

**Homer Central School District
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Michael J. Falls
Assistant Superintendent for Management

MEMORANDUM

To: BOE/Kelli Yacavone, District Clerk
From: Michael J. Falls, Assistant Superintendent for Management
Re: THIRD AMENDED AND RESTATED COOPERATIVE HEALTH AGREEMENT REVIEW
Date: November 14, 2017

Please find attached a copy of the Third Amended and Restated Cooperative Health Agreement for your review. The Health Insurance Cooperative is asking Boards of Education to review their proposed changes to the existing agreement. The biggest changes are reflected in the membership category and the bylaws to call meetings. The called for changes to membership reflect requests from districts outside OCM and Oswego BOCES for membership. The changes in the agreement do not allow for this to happen. This is a good thing for the Cooperative. There is also discussion on how districts currently in the Cooperative may come and go as members.

I would ask that you email me any questions and/or concerns with the proposed changes by December 15th.

The Cooperative will follow the schedule below to approve the changes. Districts must pass a resolution (see last page of the draft) agreeing to support the changes.

Jan. 1, 2018	Cooperative Board to vote on approval of 3 rd Amended CHA.	
Jan. 1, 2018 to April 29, 2018	Individual participant school districts and BOCES to obtain BOE resolutions approving the 3 rd Amended CHA, and agreeing to be bound by its terms.	
April 30, 2018	Deadline to provide BOE Resolution to Chairperson approving 3 rd Amended CHA	Failure to obtain BOE approval of the 3 rd Amended CHA will be deemed to be a voluntary withdrawal from the Cooperative effective September 1, 2018.
Sept. 1, 2018	3 rd Amended CHA becomes effective	

I would be happy to answer any questions you may have on these documents.

SECOND THIRD AMENDED AND RESTATED

COOPERATIVE HEALTH

AGREEMENT

THIS **SECOND THIRD AMENDED AND RESTATED AGREEMENT**, made effective this 1st day of September, ~~2005~~ 2018 (the "Effective Date"), by and among each of the signatory school districts and/or boards of cooperative educational services hereto (collectively the "Participants").

WITNESSETH:

WHEREAS, Article 5-G, Sections 92-a and 119-o of the New York State General Municipal Law allows School Districts and Boards of Cooperative Educational Services to enter into an agreement as a cooperative for the purposes of purchasing a single health insurance policy, entering into group health plans, and/or administer a health plan; and

WHEREAS, pursuant to a certain Cooperative Health Insurance Agreement by and among the Participants (the "Agreement"), the Participants have joined together for the purpose of providing certain health and medical benefits to certain of the Participants' respective eligible employees, eligible retirees and eligible dependents (the "Enrollees"); and

WHEREAS, the Parties enter into the Agreement with the intent of benefiting from the efficiencies and savings associated with operating as a single risk pool with a common plan design and benefit offerings; and

WHEREAS, pursuant to the authority retained in Paragraph 15(b) of the Agreement, the Agreement was subsequently amended and restated in its entirety effective November 23, 1992 (the "Restated Agreement") and effective September 1, 2005 (the "Second Amended and Restated Agreement"); and

WHEREAS, the Participants desire to amend and restate the **Second Amended and Restated Agreement** in its entirety to clarify certain provisions and to amend certain provisions thereof.

NOW, THEREFORE, the **Second Amended and Restated Agreement** is amended and restated in its entirety to provide as follows:

- A. **PURPOSE**. The purpose of this Agreement is to establish and maintain a fund pursuant to Article 5-G, Sections 92-a and 119-o of the New York State General Municipal Law (the "Fund") which will enable the Participants to jointly provide purchase various health insurance products providing basic hospital, surgical, medical, surgical, and prescription drug benefits to eligible Enrollees of the Participants (the "Fund"). The collective Participants in

the Fund shall be referred to as the “Cooperative Health Insurance Fund of Central New York” (referred to herein as the “Cooperative”).

B. PARTICIPANTS. Participation in the Cooperative shall be limited as follows:

1. The following Participants shall comprise the currently existing membership:

Altmar-Parish-Williamstown CSD	Lyncourt UFSD
Canastota CSD	Marathon CSD
Cazenovia CSD	Marcellus CSD
Chittenango CSD	McGraw CSD
Cincinnatus CSD	Mexico CSD
Cortland City SD	Onondaga CSD
DeRuyter CSD	Onondaga-Cortland-Madison BOCES
East Syracuse Minoa CSD	Phoenix CSD
Fabius-Pompey CSD	Pulaski Academy & CSD
Fayetteville-Manlius CSD	Sandy Creek CSD
Hannibal CSD	Solvay CSD
Homer CSD	Tully CSD
Jamesville-DeWitt CSD	West Genesee CSD
LaFayette CSD	Westhill CSD

2. Except as provided otherwise in Section B (4), membership in the Cooperative shall be limited to any Component School District included within the Onondaga-Cortland-Madison BOCES and the Oswego County BOCES.
3. Any new School District satisfying the membership definition set forth in Section B (2) will be accepted for membership at the sole discretion of the Cooperative’s Board of Directors (the “Board”),, who may consider such factors including the applicant’s financial and fiscal responsibility, ,demographic risk profile, and existing health insurance benefits. Notwithstanding anything to contrary set forth in this Agreement, admission of new Participants shall not require amendment of Section B (1). Membership shall be subject to the terms and conditions set forth in this Agreement, any amendments hereto and applicable law. Any new member shall provide a duly authorized resolution approved by its Board of

Education approving of its membership in the Cooperative and specifically agreeing to be bound by the terms and conditions of this Agreement.

