access and mutually agreed upon administrative support, for the Foundation to use in carrying out its agreed upon duties so long as this MOA remains in effect.
- g. The School Board shall permit the Foundation to maintain designated ACPS email and mailing addresses for efficiency. In addition, ACPS will provide reasonable professional services and advice to the Foundation, except where otherwise prohibited by law or policy, so long as this MOA remains in effect.
- h. The School Board agrees to facilitate an annual meeting between the School Board, ACPS leadership, and the Foundation Board of Directors and Executive Director to align priorities and review funding needs.
- i. The School Board will collaborate with the Foundation to promote joint initiatives through ACPS communications channels and provide opportunities for the Foundation to engage with school leadership, educators, and families.
- j. When appropriated funding permits, the School Board agrees to fund a portion of the Foundation's overhead costs and the salary of its Executive Director for work exclusively related to the goals of this MOA. The total School Board annual contribution to the Foundation is contingent upon annual School Board approval and will not exceed the amount approved and allocated by the School Board in the respective annual budget.
 - i. The Executive Director will be an employee of the School Board at Pay Grade 25 and will thus be entitled to changes in pay and benefits equivalent to other School Board employees at the same pay grade.
 - ii. The School Board agrees to notify the Foundation Board of Directors as soon as possible if they will not fund the Executive Director's salary for an upcoming school year, but in no case later than April 1 of the preceding school year.

6. FOUNDATION STAFF:

- a. Two sitting members of the School Board will also serve on the Foundation Board of Directors. The common board members shall agree to abstain from voting on any matter in either organization when the interests of the School Board are in opposition to those of the Foundation.
- b. The ACPS Superintendent or his/her designee will serve in an ex-officio capacity on the Foundation Board of Directors.
- c. The Executive Director of the Foundation oversees and directs Foundation staff to implement the mission and initiatives of the Foundation.
- d. The Executive Director shall have primary responsibility for carrying out the duties of the Foundation as established herein.
- e. The Executive Director's primary responsibility is to the Foundation in a collaborative/cooperative relationship with the School Board. To that end, the Executive Director shall meet with the ACPS Superintendent or

designee on a quarterly basis, at a minimum, to discuss key initiatives that the Foundation should endeavor to support.

- f. The Executive Director shall be supervised and annually evaluated by the Foundation Board of Directors. The ACPS Superintendent/designee shall provide input to the Foundation Board for consideration in the evaluation process.
 - g. The Board, Executive Director, and staff of the Foundation shall comply with applicable laws and adhere to all School Board policies, regulations, personnel policies, and the terms of their contract(s) of employment with the School Board.
 - h. The Executive Director retains sole authority to engage, hire, direct, supervise and control Foundation employees and contractors as necessary at their discretion, so long as the contractors are employed to do the internal work of the Foundation and funded by the Foundation budget. This authority includes the right to terminate any such employment or engagement without providing advance notice to the School Board or seeking its approval.
7. DONOR/SPONSOR QUALIFICATIONS: A potential donor/sponsor must conduct themselves in a manner consistent with the educational mission of ACPS. A potential or current donor/sponsor must not promote or conduct its activities in a manner that is inconsistent with the educational mission of ACPS, violate School Board policy, or otherwise interfere with or diminish the Foundation's ability to effectively administer its initiatives or programs. To the extent a potential or current donor/sponsor engages in such prohibited conduct, the Foundation shall disqualify the individual or entity from donating/sponsoring.
8. AMENDMENT: This Memorandum of Agreement may be amended on the initiative of either party by submitting a proposed amendment in writing to the other party and agreement of that party to the amendment.
9. TERMINATION: Either party may terminate this MOA at any point in the initial term or any renewal term by giving written notice to the other party sixty (60) days in advance of the termination. Upon receipt of termination, the Foundation will cease efforts to cultivate or solicit new funding opportunities, but it may conclude already-initiated funding arrangements and those funding initiatives paid prior to receipt of the notice, subject to the School Board's specified veto authority based on a funder's qualification. No Donors may be renewed after receipt of the notice of termination, except with the express written consent of the School Board. As certain terms of the MOA are contingent upon the School Board receiving sufficient annual appropriations, which will govern the School Board's consideration of any ongoing support of, or further commitments to, the Foundation, either party may terminate this MOA should the School Board receive insufficient appropriations to fulfill its intended financial contributions, as set forth in Section 5(j) above.