4. The Board, in its sole discretion, and by a two-thirds (2/3) vote of the entire Board, may elect to permit a School District or BOCES, who does not satisfy the membership definition set forth in Section B (2), to become a Participant upon consideration of such factors including but not limited to the School District's or BOCES' similarity in terms of risk and demographic make-up to the current Participants of the Cooperative. Such School District or BOCES must agree to continue as a Participant for a minimum of five (5) years upon entry.

5. Initial membership of additional Participants shall become effective on the first day of the Plan Year following the adoption by the Board of the resolution to accept the School District or BOCES as a Participant, provided the following deadlines are met: (a) the School District or BOCES submits a written application to the Board Chair no later than January 1st of the preceding Plan Year; (b) the Board votes on and approves the membership no later than April 30th of the preceding Plan Year; and (c) thereafter, the applicant provides a Board of Education resolution no later than July 1st of the preceding Plan Year approving of its membership in the Cooperative and specifically agreeing (i) to be bound by the terms and conditions of this Agreement; (ii) to remain in the Cooperative for a minimum of five (5) years upon entry. and (iii) to be bound by any other condition placed on entry by the Board.

6. A School District or BOCES that was previously a Participant, but is no longer a Participant, and which is otherwise eligible for membership in the Cooperative, may apply for re-entry after a minimum of five (5) years has passed since it was last a Participant. Such re-entry shall be subject to the approval of two-thirds (2/3) of the entire Board, and the Board may set such other conditions for reentry as it deems appropriate under the circumstances. This re-entry waiting period may be waived by the approval of two-thirds (2/3) of the entire Board. In order to re- enter the Cooperative, a School District or BOCES must have satisfied in full all of its outstanding financial obligations to the Cooperative. A School District or BOCES must agree to continue as a Participant for a minimum of five (5) years upon re-entry.

C. Participant Liability.

1. The Participants shall share in the costs of, and assume the liabilities for benefits (including hospital, medical, surgical, and prescription drugs) provided under the Plan(s) to covered officers, employees, retirees, and their dependents. Each Participant shall pay on demand such Participant's share of any assessment or additional contribution as determined by the Board, as set forth in Section C(3) of this Agreement. In general, each Participant's contribution to the Plan(s) shall be calculated as a pro rata share of the aggregate contributions to the Plan(s), based on such factors as the Board deems fair and appropriate based on the nature of the assessment or contribution.
2. New Participants (each "New Participant") who enter the Cooperative may, at the discretion of the Board, be assessed a fee for additional financial costs above and beyond the premium contributions to the Plan(s) associated with the administrative cost to the Fund caused by the new entry. Any such additional financial obligations and any related terms and conditions associated with membership in the

Cooperative shall be determined by the Board, and shall be disclosed to the New Participant prior to its admission.

3. Each Participant shall be liable, on a pro rata basis, for any additional assessment required in the event the Cooperative funding falls below those levels necessary for the operation of the Cooperative as determined by the Board as follows:
 - a. For purposes of this Section, a Participant's pro-rata share of any assessment shall be determined by applying the ratio of the total assessment to the total contributions earned during the period covered by the assessment on all Participants subject to the assessment to the contribution or premium equivalent earned during such period attributable to such Participant.
4. In order to ensure that all Participants receive the full benefit of participating in Cooperative, including the efficiencies and savings associated with operating as a single risk pool with a common plan design and benefit offerings, all Participants are: (a) required to participate in all benefit categories offered by the Cooperative for all eligible active and retired employees, and (b) limited to the Plan design options selected for the Cooperative by the Board.

D. BOARD OF DIRECTORS. ~~The Fund shall be governed by a Board of Directors (the "Board"), the number of which shall be equal to the number of Participants. Each Participant shall designate its superintendent or his/her designee to serve as a Director of the Fund. Such designation shall be evidenced by a duly adopted official resolution of the Participant's Board of Education properly delivered to the Board. Each Director shall serve for the entire school year, i.e., July 1 to June 30, for which the resolution applies unless revoked by a subsequent official resolution properly delivered to the Board. Each Participant shall notify the Board in July of each year of the name of the individual designated to serve as that Participant's Director for that school year. Each Participant shall also be entitled to designate an alternate person to attend meetings of the Board when the Participant's designee is unable to attend. Such alternate designation must be made by written notice signed by the Participant's superintendent of schools or designee, and delivered to the Chairperson. An alternate shall be entitled to participate in all Board discussions, and shall be entitled to vote on all matters voted on by the Board at such meeting. Directors or alternate Directors designated as set forth above shall be limited exclusively to: (1) the superintendent of the Participant; (2) a member of the Participant's board of education; or (3) an employee of the Participant.~~

1. The Cooperative, shall be governed by a board of directors (the "Board") responsible for management, control and administration of the Cooperative, the Fund and the Plan(s). The voting members of the Board shall be composed of one representative of each Participant. Each Participant shall designate its superintendent or his/her designee to serve as a Director of the Cooperative. Such designation shall be evidenced by a duly adopted official resolution of the Participant's Board of Education properly delivered to the Board.
2. If a Director designated by a Participant cannot fulfill his/her obligations, for any reason, as set forth herein, and the Participant desires to designate a new Director, it must notify the Cooperative's Chairperson in writing of its selection of a new designee to represent the Participant as a Director. Such designation shall be evidenced by a duly adopted resolution of the Participant's Board of Education.

3. Directors shall receive no remuneration from the Cooperative for their service and shall serve a term from July 1 through June 30 (the "Fiscal Year").
4. No Director, or any member of a Director's immediate family shall be an owner, officer, director, partner, or employee of any contractor or agency retained by the Cooperative, including any third-party contract administrator, unless such relationship has been fully disclosed to the Board in writing and cleared in advance by the Board, in consultation with its legal counsel.
5. Each Participant shall be entitled to one vote. A majority of the entire Board, not simply those present, is required for the Board to take any official action, unless otherwise specified in this Agreement. The "entire Board", as used herein and elsewhere in this Agreement, shall mean the total number of Directors when there are no vacancies.
6. Each Participant may designate in writing an alternate Director to attend the Board's meeting when its Director cannot attend. The alternate Director may participate in the discussions at the Board meeting and will, if so designated in writing by the Participant, be authorized to exercise the Participant's voting authority. Only alternate Directors with voting authority shall be counted toward a quorum.
 - a. Directors or alternate Directors designated as set forth above shall be limited to the Superintendent of the Participant, or his/her authorized designee .
7. . A quorum is a simple majority (more than half) of the entire Board. A quorum is required for the Board to conduct any business. This quorum requirement is independent of the voting requirements set forth in Section D (5). The Board shall meet on a regular basis, but not less than on a quarterly basis at a time and place within the State of New York determined by a vote of the Board.
8. The Board shall hold an annual meeting (the "Annual Meeting") on or about the 1st day of July each year or such other date as may be mutually agreed upon by the Board. At such meeting, the Directors shall elect the following officers from the then current members of the Board: a Chairperson, a Vice Chairperson and a Secretary. In addition, the Board shall elect a Chief Fiscal Officer who shall be a business official of one of the Participants, but need not be a member of the Board of Directors. Said officers shall serve for the remainder of the school year or until their respective successors are duly elected or until removed from office as provided herein. Officers shall be elected by majority vote of the entire Board. In the event of a vacancy in a position of officer, such vacancy shall be filled by majority vote of the entire Board at the next meeting of the Board.
9. Special meetings of the Board may be called at any time by the Chairperson or by any two (2) Directors. Whenever practicable, the person or persons calling such special meeting shall give at least three (3) day notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event prior notice of at least three (3) days cannot be given, each Director shall be given such notice as is practicable under the circumstances.

10. In the event that a special meeting is impractical due to the nature and/or urgency of any action which, in the opinion of the Chairperson, is necessary or advisable to be taken on behalf of the Cooperative, the Chairperson may send proposals regarding said actions via facsimile or some other equivalent electronic means to each and all of the Directors. The Directors may then fax and/or transmit their written approval or disapproval of said actions to the Chairperson. Upon receipt by the Chairperson of the requisite number of written approvals, the Chairperson may act on behalf of the Board in reliance upon such approvals. Any actions taken by the Chairperson pursuant to this paragraph shall be ratified at the next scheduled meeting of the Board and the written record of any such vote shall be maintained by the Cooperative.
11. Each Participant shall receive a full and complete set of the minutes of each meeting of the Board as soon as practicable after the minutes have been approved.
12. The Cooperative shall defend and indemnify any Director or Fiscal Officer of the Cooperative who is subject to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative relating to, or arising out of, his/her responsibilities relative to his/her position with the Cooperative. The provision of such defense and indemnity is contingent upon the provision of prompt notice to the Board of the threatened, pending or completed action, suit or proceeding. The Board, in its discretion, can refuse to provide such defense and indemnity if it determines that the claims against the individual have been initiated as a result of his/her bad faith, self-dealing, willful misconduct, or recklessness.