10. DISSOLUTION OF THE FOUNDATION: As required by Va. Code §22.1-212.2:2(C)(3), upon dissolution of the Foundation, any assets remaining after payment of just debts and fulfillment of restricted fund obligations, shall be transferred to and become the property of the School Board. The School Board may, by express action, approve the disbursement of such assets to any 501(c)(3) organization(s) selected by the School Board, unless otherwise prohibited by law.
11. BOND POSTING REQUIREMENT: As required by Va. Code §22.1-212.2:2(C)(4), in any instance in which the School Board advances or loans funds to the Foundation after the initial funding period specified in paragraph 5i, the Foundation's officers must post a bond with a surety that is conditioned to protect the School Board's rights.
12. NO THIRD PARTY BENEFICIARY: It is not the intent of either party to this MOA to create any benefit for any third party.
13. WHOLE AGREEMENT; WAIVER AND AMENDMENT; INTERPRETATION: This MOA contains the entire agreement between the parties relating to its subject matter, and no prior or contemporaneous oral or written communication can alter, add to, contradict, or expand any of the provisions of this MOA. This MOA may be waived or amended only in a writing signed by both parties.
14. SEVERABILITY. If any clause, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.
15. ASSIGNMENT: The provisions of this MOA shall inure to the benefit of, and shall be binding upon the successors of the parties hereto. Neither this MOA nor any of the rights or obligations hereunder may be transferred or assigned without prior written consent of the other party.
16. GOVERNING JURISDICTION: This MOA shall be governed by the laws of the Commonwealth of Virginia. Any legal action that arises from this MOA must be filed in either the Albemarle Circuit Court or the United States District Court for the Western District of Virginia – Charlottesville Division.
17. NO PROMISE AS TO FUTURE LEGISLATIVE ACTION: Nothing in this MOA or the policy adopted to support it shall be deemed to be a promise by the School Board not to change its policies, resolutions, or regulations.

18. PARTIES' RELATIONSHIP: Notwithstanding any use of the word "partnership" in this endeavor, the School Board and Foundation do not intend to create a partnership, joint venture, or other entity involving joint action for profit, nor is either the School Board or the Foundation (or any of its employees, agents, or subcontractors) to be deemed an agent of the other, except as expressly provided in this MOA. Therefore, neither party nor any of its employees, agents, or subcontractors shall be deemed an employee of the other or entitled to workers' compensation or employee benefits of the other party by virtue of this MOA.

19. LIABILITY/INSURANCE:

- a. During the term of this MOA, ACPS shall maintain in force professional liability insurance and general liability insurance in the minimum amounts of \$1,000,000 per occurrence, insuring itself and its Board members, administrators, and employees for their acts, omissions, and negligence. ACPS shall designate the Foundation, as their interests may appear as an additional insured on the general liability insurance. ACPS shall provide a certificate of insurance as proof of said coverage to the Foundation annually.
- b. During the term of this MOA, the Foundation shall maintain in force directors and officers professional liability insurance and general liability insurance at the minimum amount of \$1,000,000 per occurrence, insuring itself and its board members, administrators, and employees for their acts, omissions, and negligence. The Foundation shall designate ACPS, as their interests may appear, as an additional insured on the general liability insurance. The Foundation shall provide a certificate of insurance as proof of said coverage to the School Board annually.
- c. Neither party to this MOA shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law. This MOA shall not be construed as seeking either to enlarge or diminish any obligation or duty owed by one party to the other or to a third party. Nothing contained herein shall be deemed as, or construed to be, a waiver of sovereign immunity that either party affords in the Commonwealth of Virginia.

20. ACCESS TO FINANCIAL RECORDS: In addition to any other rights it may have in this regard, the School Board and its members, officers, and/or agents may review the financial records of the Foundation with regard to the donations, grants, sponsorships and other initiatives contemplated under this MOA at any time. The School Board may require an audit of the Foundation's records relating to any initiatives, grants, awards, projects, sponsorships, scholarships, or endowments at the School Board's expense. The Foundation maintains all ownership interest and the terms articulated in paragraph 4dii apply. Nothing in

this agreement shall be construed as granting the School Board or any government entity ownership of these records and all records should be returned within 10 days of receipt. The Foundation retains ownership of all records and the School Board's limited possession of such records shall not be construed as authorizing the release of such records under the Virginia Freedom of Information Act, § 2.2-3700 et seq. of the Code of Virginia.

21. ARBITRATION. If a dispute arises from or relates to this contract or the breach thereof, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. The parties further agree that any unresolved controversy or claim arising out of or relating to this contract, or breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
22. VIRGINIA LAW: This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without regard to its principles of conflicts of laws. Any litigation arising out of this Agreement shall be conducted in a forum located within the Commonwealth of Virginia.
23. PUBLICITY/MARKETING: Each party agrees it will use best efforts to apprise the other of its use of the other party's name or programs in any advertising, promotional material, press release, publication, public announcement, or through other media—written or oral—and will comply with the other party's requests concerning the parameters around such use of the other party's name or programs in its publicity/marketing.
24. NON-DISCRIMINATION: No party to this MOA shall unlawfully discriminate against any individual or organization based on race, color, national origin, religion, sex, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, marital status, veteran status, disability, age, genetic information, or any other class or personal characteristic that is protected by applicable state or federal regulations or laws.

By signing this agreement, all parties agree to the activities, services, and accommodations to be rendered as set forth in this MOA by the School Board and the Foundation.

AGREED.

Rebecca Berlin, Chair

Albemarle County School Board

*Signature of the Chair, executing agreement on behalf of the Albemarle County
School Board*

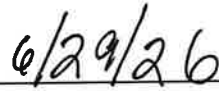
Date



Randy Tripp, Jr., President

Albemarle Foundation for Education

*Signature of the President, executing agreement on behalf of the Albemarle
Foundation for Education*



Date