~~**3. MEETINGS.** (a) An annual meeting of the Board shall be held on or about the third Thursday of July of each year or such other date as may be mutually agreed upon by the Board. At such meeting, the Directors shall elect the following officers from the then current members of the Board: a Chairperson, a Vice Chairperson and a Secretary. Said officers shall serve for the remainder of the school year or until their respective successors are duly elected or until removed from office as provided herein. Officers shall be elected by majority vote of the entire Board. In the event of a vacancy in a position of officer, such vacancy shall be filled by majority vote of the entire Board at the next meeting of the Board.~~

~~_____ (b) Special meetings of the Board may be called at any time by the Chairperson or by any two Directors. Whenever practicable, the person or persons calling such special meeting shall give at least 72 hours notice to all of the other Directors. Such notice shall set forth the time and place of the special meeting as well as a detailed agenda of the matters proposed to be acted upon. In the event 72 hours notice cannot be given, each Director shall be given such notice as is practicable under the circumstances.~~

~~_____ (c) In the event that a special meeting is impractical due to the nature and/or urgency of any action which, in the opinion of the Chairperson, is necessary or advisable to be taken on behalf of the Fund, the Chairperson may send proposals regarding said actions via facsimile to each and all of the Directors. The Directors may then fax their approval or disapproval of said actions to the Chairperson. Upon receipt by the Chairperson of the requisite number of written approvals, the Chairperson may act on behalf of the Board in reliance upon such approvals. Any actions taken by~~

~~the Chairperson pursuant to this paragraph (c) in reliance upon any such approvals shall be ratified at the next meeting of the Board.~~

~~_____ (d) Each Participant shall receive a full and complete set of the minutes of each meeting of the Board as soon as practicable after the minutes have been approved.~~

~~_____ 4. _____ **QUORUM; AUTHORIZATION OF THE BOARD.** Unless otherwise provided in this Agreement, a majority of the entire Board shall constitute a quorum for the transaction of business. If, pursuant to Section 2 hereof, an alternate Director is present at a meeting of the Board, such alternate shall be counted towards the quorum requirement. Any action taken by the Board shall, unless otherwise provided by this Agreement or required by the laws of the State of New York, require the affirmative vote of a majority of the entire Board with each Director (or properly designated alternate) being entitled to one vote.~~

~~_____ 5. _____ **COMPENSATION.** Directors shall serve without compensation. Directors may, however, be reimbursed for registration, travel, hotel and meal expenses incurred in attending authorized conferences or seminars related to the Fund upon approval by the Board. _____~~

E. DUTIES AND RESPONSIBILITIES OF THE BOARD.

1. Subject to the voting and quorum requirements set forth in this Agreement, the Board is authorized and/or required to take action on the following matters:
 - a. To fill any vacancy in any of the officers of the Cooperative.
 - b. To fix the frequency, time and place of regular Board meetings.
 - c. To approve an annual budget for the Cooperative, which shall be prepared and approved prior to April 1st of each year, and determine the annual per contract contribution rates to be paid by each Participant for each Enrollee classification in the Plan on the basis of a community rating methodology (hereinafter referred to as the "premium equivalent rate").
 - d. To establish the entry premium equivalent rate for each new Participant and premium equivalent rate differential for benefit changes by existing Participants. The entry rates and rate differentials for benefits changes shall be based on such criteria and factors as the Board, in its sole discretion, deems appropriate and may be changed at any time and from time to time as the Board deems appropriate.
 - e. To audit receipts and disbursements of the Cooperative and provide for independent audits, and periodic financial and operational reports to Participants.
 - f. To establish a joint fund or funds to finance all Cooperative expenditures, including claims, reserves, restricted accounts, surplus, administration, stop-loss insurance and other expenses.
 - g. To determine the types and categories of benefits that will be made available to Participants at any time and from time to time.

- h. To establish administrative guidelines for the efficient operation of the Plan.
- i. To establish financial regulations for the entry of new Participants into the Cooperative consistent with all applicable legal requirements and this Agreement.
- j. To contract with third parties, which may include one or more Participants, for the furnishing of all goods and services reasonably needed in the efficient operation and administration of the Cooperative, including, without limitation, accounting services, legal counsel, contract administration services, consulting services, purchase of insurances, purchased of a surety bond or bonds, and actuarial services. Provided, however:

 - i. the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts, as required in Section 92-a(6) of the General Municipal Law;
 - ii. payment for contracted services shall be made only after such services are rendered;
 - iii. no Director or any member of such Director's immediate family shall be an owner, officer, director, partner or employee of any contract administrator retained by the Cooperative **absent** advance written disclosure to the Board and its subsequent clearance, in consultation with its legal counsel; and
 - iv. all such agreements shall otherwise comply with the requirements of Section 92-a(6) of the General Municipal Law.
- k. To determine each year if the Cooperative will purchase stop-loss insurance and if deemed necessary, determine each year the levels of coverage and the insurance carrier or carriers who are to provide the stop- loss insurance coverage during the next Plan Year.
- l. To determine and notify each Participant prior to May 15th of each Plan Year of the monthly premium equivalent for each enrollee classification during the next Plan Year commencing the following September 1st.
- m. To establish rules regarding the payment and collection of assessments and authorize the assessment of an interest charge when a Participant does not pay an assessment within 30 days of the date a payment is due. Except as otherwise determined by the Board, interest shall be charged at the lower of (i) 1% per month or (ii) the highest rate permitted to be charged by law, on all amounts due from a Participant to the Fund which are not paid within 30 days of the due date.
- n. To designate the banks or trust companies in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state and insured by the Federal Deposit Insurance Corporation, or any successor thereto.
- o. To authorize the Fiscal Officer to temporarily invest moneys not required for immediate expenditure in the type of investment permitted by law without having to obtain approval from

each Participant for any particular investment; provided that any such investment shall only be made in accordance with all applicable laws.

- p. To manage any fund balance remaining at the end of each school year, including but not limited to applying the fund balance in whole or in part toward lowering the annual assessment during the ensuing school years. Such fund balance shall not be a reserve.
- q. To designate annually a treasurer (the "Treasurer") who may or may not be a Director and who shall be the treasurer, or equivalent financial officer, for one of the Participants. The Treasurer's duties shall be determined by the Fiscal Officer to whom he/she will report.
- r. To designate an Officer or Director to retain custody of all reports, statements and other documents of the Cooperative and take minutes of each Board meeting which shall be acted on by the Board at a subsequent meeting.
- s. To reimburse the Participant employing the Secretary, Chief Fiscal Officer, and/or Treasurer for appropriate charges related to their duties and services performed on behalf of the Fund.
- t. To choose the certified public accountant and the actuary to provide the reports required by this Agreement and any applicable law.
- u. To arrange for an annual audit by a certified public accountant in relation to all funds received and disbursed by the Fund. Such audit shall be presented to the Participants no later than November 1st following the fiscal year being audited.
- v. To designate an attorney-in-fact to receive summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving the Cooperative.
- w. To assign to the officers of the Cooperative such duties and responsibilities as the Board, in its discretion, deems appropriate; provided such duties and responsibilities are at all times consistent with all applicable laws.
- x. To remove any Officer at any time for any reason.
- y. To authorize one or more officers to sign any contracts or documents on behalf of the Board provided such contracts or documents have first received the requisite Board approval.
- z. To establish additional committees of the Board and to delegate to such committees such responsibilities and authorities as the Board deems appropriate.
- aa. To designate a Participant as the custodian of all records of the Fund. The Onondaga-Cortland-Madison BOCES shall serve as said designee until such time as the Board designates a successor custodian.
- bb. To take all necessary action to ensure the Cooperative is operated and administered in accordance with the laws of the State of New York.

- cc. To take any other action authorized by law and deemed necessary to accomplish the purposes of this Agreement.

F. OFFICERS.

1. At the Annual Meeting, the Board shall elect from its Directors a Chairperson, Vice Chairperson, Chief Fiscal Officer, and Secretary, who shall serve for a term of one (1) year or until their successors are elected and qualified. Any vacancy in an officer's position shall be filled at the next meeting of the Board.
2. The Chief Fiscal Officer shall be a business official of one of the Participants. The Fiscal Officer may, but need not, be a member of the Board. The Fiscal Officer shall have custody of all moneys collected by the Fund and shall, subject to any requirements imposed by law, make payment for all appropriate expenditures in accordance with all procedures adopted by the Board and shall have such other duties as the Board may from time to time determine.
3. Officers of the Cooperative and employees of any third party vendor, including without limitation the officers and employees of any Participant, who assist or participate in the operation of the Cooperative, shall not be deemed employees of the Cooperative. Each third party vendor shall provide for all necessary services and materials pursuant to annual contracts with the Cooperative. The officers of the Cooperative shall serve without compensation from the Cooperative, but may be reimbursed for reasonable out-of-pocket expenses incurred in connection with the performance of such officers' duties.
4. Officers shall serve at the pleasure of the Board and may be removed or replaced upon a two-thirds (2/3) vote of the entire Board.

G. CHAIRPERSON; VICE CHAIRPERSON; SECRETARY.

1. The Chairperson shall be the chief executive officer of the Cooperative.
2. The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall preside at all meetings of the Board.
3. In the absence of the Chairperson, the Vice Chairperson shall perform all duties related to that office.
4. The Secretary shall retain custody of all reports, statements, and other documents of the Cooperative and ensure that minutes of each Board meeting are taken and transcribed which shall be acted on by the Board at a subsequent meeting, as appropriate.

H. EXECUTIVE COMMITTEE.

1. At each annual meeting, the Board shall establish an Executive Committee consisting of the Chairperson, the Vice-Chairperson, the Secretary, the Chief Fiscal Officer, and four (4) at-large Board Members representing a broad cross-section of the Cooperatives Participants. The Secretary shall be the governing board member who maintains all records.
2. The Executive Committee shall be responsible for the day to day operations of the Cooperative. The Executive Committee shall meet at such times as the Chairperson shall determine and shall have such other duties, and responsibilities and authority as the Board shall at any time and from time to time determine.
3. To establish additional committees of the Board and to delegate to such committees such responsibilities and authorities as the Board deems appropriate.
4. The Executive Committee shall represent the Board with respect to communications with the Board's consultants, including the Board's legal counsel.

I. WITHDRAWAL OF A PARTICIPANT FROM THE FUND. The Participants acknowledge and agree that, given the required Budget process, the Fund will be significantly damaged if a Participant withdraws during a school year. Accordingly, the Participants agree that a Participant may only withdraw effective at the beginning of a Plan Year. In order for a withdrawal to be effective, the Participant must give notice to the Chairperson in writing on or before the January 1st immediately preceding the commencement of the school year for which the withdrawal is intended to be effective. Such notice must be accompanied by a resolution duly passed by the Participant's board of education electing to withdraw. If such notice is not delivered to the Chairperson on or before January 1st, then the Participant shall be deemed to be bound by this Agreement for the next Plan Year. The Board may, upon a showing of extraordinary circumstances, waive the requirement of notice and, may impose other conditions that the Board deems appropriate under the particular circumstances.

J. LIABILITY FOR WITHDRAWAL. In the event a Participant has given notice of withdrawal in accordance with the provisions of Section 7 of this Agreement, the Board shall determine any sums which are due and owing by the Participant, or any moneys which may be due and owing to the withdrawing Participant. Such credit or debit shall be established by the Fund's consultants as of the effective date of the withdrawal using such methods as are adopted by majority vote of the entire Board from time to time. The debits and credits shall be determined using generally accepted accounting practices and shall consider, among other things, incurred but unpaid claims and expenses as of the effective date of withdrawal. Additionally, the Board, in its sole discretion, may determine whether a refund or an additional assessment of fund balance is appropriate under the circumstances by any method that it determines is fair and equitable under the circumstances; and, in this regard, is not limited by prior precedent. Fund balance, as used herein, shall only include unrestricted accounts. Any amount due pursuant to this Section, except for fund balance, shall be paid by the Fund or the Participant, as the case may be, within one hundred eighty (180) days of the date the amount due is finally determined in accordance with the above. If a fund balance refund is determined to be appropriate, it shall be paid in equal

payments over three (3) years, interest free. Any amounts not paid when due shall bear interest at the rate determined in accordance with Section E(1)(m). In the event a Participant withdraws from the Cooperative in violation of this Agreement, the Board shall be entitled to withhold any amounts due the withdrawing Participant until such times as the Cooperative's claims for any and all damages caused to the Fund in connection with said withdrawal have been determined.

Notwithstanding anything herein contained, in the event a Participant withdraws from the Cooperative for any reason whatsoever, said Participant shall not be permitted to rejoin the Cooperative for a period of five (5) years from the date of said withdrawal ("Waiting Period"). The Board may, by a majority vote thereof, upon a showing of extraordinary circumstances, waive the Waiting Period for a Participant and, may impose such conditions for re-entry as the Board deems appropriate under the particular circumstances, including but not limited to repayment of a portion of any withdrawn fund balance.

~~9. ——— JOINING OF ADDITIONAL SCHOOL DISTRICTS. Except as otherwise provided in Section 8, the Participants hereby agree that the Board shall admit as a new Participant any component district of the Onondaga-Cortland-Madison BOCES upon proper application to join the Fund. In addition, the Board may allow additional school districts and/or boards of cooperative educational services who are not components of the aforementioned BOCES to become participating members of the Fund after appropriate investigation and notice to the existing Participants. If more than twenty five percent (25%) of the Participants object to the admission of the non-component applicant, such non-component applicant shall not be admitted to the Fund. Such objection must be received by the Board within 30 days after notice is received by the Participant. The objection must be in the form of a resolution duly made and adopted by the Board of Education of the Participant. The failure to timely object shall constitute a vote in favor of such admission. If the requisite objections are not timely received by the Board, the non-component applicant shall be admitted to the Fund upon the terms and conditions established by the Board, which terms and conditions will have been set forth in the notice given to the existing Participants.~~

K. DISSOLUTION;TERMINATION;EXPLUSION.

1. The Board may at any time, by majority vote of the entire Board, determine that the Cooperative shall be dissolved and terminated. If such determination is made, the Cooperative shall be dissolved 90 days after written notice to the Participants.
2. The continuation of the Cooperative under the terms and conditions of the Agreement, or any amendments or restatements thereto, shall be subject to Board review on the fifth anniversary of the Effective Date and on each fifth anniversary date thereafter (each a "Review Date"). On or before the January 31st immediately preceding the Review Date, each Participant shall be responsible for independently conducting a review of the terms and conditions of the Agreement and submitting to the Board a written resolution containing any objection to the existing terms and conditions or any proposed modification or amendment to the existing Agreement. Such written resolution shall be submitted to the Board on or before March 1st. Failure to submit any such resolution shall be deemed automatic consent to continuation of the Cooperative until the next Review Date under the existing terms and conditions. As soon as practicable after March 1st, the Board shall circulate to all Participants

copies of all resolutions submitted by the Participants. Any resolutions relating to the modification, amendment or objection to the Agreement submitted prior to each Review Date shall be considered and voted on by the Board at a special meeting called for such purpose. Such special meeting shall be held on or before April 30th. Notwithstanding the foregoing, if at the Annual Meeting following any scheduled Review Date the Board votes on and approves the Budget and annual assessment for the next year, the Participants shall be deemed to have approved the continuation of the Cooperative under the existing Agreement until the next Review Date.

3. Thirty days before the effective date of any dissolution and termination each Participant shall be advised, based upon the figures available at that time, of the assets and liabilities of the Fund, and the anticipated distribution of the assets or assessment of liability to each Participant. Notwithstanding any such preliminary determination, each Participant shall remain fully liable for its pro rata share of any unpaid liabilities of the Fund upon termination.
4. The Participants acknowledge that it may be necessary in certain extraordinary circumstances to expel a Participant from the Fund. In the event the Board determines that:
 - a. a Participant has acted inconsistently with the provisions of the Agreement in a way that threatens the solvency of the Fund; or
 - b. a Participant has acted fraudulently or has otherwise acted in in bad faith with regards to the Fund, or toward any individual Participant concerning matters relating to the Fund, the Board may vote to conditionally terminate said Participant's membership in the Fund. Upon such a finding by the affirmative vote of 75% of the Participants, the offending Participant shall be given 60 days to correct or cure the alleged wrongdoing to the satisfaction of the Board. Upon the expiration of said 60-day period, and absent satisfactory cure, the Board may expel the Participant by an affirmative vote of 75% of the Participants (exclusive of the Participant under consideration). Any liabilities associated with the Participant's departure from the Fund under this provision shall be determined by the procedures set forth in Paragraph 8 of this Agreement.

L. REPRESENTATIONS AND WARRANTIES OF PARTICIPANTS. Each Participant by its approval of the terms and conditions of this Agreement hereby represents and warrants to each of the other Participants as follows:

1. the Participant understands and acknowledges that its participation in the Cooperative under the terms and conditions of this Agreement is strictly voluntary and may be terminated, as set forth herein, at the discretion of the Participant.
2. the Participant understands and acknowledges that the duly authorized decisions of the Board constitute the collective will the Cooperative and as such are binding on all signatory school districts as to those matters within the scope of the Agreement.
3. the Participant understands and acknowledges that the decisions of the Board made in the best interests of the collective whole may on occasion temporarily disadvantage one or more individual Participants.

4. the Participant represents and warrants that the Superintendent or his/her designated representative to the Board, understands the terms and conditions of this Agreement and is suitably experienced to understand the principles upon which this Cooperative operates.
5. the Participant understands and acknowledges that all Directors, or their authorized representatives, are responsible for attending all scheduled meetings. Provided that the quorum rules are satisfied, non-attendance at any scheduled meeting is deemed acquiescence by the absent Participant to any duly authorized Board approved action at that meeting. However, any absent director may provide written dissent to the Chairperson within 15 days of receipt of the meeting minutes. Said written dissent shall be kept with the minutes but shall have no effect on any duly authorized decision of the Board.
6. the Participant understands and acknowledges that, absent bad faith or fraud, any Participant's vote approving any Board action may limit that Board action from later challenge by that Participant.
7. the Participant understands and acknowledges that the Participant is solely responsible for the collection of all Enrollee contributions and the failure of the Participant to collect said contributions does not diminish or delay the Participant's required payment to the Fund.
8. the Participant understands and acknowledges that any benefits provided by the Participant that are above and beyond the benefits provided by or through the Cooperative are done so at Participant's sole expense.

M. ALTERNATIVE DISPUTE RESOLUTION ("ADR").

1. General. The Participants acknowledge and agree that given their budgeting and fiscal constraints, it is imperative that any disputes arising out of the operation of the Cooperative, Plan or Fund be limited and that any disputes which may arise be addressed as quickly as possible. Accordingly, the Participants agree that the procedures set forth in this Section 12 are intended to be the exclusive means through which disputes shall be resolved. The Participants also acknowledge and agree that by executing this Agreement each Participant is limiting its right to seek redress for certain types of disputes as hereinafter provided.
2. Disputes subject to ADR: Any dispute by any Participant arising out of or relating to a contention that: (i) the Board, the Board's designated agents, or any Participant has failed to adhere to the terms and conditions of this Agreement; (ii) the Board, the Board's designated agents, or any Participant has acted in bad faith or fraudulently in undertaking any duty or action under the Agreement; (iii) any other dispute otherwise arising out of or relating to the terms or conditions of this Agreement or requiring the interpretation of this Agreement; (iv) relates in any other way to the operation of the Cooperative, Plan or Fund shall be resolved exclusively through the ADR procedure set forth in paragraph (c) below.
3. ADR Procedure: Any dispute subject to ADR, as described in subparagraph (1), shall be resolved exclusively by the following procedure:
 - a. Board Consideration: Within 90 days of the occurrence of any dispute, the objecting party shall submit a written notice of the dispute to the Chairperson specifying in detail the nature of the

dispute, the parties claimed to have been involved, the specific conduct claimed, the basis under the Agreement for the Participant's objection, the specific injury or damages claimed to have been caused by the objectionable conduct to the extent then ascertainable, and the requested action or resolution of the dispute. A dispute shall be deemed to have occurred on the date the objecting party knew or reasonably should have known of the basis for the dispute.

- i. Within 60 days of the submission of the written notice, the Executive Committee shall, as necessary, request further information from the claimant, collect such other information from any other interested party or source, form a recommendation as to whether the claimant has a valid objection or claim, and if so, suggest a fair resolution of said claim. During such period, each party shall provide the other with any reasonably requested information within such party's control. The Executive Committee shall present its recommendation to the Board in writing, including any underlying facts, conclusions or support upon which it is based, within such 60-day period.
 - ii. Within 60 days of the submission of the Executive Committee's recommended resolution of the dispute, the Board shall convene in a special meeting to consider the dispute and the recommended resolution. The claimant and the Executive Committee shall each be entitled to present any argument or material it deems pertinent to the matter before the Board. The Board shall hold discussion and/or debate as appropriate on the dispute and may question the claimant and/or the Executive Committee on their respective submissions. Pursuant to its regular procedures, the Board shall vote on whether the claimant has a valid claim, and if so, what the fair resolution should be. The Board's determination shall be deemed final subject to the claimant's right to arbitrate as set forth below.
- b. **Arbitration:** The claimant may challenge any Board decision under subparagraph (12)(c)(i)(2) by filing a demand for arbitration with the American Arbitration Association, some other equivalent, mutually agreeable, form of binding arbitration, within 30 days of the Board's vote (a "Demand"). In the event a claimant shall fail to file a Demand within 30 days, the Board's decision shall automatically be deemed final and conclusive. In the event the Participant files a timely Demand, the arbitrator or arbitration panel may consider the claim; provided however, (i) in no event may the arbitrator review any action taken by the Board that occurred 3 or more years prior to when the Chairperson received notice of the claim and (ii) in no event may the arbitrator award damages for any period that precedes the date the Chairperson received notice of the claim by more than 24 months.

N. MISCELLANEOUS PROVISIONS.

1. This instrument constitutes the entire agreement of the Participants with respect to the subject matter hereof, and contains the sole statement of the operating rules of the Fund. This instrument supersedes any previous agreement, whether oral or written.

2. The Agreement may be modified or amended only by means of the affirmative vote of seventy-five (75%) percent of the entire Board after notification in writing to the Participants.
3. Each Participant will perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intended purposes of this Agreement.
4. If any provision of this Agreement is held to be invalid, the remainder of the document shall not be affected thereby.
5. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any claims made under Section M (3)(b), except to the extent otherwise limited therein, shall be governed by New York substantive law.
6. This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original but all of which shall constitute the same Agreement and shall become binding upon the undersigned upon delivery to the Chairperson of an executed copy of this Agreement together with a certified copy of the resolution of the Board of Education approving this Third Amended and Restated Agreement and authorizing its execution.

IN WITNESS WHEREOF, the undersigned has caused this ~~Second~~ **Third** Amended and Restated Cooperative Health Insurance Agreement to be executed as of the day and year first above written.

~~Steven Pearsall~~ **Paul Pelton**,

Chairperson of the Board

CERTIFICATE OF THE CLERK OF THE BOARD

I, _____, Clerk of the Board of Education for the _____ School District/BOCES do hereby certify that the following is a true and correct copy of a Resolution duly adopted at a meeting of the Board of Education of _____ School District/BOCES held on _____, 2017, at which a quorum was present and acting throughout, and that said Resolutions have not been amended, rescinded or otherwise repealed:

RESOLVED, that this Board of Education hereby approves and authorizes this school district/BOCES to participate as a member of the Cooperative Health Insurance Fund of Central New York in accordance with the terms and conditions stated the Third Amended and Restated Cooperative Health Insurance Agreement, attached as an Exhibit hereto, and hereby agrees to be bound by such terms ; and it is further

RESOLVED, that pursuant to Section D (1) of said agreement, _____ is hereby named as this school district's representative to serve on the Cooperative Board of Directors.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be signed this ____ day of _____, 2017.

Clerk of the Board